



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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NEWS RELEASE

December 30, 2015

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Erie County Town Court Justice Should Be Admonished for Prematurely Deciding a Dangerous Dog Case and Other Irregularities

The New York State Commission on Judicial Conduct has determined that Gene R. Heintz, a Justice of the Sardinia Town Court, Erie County, should be admonished for deciding a Dangerous Dog case without according the owner and her lawyer the opportunity to be heard, and for other legal and procedural irregularities.

Judge Heintz agreed to the admonition.

In 2014, after a pit bull terrier allegedly attempted to attack a detective from the County Sheriff's Office, Judge Heintz ruled that the dog was dangerous before the dog's owner or her witnesses had testified. He then failed to order the animal to be spayed or microchipped, as required by law when a dog has been deemed dangerous.

In finding that Judge Heintz made "numerous procedural and substantive errors" in the case, the Commission stated that the judge's actions, "resulted in a decision

made on an abbreviated record that deprived the dog owner of the right to be heard pursuant to law.” The Commission noted that even if Judge Heintz was “confused” and erroneously concluded that the defendant’s attorney had completed his case, the attorney’s repeated objections should have “prompted [the judge] to recognize that his decision was premature.” The Commission also noted that the judge erred by sending hearing notices on his own to some witnesses, based on his own view they might need to testify.

The Commission concluded that while “some of [Judge Heintz’s] errors might be explained by the fact that this was his first hearing in his first year as a judge, the right to be heard is fundamental, and even a new judge must be able to understand and adhere to basic trial procedures.”

Judge Heintz has served as a Justice of the Sardinia Town Court since 2014. His current term expires on December 31, 2017.

The Commission Proceedings

Judge Heintz was served with a Formal Written Complaint dated August 19, 2015, containing one charge, and filed an Answer dated October 2, 2015.

On November 30, 2015, the Administrator of the Commission, Judge Heintz and Judge Heintz’s attorney entered into an Agreed Statement of Facts, stipulating as to the facts and sanction and waiving further submissions and oral argument.

The Commission accepted the Agreed Statement on December 10, 2015.

The Commission Determination

The Commission filed a determination dated December 17, 2015, in which nine members concurred: Judge Thomas A. Klonick (the Commission Chair), Judge Terry Jane Ruderman (the Vice Chair), Joseph W. Belluck, Esq., Joel Cohen, Esq., Jodie Corngold, Richard D. Emery, Esq., Paul B. Harding, Esq., Richard A. Stoloff, Esq., and Judge David A. Weinstein.

One member, Judge Rolando T. Acosta, was not present.

There is currently one vacancy on the 11-member Commission.

Statement by Commission Administrator

Commission Administrator Robert H. Tembeckjian made the following statement.

“Regardless of the nature of a case, a judge is obliged to give all parties the opportunity to be heard, before rendering decision. A judge must also be faithful to and professionally competent in the law. Judge Heintz candidly acknowledged shortcomings in this case and seems sincerely committed to observing the rules more carefully. Admonition – our mildest sanction – seemed appropriate under all the circumstances.”

Press Availability

Mr. Tembeckjian is available throughout the day by telephone: (646) 386-4791.

Court of Appeals Review

The Commission transmitted its determination to the Chief Judge of the Court of Appeals, pursuant to Judiciary Law Section 44, subdivision 7. Judge Heintz received it on December 22, 2015, and the Commission was subsequently notified by the Court of Appeals that service was complete. Consequently, the matter is now public.

A judge may either accept the Commission's determination or, within 30 days from receipt, make a written request to the Chief Judge for a review of the determination by the Court of Appeals.

Pursuant to Judiciary Law Section 44, subdivision 7, if Judge Heintz does not request review by the Court of Appeals, the Commission will admonish him in accordance with the determination.

If a Commission determination is reviewed by the Court of Appeals, the Court may accept the determined sanction, impose a different sanction including admonition, censure or removal, or impose no sanction.

Statistics Relating to Prior Determinations

Since 1978, the Commission has issued 260 determinations of admonition against judges in New York State. The Commission has issued 314 determinations of censure and 168 determinations of removal.

The Court of Appeals has reviewed 95 Commission determinations. The Court accepted the Commission's sanctions in 79 cases (70 of which were removals, six were censures and three were admonitions). Of the remaining 16 cases, two sanctions were increased from censure to removal, and 13 were reduced: nine removal determinations were modified to censure, one removal was modified to admonition, two censures were modified to admonition, and one censure was rejected and the charges dismissed. The Court remitted one matter to the Commission for further proceedings.

Counsel

In the proceedings before the Commission, Judge Heintz was represented by Daniel M. Killelea, Esq., 121 Prospect Street, Suite 1, Attica, New York 14011, (585) 937-8987.

The Commission was represented by Robert H. Tembeckjian, Administrator and Counsel to the Commission; John J. Postel, Deputy Administrator in Charge of the Rochester office; and Senior Attorney David M. Duguay. Senior Investigator Rebecca Roberts assisted in the investigation.

Background Information on Judge Heintz

First took office:	2014
Current Term Expires:	December 31, 2017
Salary:	\$11,385 (Source: 2016 Town of Sardinia Adopted Budget)
Other Employment:	Springville-Griffith Institute Transportation Division

Members of the Commission

The Commission members serve four-year terms. A list of members is appended.

The Public File

The determination is attached. The record of the proceedings upon which the determination is based is available for inspection by appointment during regular business hours at the Commission's three offices:

61 Broadway Suite 1200 New York, New York 10006	Corning Tower, Suite 2301 Empire State Plaza Albany, New York 12223	400 Andrews Street Suite 700 Rochester, New York 14604
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MEMBERS OF THE STATE COMMISSION ON JUDICIAL CONDUCT

Member	Appointing Authority	Term End
Hon. Thomas A. Klonick, Chair	Chief Judge Jonathan Lippman	March 31, 2017
Hon. Terry Jane Ruderman, Vice Chair	Chief Judge Jonathan Lippman	March 31, 2016
Hon. Rolando T. Acosta	Chief Judge Jonathan Lippman	March 31, 2018
Joseph W. Belluck, Esq.	Governor Andrew M. Cuomo	March 31, 2016
Joel Cohen, Esq.	Former Assembly Speaker Sheldon Silver	March 31, 2018
Jodie Corngold	Governor Andrew M. Cuomo	March 31, 2019
Richard D. Emery, Esq.	Former Senate Minority Leader John L. Sampson	March 31, 2016
Paul B. Harding, Esq.	Assembly Minority Leader Brian M. Kolb	March 31, 2017
Richard A. Stoloff, Esq.	Former Senate President Pro Tem Dean Skelos	March 31, 2019
Hon. David A. Weinstein	Governor Andrew M. Cuomo	March 31, 2018
Vacant	Governor	March 31, 2017