

CENTER FOR JUDICIAL ACCOUNTABILITY, INC.

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FAX COVER SHEET

This fax transmission consists of a total of six (6) pages including this cover page. If you have not received all the pages, please call (914) 997-1677

DATE: 10/24/97

TIME: 4 P.M.

TO: Ron Patafio, Editorial Page Editor

COMPANY: Gannett Newspapers

FAX # : 696-8396

RE: Our View

FROM: **Doris L. Sassower**, Director

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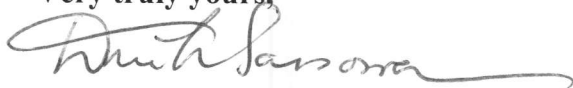
MESSAGE

Dear Mr. Patafio:

Per our telephone conversation yesterday, I am transmitting the enclosed Our View piece for publication as soon as possible, together with three supporting exhibit pages. I believe my text is 46 words over the 750 word limit, but request an exception be made because of the importance of the subject matter and the lack of any presentation of this point of view to counter the substantial amount of space your paper has devoted to the matters I am responding to. If you believe it must be cut down, we respectfully request you to so notify us and permit the necessary cutting on this end.

Thank you!

Very truly yours,



DORIS L. SASSOWER, Director

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October 24, 1997

Our View
Gannett Newspapers
One Gannett Drive
White Plains, NY 10604

Att: Ron Patafio, Editorial Page Editor

Dear Mr. Patafio:

We are concerned that your readers are being misled.

This letter is prompted by your October 23, 1997 editorial endorsement of various judicial candidates. Your readers deserve to know *all* relevant facts about would-be judges before seeing your stamp of approval on such candidacies.

Unless Gannett discloses its investigative methods and sources, such endorsements are unfair. Obviously, judicial decisions which are biased and do not follow the law as applied to the factual record before the court -- a legal question which should be answered only by lawyers of unassailable scholarship and integrity -- are reversible and costly to litigants and taxpayers.

Your published bar ratings of judicial candidates are also not necessarily reliable. Newspapers, even bar associations, rarely solicit the views of those best in a position to comment on judicial performance -- the aggrieved litigants, whose lives have often been destroyed by judges who have polluted the judicial process with incompetence, outright dishonesty, and other abuses -- simply because not enough people have raised their voices.

It was to give voice to the unheard-from **judicial victims** that the Center for Judicial Accountability, Inc., based in White Plains, was created. Our files -- and those of the Commission on Judicial Conduct -- contain **thousands** of well-documented "horror stories", supporting our position that a judge's **on-the-job track record** must be the starting point for evaluation, and that no judge deserves reappointment merely for *being* one.

In your October 19 article ("Judicial candidates prefer not to run for office"), all judicial candidates were said to have "agreed that state Supreme Court justices should be appointed based on merit". This is akin to supporting motherhood and apple pie. We know that many judges are appointed more on the basis of

MORE →

Ron Patafio

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Please note the handwritten revision on transmittal of a few minutes ago.

Don Harmon
CSA

connections, political deals, and party loyalty and that whatever merit such candidates might possess is purely coincidental.

Supreme Court Justice Aldo A. Nastasi (R-C-RTL), age 65, whom you endorsed for a second **14-year** term (retirement at **70** is constitutionally mandated, thereby creating a vacancy for our ~~Republican~~ ^{then} Governor to fill), is quoted as saying that "some machinery ought to be put in place, where if you're on the bench, you are evaluated and reappointed."

Judges who have performed their duties ethically and professionally deserve reappointment. However, it is far too easy for the public to believe that simply because a person *has* the job, he/she deserves to *keep* the job — even when their track record in office may include a history of criticized decisions, higher court reversals, judicial misconduct complaints, and civil rights actions against them based on unthinkable constitutional violations.

For example: Some years ago, Judge Nastasi took jurisdiction over a case involving one Thaddeus Burke, whose 23-month-old son had been taken by the mother from their Virginia home and brought to Westchester County. Though the case should have been sent back to Virginia, Judge Nastasi inappropriately forced Mr. Burke to come to New York to try to get his son back.

The "tender years" doctrine automatically awards custody of young children to the mother. Even in 1981, this doctrine was outdated. Nonetheless, this judge used it to grant temporary custody to the mother. The decision was criticized not only by the father and his attorney. After press reports appeared and the case became a *cause celebre*, Judge Nastasi finally removed himself. But because the uproar resulted in the formation of the Westchester Chapter of Equal Rights for Fathers, the **successor** judge barred the press (illegally) when the case came on for the subsequent **permanent** custody hearing so as to secretly castigate the father's attorney for exposing Judge Nastasi to public criticism ... and then recused himself. Yet another judge (also after illegally barring the press), **in the father's absence**, granted permanent custody to the mother.

In spite of all this, Judge Nastasi refused to remove himself from a **different** case before him in which Mr. Burke's attorney was again involved ... and used his judicial position to retaliate by clearly unfair treatment of the client in **that** case.

It was only after Judge Nastasi revealed his actual bias — shown in a court transcript which contained hostile remarks about that attorney made outside the **presence** of that attorney — that Judge Nastasi finally acknowledged his ethical obligation to remove himself from that subsequent case and all further cases of that attorney. This **should** have happened right from the outset. Who knows how many times such things have happened in other cases before him ... and simply went unchallenged.

Do we really want a judge like this to be reappointed? While few people care until a situation like this happens directly to them, failure to step down until he painted himself into a corner was official misconduct, for which Judge Nastasi needs to be held accountable at Election time.

Inasmuch as I was the lawyer in both cases referred to above, the foregoing statements are based on direct, first-hand knowledge.

Doris L. Sassower, co-founder and director of the Center for Judicial Accountability, Inc., a national, non-profit, non-partisan organization, with members in 30 states, working to change the way lawyers become, and remain, judges.

DAILY NEWS

NEW YORK, TUESDAY, MARCH 17, 1981

Sunny and cold. High

Judge sends dad home without son

By LARRY COLE

A disheartened father returned to Virginia without his 20-month-old son Sunday afternoon, climaxing a disappointing weekend in Westchester in which he was victimized, his attorney said yesterday, "by a denial of due process and equal representation under the law."

Thaddeus Burke, 24, of Falls Church, Va., was in State Supreme Court in White Plains last Friday with a writ of habeas corpus against his wife, Kathleen, who on Jan. 24 had taken their son, Rory, and moved without any advance notice to her mother's home in Chappaqua.

"I was at school taking a test," said Burke, who works for a computer company and attends college at night in pursuit of a graduate management degree, "and when I came home, I found my wife and child gone."

HE AND HIS ATTORNEY, Doris Sassower of White Plains, had brought the writ of habeas corpus before Judge Aldo Nastasi in an attempt to have jurisdiction of the case returned to Virginia.

"Under the uniform child-custody law, when a child is abducted and

brought into another state where the couple did not have its domicile, jurisdiction belongs in the state from which the child was taken," Sassower contended.

Nastasi ruled otherwise, determining that his court could entertain jurisdiction, and he ruled that the mother retain temporary custody until an April 21 hearing on permanent custody. He further ruled that the husband could have visiting rights with the child on Sundays from 10 a.m. to 3 p.m. but only at the wife's mother's home and always with a third person present.

"Not only wasn't justice done," Sassower declared, "there wasn't even the appearance of justice. Thaddeus drove 300 miles one way to attend the hearing, and the judge never even let him speak."

"I was expecting to go home with my son," a dejected Burke said afterward. "Now I'm told I can only see him five hours a week, and I can't even be alone with him."

Nastasi said the decision to deny Burke private visits with his son was based on the need to protect against the possibility of an abduction by the father.

"IF THAT'S SO," Sassower said, "that could have been safeguarded in many other ways."

Burke's visit with the child, with his wife and mother-in-law present throughout, was so uncomfortable, Sassower said, that he left after two hours.

"He wasn't allowed to have any kind of meaningful visit with the child," Sassower said. "He left there heartbroken."

The attorney, who has a long history of litigations in behalf of male and female clients in sex discrimination cases, said she felt arbitrary rulings against men in custody cases is a condition she thought had ended years ago.

"What it sadly comes down to," she said, "is that many judges have closed minds in cases. As soon as they see a mother is involved, their immediate inclination is to award temporary custody to her."

Nastasi vehemently denied any sexual bias.

"This case had nothing to do with sex," he insisted. "It was a question of jurisdiction only. If the parental roles were reversed, I would probably have made the same ruling."



Attorney Doris Sassower

Gannett Westchester Newspapers
Sunday, May 3, 1981

Looking ahead

Custody and fathers

THE WESTCHESTER Chapter of Equal Rights for Fathers of New York State will have its kick-off meeting on Monday, May 11, at 8 p.m., in the offices of attorney Doris Sassower, 283 Soundview Ave., White Plains. Gus DeMarco of Mamaroneck, president of the local chapter, said the purpose of the meeting is to develop the local group and its services for persons involved in custody and visitation problems. Guest speaker will be Don Forslund, district president of the Hudson Valley Area of ERFF. Ms. Sassower will answer questions on custody cases in the courts. Admission is free but reservations are required and may be made by calling 997-1677.

THAD

FROM PAGE ONE

Burke and Sassower felt that Nastasi's decision was based on outdated sexual prejudices in favor of a mother, and their comments to this effect in a Daily News article outraged Justice Harold Wood, who was to hear the permanent custody hearing.

WOOD'S ANGRY COMMENTS about the article and Sassower's part in the article (included in court transcripts) led to Sassower's filing a motion of recusal, asking that the judge step down because of apparent bias against her.

Wood refused, even though Mrs. Burke's attorney, William Egan, virtually conceded judicial prejudice against her when he said during the court argument over the recusal motion, "If every judge in this county has seen and every lawyer has seen it, I think she's going to have the same problem no matter where it is. I think the only way it can be resolved is to have Mrs. Sassower withdraw and have the other lawyer handle the case if everybody saw this article."

"Wood really seemed angry against Doris," Burke said. "There's no doubt that the article hurt my case."

"It's a terrible shame that a man's exercise of his First Amendment rights should end up harming his chances in a court of law," Sassower said.

As it happened, Wood did not hear the custody case, stepping down in favor of Justice Mathew Coppola, who said he took over because his schedule was better suited to hearing the case than was Wood's.

Wood did sit long enough, however, to bar a News reporter from one court session during which lawyers' arguments and no testimony were being heard, and Coppola barred the reporter again at another hearing. Both justices contended they were within their rights to do so because of the nature of the case.

Sassower and Eaton disagreed strenuously, and Sassower said yesterday, "We intend to make exclusion of the press a part of our appeal. It was a denial of the constitutional rights not only of the father but of the child as well and is clearly reversible error."

Contending that the jurisdiction of the case belonged in Virginia, Sassower and Eaton walked out of Coppola's court, and the justice, hearing evidence only from Mrs. Burke, her mother and her sister, awarded custody of the child to the mother on May 12.

THE BURKE CASE HAS become a cause celebre among members of the recently formed Westchester branch of Equal Rights for Fathers. Its founder, Gus DeMarco, said, "We all just can't understand how the court could have been so unfair to Thad."

Burke is optimistic of a happier outcome in the Virginia court, saying, "Legally, this is where the case belongs, and it won't be complicated by any hard feelings about a newspaper article."

"He can't do worse in Virginia," Sassower added. "I'm hopeful he'll get a better shake there than he did in New York." ■

May 13, 1981

Absent dad loses son's custody

By LARRY COLE

With the father and the father's attorneys absent in Supreme Court yesterday because of their contention that jurisdiction belongs elsewhere, custody of a 23-month-old boy was awarded to the mother, who had taken the child from the couple's Virginia home without any advance notice to the father on Jan. 24.

Justice Mathew Coppola, who admitted he never before had heard a custody case in which one side was not in attendance, awarded custody of Rory Burke to his mother, Kathleen. The judge heard testimony from Mrs. Burke as well as from Mrs. Burke's mother and sister. None were cross-examined and no one spoke for the father.

Mrs. Burke had taken the child from Virginia on an evening when her husband, Thad, was at school.

"I was taking a test," said the husband, who works for a computer company and attends college at night in pursuit of a graduate management degree, "and when I came home, I found my wife and child gone."

His wife took the boy to her mother's home in Chappaqua, where they have been living ever since.

Thad Burke's attorneys, Doris Sassower and Barton Eaton, had filed a writ of habeas corpus asking that the child be returned to Virginia and the dispute over custody be adjudicated there. Supreme Court Justice Aldo Nastasi ruled against them on March 13, awarded temporary custody to the wife and set April 21 as a date in a White Plains court to determine permanent custody.

A subsequent article in the Daily News, in which Sassower and the husband commented critically on this decision, earned the displeasure of Justice Harold Wood, who was to hear the April 21 proceeding. His critical comments about Sassower's remarks in the article prompted the attorney to file a motion of recusal, asking Wood to step down from the case because of his apparent bias against her. Wood refused. ■