

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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By Fax: 212-682-4953
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March 30, 1995

Mr. Juan Gonzalez
Daily News
220 East 42nd Street
New York, New York 10017

Dear Mr. Gonzalez:

Following up our conversation yesterday, may I suggest that when you call up defense counsel on the Castracan case, you ask them, for starters, about Justice Kahn's decision, which I faxed to you yesterday. Specifically, whether they would agree that that decision is factually false and legally erroneous.

For starters, Justice Kahn's statement that there was:

"no proof that the judicial nominating conventions at issue were not legally organized, with a quorum present, and that a majority of that quorum duly voted for the candidates named as respondents hereto."

I believe you have copies of the three eye-witness affidavits, that were part of the record before Justice Kahn in support of the Castracan petition (R-55-76). Adverse counsel have them. Wouldn't they agree that those documents constitute proof, which, according to Justice Kahn's reasoning, would have permitted him to address the legality and constitutionality of the Deal. Moreover, if proof were to be the standard, wouldn't adverse counsel agree that the petitioners were entitled to a hearing at which to present additional proof by way of the testimony of witnesses?--which hearing the petitioners never had.

In fact, as known to any first year law student--and Justice Kahn, a Rhodes scholar--proof is not the standard for a motion to dismiss, where the issue is solely the sufficiency of the pleadings. Consequently, the question before Justice Kahn was whether the petition pleaded the violations of the Election Law at the Judicial Nominating Conventions, the truth of which allegations are accepted for the purposes of the motion. If adverse counsel don't know the answer as to the pertinent allegations of the pleadings alleging violations--let them check ¶¶ 14, 15, 30, 32 of the Castracan petition.

By the way, you might ask the New York State Board of Elections--the agency charged with safeguarding the franchise and enforcement of the Election Law--to explain what steps they took to protect

the public in the face of Justice Kahn's brazenly insupportable decision¹.

As you can see from the enclosed September 26, 1993 editorial in the Albany Times Union, almost three years after Justice Kahn's legally and factually indefensible decision in Castracan, he became the beneficiary of a judicial cross-endorsement. Do you think he would have gotten such cross-endorsement--or even his party's nomination--had he decided Castracan in accord with the law and factual record?

As described in our New York Times ad, judicial cross-endorsement is "a way of life" in New York. On that subject, I enclose p. 186 of Donald Dale Jackson's superb book Judges (Atheneum, NY, 1974).

I believe you have a copy of the piece written by Warrent St. John in the New York Observer, 10/31/94 about my mother's suspension, which, in the context of the Article 78 proceeding, refers to the Attorney General office as claiming that there are precedents for judges deciding their own cases. It would be wonderful if you could follow-up on that--since our requests for such "precedents" from the Attorney General's Office, including FOIL requests, are just being ignored (copies enclosed). THERE ARE NO PRECEDENTS THAT WOULD PERMIT SUCH AN APALLING TRAVESTY.

Finally, FYI, I enclose my letter to the Editor of the Daily News, which I faxed in earlier today about, inter alia, the Commission on Judicial Conduct. I understand you have a copy of our September 19, 1994 complaint to the Commission relative to the misconduct of Justice William Thompson--a judicial member of the Commission--who was the presiding justice of the Second Department in the Article 78 proceeding. I believe, however, you are unaware of how the Commission disposed of that complaint. Enclosed, therefore, is a copy of our March 10, 1995 letter to the Commission--without enclosures. Should you wish, I will be more than pleased to send the full document to you, as well as our filed complaint with the New York State Ethics Commission, referred to therein.

Keep up the good work! The public depends on muckraking journalists to let it know how it is being defrauded and victimized.

Yours for a quality judiciary,

Elena

ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc.

¹ See, also fn. 1 of my mother's October 24, 1991 letter to Governor Cuomo--as to which, to date, there has been no explanation.

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FAX COVER SHEET

DATE: 3/30/95 TIME: 1:50 pm

This fax transmission consists of a total of 15 pages including this cover page. If you have not received all the pages, please call (914) 997-8105.

TO: Juan Przalez: DAILY NEWS

FAX NUMBER: 212-682-4953

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FROM: ERS

MESSAGE: Following up yesterday's phone conversation.

Feel free to call with any questions or for additional info.
Regards.

The Center for Judicial Accountability, Inc. is a national, non-partisan, not-for-profit citizens' organization raising public consciousness about how judges break the law and get away with it.