

CENTER for
JUDICIAL
ACCOUNTABILITY



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April 25, 1994

William Kunstler, Esq.
13 Gay Street
New York City, New York 10014

Dear Mr. Kunstler:

We have read of your censure by Judge Gerard Goettel in the Gannett newspaper of April 22, 1994. Based on our first-hand personal knowledge, we consider Judge Goettel to be a menace on the bench and are most interested in your experience before him, particularly your contention, as reported by Gannett, that Judge Goettel is "trying to discredit [you] because of [your] past criticism of federal judges".

We look forward to sharing with you our formal complaint against Judge Goettel, including his retaliatory behavior against "judicial whistle-blowers"--which we believe would be most valuable to you in your efforts to seek redress.

We would also welcome the opportunity to discuss with you the activities of the Center for Judicial Accountability¹--a non-partisan citizens group working to root out political influence, incompetence, and corruption in the judiciary and to improve the process by which lawyers become judges. To that end, the Center has been building a resource facility, collecting materials on those subjects. This includes cases which we are organizing as "case studies" of the problems that exist.

It is our hope that the Center will become a clearinghouse for the public and press to obtain heretofore unavailable information about judges and about complaints of misconduct by them and court personnel so that accountability might be achieved--eventually--in our third branch of government. As we are sure you know, the New York State Commission on Judicial Conduct and the judicial mechanism set up under 28 U.S.C. §372(c) do not provide redress, but, rather, protect powerful and politically-connected judges.

¹ The Center for Judicial Accountability is the successor to the Ninth Judicial Committee, a grass-roots citizens group formed in 1989 in the Ninth Judicial District of New York.

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For your information, we enclose two items that appeared in The New York Times in the past two years: the first, our expurgated "Letter to the Editor" about the failure of the screening process as it relates to federal judicial nominees, documented by us in a six-month investigative report that we submitted to the Senate leadership in May 1992; and the second, our exchange with Governor Cuomo concerning the politicization of the judiciary in the Ninth Judicial District, represented by a written deal between Democratic and Republican party leaders trading seven judgeships over three years through cross-endorsements--a deal implemented at judicial nominating conventions, conducted in violation of the Election Law.

We would be most pleased to speak with you directly about the Center's activities and to receive from you such materials as you would wish to contribute to our library--especially those relating to Judge Goettel.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability

Enclosures: Gannett, 4/22/94 "Judge Scores Kunstler in Area Case"
NYT, 7/17/92, "Untrustworthy Ratings?"
NYT, 12/11/93, "Meeting with Cuomo Brings out the Critics"

Judge scores Kunstler in area case

U.S. jurist censures famed lawyer in the matter of a racing driver from Eastchester.

By Ed Tagliaferri
Staff Writer

A federal judge has censured famed civil rights attorney William Kunstler and ordered his client, an Eastchester harness racing driver, to pay \$2,000 in sanctions for submitting false information as part of a lawsuit against Yonkers Raceway.

U.S. District Judge Gerard L. Goettel said he was taking the unusual action against Kunstler because the lawyer "made no attempt to verify the truth of (his client's) representations prior to submitting them to the court."

But Kunstler said yesterday that Goettel was trying to discredit him because of his past criticism of federal judges.

The judge's actions stem from a case George Hades brought

against Yonkers Raceway last year. Hades, 53, charged he was illegally blackballed by New York racetracks because of a six-month suspension he received from the Yonkers track in 1989 for passing betting information to a track patron just before he was to race.

Goettel threw out Hades suit last month. But in a ruling signed April 14, Goettel found that Hades "admittedly submitted sworn statements on two highly material facts which were completely false and are now admitted by him to be untrue or misleading."

Hades had contended that because of a conspiracy between Yonkers and other New York area racetracks, he hadn't raced since 1989. But Hades later admitted to racing for brief periods

in 1991 and 1993 at the Monticello track upstate. He also submitted an undated document to the court, claiming it proved he was barred from racing at Yonkers in 1989.



William Kunstler

one of those attorneys who believes that his sole obligation is to his client and that he has no obligations to the court or to the processes of justice. Unfortunately, he is not alone in this approach to the practice of law, which may be one reason why the legal profession is held in

such low esteem by the public at this time."

Kunstler said that in both instances Hades was simply mistaken and was not trying to mislead the court. He said he was preparing a letter to Goettel, in addition to an appeal of the censure to the U.S. Court of Appeals.

Reading from a draft of the letter to the judge, Kunstler said, "It's my opinion that your comment was generated by an animus toward activist attorneys who, like myself, have represented clients totally disfavored by the establishment."

Of the various actions a judge could take against an attorney, a censure was the least serious, said Arthur Penzel, president of the Westchester County Bar Association.

"But it is a serious thing for an attorney to be censured by any judge," Penzel said.

The censure is a first for Kunstler, who has built a career on representing controversial clients, from the Black Panthers to the Long Island Rail Road shooting suspect Colin Ferguson.

He said if Goettel was really interested in why lawyers are viewed so badly by the public, the judge should look at misconduct by prosecutors, divorce lawyers, and instances where lawyers and judges have been found to be corrupt.

"The judge is seizing an opportunity here to discredit me," Kunstler said in a phone interview from Boston, where he was speaking to the law schools at Harvard and Northeastern University yesterday. "He knows that we attack federal judges right and left."

Untrustworthy Ratings?

To the Editor:

"We have good, quality judges. I think I'd take that as a significant accomplishment." You quote that comment by President Bush in the sixth article of "The Bush Record" (July 1), about his appointment of conservative judges. The reality behind this is that one of every six of President Bush's judicial nominees has been rated "not qualified" by a minority vote of the American Bar Association's evaluating panel.

We believe the real story is not the conservative court built by President Bush but the mediocrities he has nominated for lifetime Federal judgeships. Our grass-roots citizen group recently submitted a critique to the Senate Judiciary Committee documenting the unfitness of one of President Bush's nominees to the Southern District of New York. That nominee also received a "not qualified" minority rating by the Bar Association panel.

You state that "in no case has a majority of the evaluating panel found a Bush nominee unqualified." Yet our critique, based on six months of investigation, found no basis for the Bar Association's majority rating of "qualified" for the nominee we studied. The evidence strongly suggests that the rating of that nominee was not the result of any meaningful investigation at all.

Because of the danger of Senate confirmation of unfit nominees to lifetime Federal judgeships, we have called on the Senate leadership to halt all judicial confirmations pending investigation and the setting up of safeguards.

ELENA RUTH SASSOWER
White Plains, July 10, 1992

The writer is coordinator of the Ninth Judicial Committee, a nonpartisan citizen group.

A Meeting With Cuomo Brings Out the Critics

By JAMES DAÖ

Special to The New York Times

ALBANY, Dec. 10 — For years Gov. Mario M. Cuomo has waxed poetic about the importance of participatory democracy. But today he got a tart taste of what can happen when there is a New England-style town hall meeting at the Capitol.

Mr. Cuomo had been asked to address a conference organized by Terry Anderson, the former hostage, and his group, the Alliance for a New York Renaissance. In the room were two dozen advocates for a wide range of government reforms, including term limits, stronger ethics codes and campaign finance restrictions.

It was a daunting prospect for any politician, much less a three-term incumbent who is undecided about seeking re-election next year and has seen several incumbent governors dumped by voters in recent elections.

But Mr. Cuomo opened gamely, pushing a pet project of his own: a constitutional convention to pass election reforms the Legislature won't touch. As he criticized the performance of elected officials everywhere, Mr. Cuomo might have thought he was winning them over. He was wrong.

For the next 45 minutes, the group engaged in a bruising assault on Mr. Cuomo's record, mixing harangues with civics lectures and displaying a disdain for incumbents in general and Mr. Cuomo in particular.

The grilling started with Elena Sassower, a member of the Center for Judicial Accountability, which argues that the cross-endorsement of judges by the Republican and Democratic parties in the lower Hudson Valley robs the voters of choice.

Three times, Ms. Sassower told the Governor, she wrote to him asking for the appointment of a special prosecutor to investigate what she called election irregularities. Three times his aides demurred. Ms. Sassower suggested something was amiss in the Governor's office.

"Please don't be disappointed if in this world of reasonable people there are several who unanimously disagree with you," the Governor said, diplomacy in his voice.

"The only thing I'm disappointed in is the Governor's office," Ms. Sassower retorted.

"Boy, you guys must be tough at dinner," Mr. Cuomo said.

Next up was Dick Martens, an employee of the State Assembly who stood up 10 feet from the Governor and bellowed, "When is your Budget Department going to shape up?"

Mr. Martens, as it turned out, has been a member of a long-standing commission on eliminating government waste. Clearly, Mr. Martens said, Mr. Cuomo had not taken the commission's suggestions to heart.

"Just read the report and respond.

Don't stand mute," Mr. Martens said, doing his best to prevent the Governor from responding.

When Mr. Martens stopped talking, possibly for lack of air, Mr. Cuomo looked at Mr. Anderson, who seemed to be checking his watch, and said, "Good luck, Terry."

Getting Grumpy

The Governor seemed so put upon that when Travis Plunkett, a lobbyist for the New York Public Interest Research Group, lobbed him a relatively softball question about legislation to increase voter registration, Mr. Cuomo gave him the verbal equivalent of a rabbit punch.

"Well, will you help me with the constitutional convention?" Mr. Cuomo said, cutting Mr. Plunkett off.

Mr. Plunkett said the group was

considering it. "Forget about your consideration," Mr. Cuomo said curtly. "I want your energy."

The advocates weren't done. Taking a swipe at the Governor's call for greater participatory democracy, Robert L. Schulz asked Mr. Cuomo why state lawyers have tried to block his legal challenges to state borrowing practices.

"Don't exhort us to get involved and when we do, do everything in your power to force us down," the normally soft-spoken Mr. Schulz said angrily after a rather sharp exchange with Mr. Cuomo.

Moments later, Mr. Anderson, who has said that he will support the Governor if he runs next year, announced that Mr. Cuomo had to depart. "I'm not trying to rescue him from your wrath," he said.