

CENTER for
JUDICIAL
ACCOUNTABILITY



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September 8, 1994

William Kunstler, Esq.
Kunstler & Kuby
13 Gay Street
New York, New York 10014

Att: Rosa De La Torre

RE: Legal Retention or Referral

Dear Ms. De La Torre:

Enclosed is a copy of my August 26th letter to Ms. Karotzer.

As discussed, it is more than three years since my mother was suspended by the Appellate Division, Second Department in an order which stated no reasons and made no findings. She never had a hearing before she was suspended--and, in the three years since, the Appellate Division, Second Department has denied all her requests for a hearing.

In an Article 78 proceeding brought by my mother charging the judges of the Appellate Division, Second Department with criminal conduct in using its disciplinary power for ulterior political ends, the Appellate Division, Second Department refused to recuse itself and granted the motion to dismiss of its own attorney, the Attorney General.

That Article 78 proceeding, Sassower v. Mangano, et al., is now before the Court of Appeals on a motion to reargue and renew its denial of our appeal as of right and, alternatively, for leave to appeal. Notwithstanding Judiciary Law §14 explicitly mandates that a judge recuse himself where he is a party to a litigation or has a substantial interest in its outcome, the Attorney General has argued, without the slightest legal authority, that it was perfectly permissible for the judges of the Appellate Division to decide their own case.

Inasmuch as Messrs. Kunstler and Kuby have been disqualified by the federal court from representing the criminal defendants in the World Trade Center bombing case, they will surely be

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interested in a case highlighting the extent to which judges brazenly flaunt the most basic precept of "conflict of interest", with the complicity of this State's highest law officer, the Attorney General.

We urgently require amicus support of individuals, such as Messrs. Kunstler and Kuby, with a record of concern for civil liberties issues, and of civil liberties organizations, such as the Center for Constitutional Rights and the New York Civil Liberties Union. Additionally, we require immediate assistance for an application for certiorari to the U.S. Supreme Court and for a federal action to challenge the constitutionality of Judiciary Law §90-- recognized as unconstitutional twenty years ago in the dissenting opinion of Judge Jack Weinstein in Mildner v. Gulotta, 405 F.Supp. 182 (1975).

If Mr. Kunstler is unable to personally assume this case, we respectfully request that he follow it up with Michael Deutsch at the Center for Constitutional Rights and contact the New York Civil Liberties Union on our behalf. In view of the enclosed September 2nd "Letter to the Editor" of Norman Siegel and Laura Murray, the New York Civil Liberties Union should be particularly interested in this case.

Please, we desperately need legal assistance.

Thank you.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability

Enclosures: 8/26/94 ltr to Ms. Karotzer (w/o enclosures)
9/2/94, NYT, Ltr to the Editor:
"Suspension for a Remark is Excessive"

9/2/94 NYJ

Suspension for a Remark Is Excessive

To the Editor:

The suspension by New York State's Attorney General, G. Oliver Koppell, of Thomas Neidl, chief of his office's criminal prosecutions bureau, for having made disparaging remarks about homosexuals and lesbians (news article, Aug. 26) inappropriately infringes upon Mr. Neidl's First Amendment rights.

A woman said, you report, that her answering machine had taped Mr. Neidl saying that homosexuals "shouldn't have kids."

While it was perfectly appropriate — and given the offensive nature of Mr. Neidl's remarks, accurate — for the Attorney General to condemn the remarks as "personally repugnant," suspension of Mr. Neidl from his supervisory position on the basis only of his statements offends basic values respecting free expression.

The critical question here must turn on job performance. Principles of free speech counsel against suspension or dismissal on the basis of expression in the absence of evidence that such expression has seriously impaired Mr. Neidl's ability to perform the tasks assigned to him as deputy chief.

As Attorney General, Mr. Koppell

has the highest obligation to uphold the letter and spirit of the Constitution and the laws of the State of New York. We urge Mr. Koppell, even as he rightfully continues to deplore the bigotry reflected in Mr. Neidl's unfortunate remarks, to reverse his decision to suspend Mr. Neidl.

NORMAN SIEGEL, LAURA MURRAY
New York, Aug. 29, 1994

The writers are, respectively, executive director and legislative director, New York Civil Liberties Union.



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