

CENTER for JUDICIAL ACCOUNTABILITY, INC.

(914) 421-1200 • Fax (914) 684-6554
E-Mail: probono@delphi.com

Box 69, Gedney Station
White Plains, New York 10605

By Fax: 518-486-9652 (3 pages)
By Certified Mail/RRR: P-624-546-598

March 29, 1996

Governor George Pataki
Executive Chamber, State Capitol
Albany, New York 12224

ATT: Michael Finnegan, Counsel

Dear Mr. Finnegan:

This confirms our telephone request to your office today for a copy of the "Report on the Allegations Against Judge Duckman". That Report is referred to in Governor Pataki's Letter to the Editor, published in the New York Law Journal on March 18, 1996. A copy is enclosed, for your convenience.

In that letter, the Governor states:

"I can only wonder how many of those who endorsed the resolution took the time to read the Report on the Allegations Against Judge Duckman that accompanied the referral [to the State Commission on Judicial Conduct]. Had they done so, they would have appreciated the basis for the referral..."

In addition to the "Report on the Allegations Against Judge Duckman", we would appreciate a copy of the "referral" itself.

May we also take this opportunity to alert you to the fact that we have still received no response from your office to our repeated requests--spanning the past several months--for specific information about the Governor's judicial screening procedures, and his consideration of a particular candidate. A copy of our repeatedly-faxed letter request is enclosed.

Your prompt attention to the foregoing would be greatly appreciated.

Yours for a quality judiciary,



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

Enclosures

Monday, March 18, 1996

LETTERS

To the Editor

Governor Responds To Bars' Resolution

Last Friday, March 8, your newspaper reported that a group of 26 bar associations and six law school deans has issued a joint resolution endorsing the "fundamental principle" that "judges in New York should not be subject to the fear of sanction of removal from office solely upon the basis of a decision, ruling or opinion, lawfully taken pursuant to the exercise of judicial discretion." As your reporter noted, the group seemed to be aiming its comments at my decision to refer New York Criminal Court Judge Lorin Duckman to the State Commission on Judicial Conduct to determine whether he should be removed from office.

I can only wonder how many of those who endorsed the resolution took the time to read the Report on the Allegations Against Judge Duckman that accompanied the referral. Had they done so, they would have appreciated the basis for the referral was *not* a lawful exercise of judicial discretion. Rather, I made the referral because there was strong evidence that Judge Duckman harbored a personal bias — a belief that domestic violence is not a crime — that, if found to exist, should automatically disqualify him from the bench.

The report includes this paragraph, which sets forth my fundamental principle in this area:

No judge should be removed for a single (or even a few) discretionary decision which may be viewed as "bad." Especially in our criminal courts, judges must make difficult rulings balancing competing interests, often in a hurried setting and frequently with less than perfect information. Removal for a few bad decisions could be ruinous for the independence of the judiciary, which is a bulwark of our liberty. That is true even when a judge's decision leads to nightmarish consequences that a wiser ruling would have prevented.

As long as I am Governor, that principle will guide my decisions in these weighty matters. I asked the Commission on Judicial Conduct to review Judge Duckman's fitness because, in my judgment, the matter went far beyond a few bad discretionary rulings. Most troubling to me were Judge Duckman's remarks as set forth in a sworn affidavit by Bryanne Hamill, a respected Bronx prosecutor — remarks that were reportedly said in the midst of a 1991 domestic violence case. According to Ms. Hamill (whom my staff interviewed and found credible), Judge Duckman told her that he had once been involved in a domestic violence incident, that "you can't believe it's you doing these things" and either that it "should not be" or "is not a crime." Ms. Hamill prepared a contemporaneous memorandum detailing these remarks.

If Judge Duckman made such indefensible comments, he should not be sitting in Criminal Court. Domestic violence is a crime; indeed, it is among the most serious crimes prosecuted in our criminal courts, and one in which the potential for escalating violence is omnipresent. Plainly, no judge can rule impartially and dispassionately on issues of bail, orders of protection, and the like, if he or she believes that such matters are somehow beyond the control of the abusive partner and therefore not the proper subject for a criminal case.

Put differently, if Judge Duckman made these remarks, his decision to release Benito Oliver (who subsequently killed Galina Komar) or to confer a "time served" sentence on Maximo Pena (who subsequently attacked Evelyn Molina) take on a different cast; they were not just bad decisions; they were biased decisions rendered by a judge who should not have presided over the cases.

Do the 26 bar association groups and six law school deans believe that a person who views domestic violence as not a crime and whose decisions bespeak that view is fit to sit in Criminal Court? If so, I would encourage them to issue another joint resolution setting forth that belief. As Governor, I would have abdicated my responsibility to ensure that the laws are faithfully executed if I had not referred Judge Duckman to the Commission for it to conduct a full investigation. As I said at the time and reiterate now, if the Commission determines that the facts are as presented to me — that Judge Duckman cannot rule impartially on domestic violence cases and that he has exhibited a reckless disregard for the rights of victims — his removal from the bench is the appropriate course.

George E. Pataki

Albany, N.Y.

The author is Governor of the State of New York.

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4/12/96 fax: 486-9652

To: Kathleen Sanvidge
Per our repeat by phone,
please direct Mr. Finegan
By Fax: 518-474-8099 for
5 pages response.

January 10, 1996

Thanks
ERS

Susan Meier, Legislative Assistant
Office of the Governor
Executive Chamber, State Capitol
Albany, New York 12224

Dear Ms. Meier:

① As discussed a short while ago by phone, please confirm for us whether Andrew O'Rourke is being considered for appointment to a judgeship. If "confidentiality" prevents you from doing so, we would appreciate a letter to that effect.

② Also, we request a list of the names of the members of the Temporary Judicial Screening Committee, established by Governor Pataki's Executive Order #11.

Finally, I enclose a copy of the Center's brochure--as well as our New York Times' Op-Ed ad, "Where Do You Go When Judges Break the Law" and our New York Law Journal letter to the editor, "Commission Abandons Investigative Mandate". As may be seen from those newspaper items, our judicial process has been corrupted by self-interested judges who have jettisoned fundamental legal standards. We will be sending a letter to the Governor on that subject, enclosing petitions signed by over 1,000 citizens of this State for appointment of an investigatory commission.

Yours for a quality judiciary,

Elena Ruth Sassower

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

Enclosures

4/6/96

To: Linda DiBernardo

* see
paragraph
1 + 2

per our telephone conversation,
the enclosed is faxed to you to
assist Mr. Finegan in obtaining for
us the basic information we have
been endeavoring unsuccessfully to procure.

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Gov. George Pataki
Executive Chamber
State Capitol
Albany, NY 12224
Attn: Michael Finnegan
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