

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

ERIN P. GALL,

a Justice of the Supreme Court,
Fifth Judicial District, Oneida County.

**MEMORANDUM BY COUNSEL TO THE COMMISSION IN SUPPORT
OF RECOMMENDATION THAT RESPONDENT BE REMOVED FROM
OFFICE**

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TABLE OF CONTENTS

| | PAGE |
|--|-------------|
| TABLE OF AUTHORITIES | v |
| PRELIMINARY STATEMENT | 1 |
| INTRODUCTION | 1 |
| PROCEDURAL HISTORY..... | 3 |
| A. The Initiatory Complaint and Investigation | 3 |
| B. The Formal Written Complaint and Verified Answer..... | 5 |
| THE STIPULATED EVIDENCE..... | 5 |
| A. Respondent and her family attended a high school graduation party hosted by their friends..... | 5 |
| B. Late in the evening, dozens of uninvited teenagers arrived at the party, and confrontations broke out | 6 |
| C. William Carter, Jahshiem Valladares, and two of their friends learned about the party on social media and arrived to find widespread chaos..... | 7 |
| D. Respondent’s husband and son were also involved in a fight, but neither sought nor needed medical treatment..... | 9 |
| E. Mr. Carter realized he had lost his car key..... | 10 |
| F. Officers from five law enforcement agencies arrived on the scene, broke up fights, and observed signs of underage drinking | 10 |
| G. Over the course of approximately an hour and fifteen minutes, Respondent repeatedly invoked her judicial office and engaged in a loud, public, and profanity-laced confrontation with police | |

and Mr. Carter’s group, which included demands that Mr. Carter and his friends be arrested for trespassing and assault.....11

H. Respondent threatened to shoot the four Black teenagers if they returned to the property to look for their lost car key, and she encouraged the police to do the same.20

I. Weeks later, Respondent had conversations with three members of the sheriff’s department during which she complained about how police personnel handled the situation at the party21

J. Respondent acknowledged that her behavior during the altercation created at least the appearance of racial bias and bias in favor of law enforcement, and was otherwise incompatible with the role of a judge.....22

K. Respondent acknowledged that by repeatedly invoking her judicial title and threatening to call an officer’s superior, she created at least the appearance that she was seeking preferential treatment based on her judicial status and/or lending the prestige of her office to advance private interests22

L. Respondent asserted that the behavior underlying her misconduct was related to [REDACTED] stemming from a [REDACTED] assault she suffered in 199023

THE STIPULATED CONCLUSIONS OF LAW24

ARGUMENT25

POINT I

RESPONDENT’S EGREGIOUS PUBLIC MISCONDUCT, WHICH INCLUDED RACIALLY-CHARGED AND PROFANITY-LACED TIRADES ALONG WITH REPEATED INVOCATIONS OF HER JUDICIAL OFFICE, RENDER HER UNFIT FOR THE BENCH25

| | | |
|----|--|----|
| A. | Respondent’s comments that the Black teenagers did not look “smart,” and that she would “shoot them” if they returned to the Pearce property, created the appearance of racial bias and compel her removal from office. | 26 |
| 1. | Respondent created the appearance of racial bias by making comments that Mr. Carter and his friends did not look as “smart” as her son and that they presumably were poorer than she and her white friends. She exacerbated that misconduct by suggesting that if the police arrested the teens in violation of their civil rights, she would protect the officers in court..... | 27 |
| 2. | Respondent’s suggestion that the police shoot the stranded Black teenagers if they returned to the property, and her subsequent threat to shoot them herself, exhibited racial bias inconsistent with judicial office. | 29 |
| B. | Respondent’s repeated invocation of her judicial title in an attempt to strongarm or curry favor with the police and intimidate the Black teenagers, separately demonstrates her lack of fitness for office | 33 |
| 1. | Respondent repeatedly invoked her judicial title while trying to strongarm or curry favor with the police..... | 35 |
| 2. | Respondent repeatedly invoked her judicial title in order to intimidate the stranded teenagers..... | 39 |
| 3. | Respondent continued to invoke her judicial office long after the fighting had ended, the police had de-escalated the situation, and she had calmed down | 40 |
| C. | Respondent’s profanity-laced public tirade and celebration of the violence perpetrated against the stranded teenagers were unbecoming of a judge and support her removal from office..... | 41 |

D. Respondent aggravated her misconduct by complaining about the police response to various members of the sheriff’s department, two weeks after the fact.....42

E. Given the totality of Respondent’s egregious misconduct, removal is the only appropriate sanction44

CONCLUSION47

TABLE OF AUTHORITIES

CASES

Harden v Hillman, 993 F3d 465 (6th Cir 2021) 28

Matter of Astacio 32 NY3d 131 (2018) 33

Matter of Ayres, 30 NY3d 59 (2017) 33, 42

Matter of Backal, 87 NY2d 1 (1995) 29

Matter of Bauer, 3 NY3d 158 (2004) 43

Matter of Blackburne, 7 NY3d 213 (2006) 45

Matter of Edwards, 67 NY2d 153 (1986) 46

Matter of Esworthy, 77 NY2d 280 (1991) 26, 32

Matter of LaBombard, 11 NY3d 294 (2008) 37

Matter of Lonschein, 50 NY2d 569 (1980)..... 33

Matter of Mazzei, 81 NY2d 568 (1993)..... 40

Matter of Miller, 35 NY3d 484 (2020) 45

Matter of O’Connor, 32 NY3d 121 (2018) 45

Matter of Putorti, 40 NY3d 359 (2023) 26, 30, 31, 32, 46

Matter of Restaino, 10 NY3d 577 (2008) 32

Matter of Schiff, 83 NY2d 689 (1994)26, 32, 44

Matter of Steinberg, 51 NY2d 74 (1980) 33

Pena-Rodriguez v Colorado, 580 US 206 (2016) 44

People v Perry, 19 NY3d 70 (2012) 31n11

COMMISSION DETERMINATIONS

Matter of Astacio, 2018 Ann Rep of NY Commn on Jud Conduct 71 33

Matter of Calderon, 2011 Ann Rep of NY Commn on Jud Conduct 86..... 34

| | |
|---|----|
| <i>Matter of Chase</i> , 1998 Ann Rep of NY Commn on Jud Conduct 75..... | 34 |
| <i>Matter of Dixon</i> , 2017 Ann Rep of NY Commn on Jud Conduct 100..... | 34 |
| <i>Matter of Dumar</i> , 2005 Ann Rep of NY Commn on Jud Conduct 151 | 34 |
| <i>Matter of Edwards</i> , 2020 Ann Rep of NY Commn on Jud Conduct 108..... | 34 |
| <i>Matter of Michels</i> , 2019 Ann Rep of NY Commn on Jud Conduct 171 | 30 |
| <i>Matter of Nunnery</i> , 2024 Ann Rep of NY Commn on Jud Conduct 144..... | 41 |
| <i>Matter of Pennington</i> , 2004 Ann Rep of NY Commn on Jud Conduct 139 | 44 |
| <i>Matter of Putorti</i> , 2023 Ann Rep of NY Commn on Jud Conduct 230 | 26 |
| <i>Matter of Romano</i> , 1999 Ann Rep of NY Commn on Jud Conduct 133 | 41 |
| <i>Matter of Straite</i> , 1988 Ann Rep of NY Commn on Jud Conduct 226 | 34 |
| <i>Matter of Sullivan</i> , 2016 Ann Rep of NY Commn on Jud Conduct 209..... | 34 |
| <i>Matter of Tawil</i> , 2020 Ann Rep of NY Commn on Jud Conduct at 158..... | 41 |

STATUTES AND REGULATIONS

| | |
|---|-----------|
| Civil Practice Law and Rules §6340(1) | 18n10 |
| Civil Practice Law and Rules §6341 | 18n10, 38 |
| Judiciary Law §44 | 3 |
| Penal Law §35.15(2) | 31 |
| Penal Law §120.14(1) | 31n11 |

RULES GOVERNING JUDICIAL CONDUCT

| | |
|------------------------|----|
| Rule 100.1 | 24 |
| Rule 100.2(A) | 24 |
| Rule 100.2(C) | 24 |
| Rule 100.4(A)(1) | 24 |
| Rule 100.4(A)(2) | 24 |
| Rule 100.4(A)(3) | 24 |

OTHER AUTHORITIES

Priyadarshini Das, *What Counts as ‘Racist Enough?’: A Clearer Standard For
New Trials When Jurors Demonstrate Racial Bias*, 31 J.L. & Pol’y 136 (2022)
..... 30

Joseph W. Rand, *The Demeanor Gap: Race, Lie Detection and the Jury*,
33 Conn. L. Rev. 1 (2000)..... 27

Mikah K. Thompson, *Bias on Trial: Toward an Open Discussion of Racial
Stereotypes in the Courtroom*, 2018 Mich St L Rev 1243 (2018) 27

PRELIMINARY STATEMENT

This Memorandum is respectfully submitted by Counsel to the Commission on Judicial Conduct (“Commission”) in support of the recommendation that, based upon the agreed statement of facts and stipulated conclusions of law, the Commission render a determination that the Honorable Erin P. Gall (“Respondent”) should be removed from office.

INTRODUCTION

In the early morning hours of July 2, 2022, after multiple police agencies responded to reports of a large fight at a high school graduation party she was attending as a guest, Respondent repeatedly invoked her judicial status in the course of a prolonged, loud, public, menacing, racially-charged and profanity-laced confrontation with responding police officers and four Black teenagers stranded at the scene after they lost their car key. Respondent, who is white, *inter alia*:

- made racially biased, demeaning and/or profane comments to and about the Black teenagers, including that they did not “look that smart” and would not be going to “business school” like her son, that they were too poor – unlike Respondent and her friends – to afford cocaine, and that it was appropriate for the party host to tell the teenagers to “go fuck [them]selves”;
- told the police that if the teenagers returned to her friends’ property to look for their car key, she would call the police so they could arrest or shoot the teenagers, “[b]ecause when they trespass you can shoot them on the property”;
- as a follow-up to that statement, expressly threatened, “I’ll shoot them on the property”;

- immediately announced to police that she was a Supreme Court justice and then repeatedly – at times profanely, *e.g.*, “I’m a fucking judge” – invoked her judicial status in demanding that the youths leave the scene and that the police remove or arrest them, notwithstanding the officers’ insistence that there was no legal basis to do so;
- threatened to call the chief of police after the officers refused to make arrests, asserted to police that they were in her “jurisdiction,” and asked for an officer’s name when he expressed incredulity at that remark;
- made disparaging comments about applications for Extreme Risk Protection Orders that are designed to deny access to firearms to individuals who are likely to engage in conduct that would result in serious harm and encouraged police personnel not to file them in her court;
- encouraged a deputy to arrest the Black teenagers, notwithstanding his concern about ending up in her court for violating their civil rights, by asserting that she was “always on [law enforcement’s] side” and would “take anyone down” for the police in a civil rights lawsuit;
- loudly expressed her satisfaction that her son had “kick[ed] the shit out of” and “put a smack down” on one or more of the teenagers; and
- aggravated her already egregious misconduct when, weeks later, she continued to complain that the officers deflected her exertions of judicial influence and did not arrest the four Black teenagers.

Respondent’s ignorant and racist comments about the intelligence of the four Black teenagers, compounded by her threat to shoot them and her encouragement that the police do the same, warrant her removal standing alone. Strewed as they were throughout a long string of otherwise outrageous ethical violations spanning more than an hour in duration – all of which were recorded by police bodycams, and all of which occurred while Respondent avers she was sober – Respondent’s

conduct was so inimical to the role and integrity of the judiciary that no amount of mitigation could excuse it. She should be removed from the bench.

PROCEDURAL HISTORY

A. The Initiatory Complaint and Investigation

On September 22, 2022, the Commission directed the filing of an Administrator’s Complaint pursuant to Judiciary Law §44(2), authorizing an investigation based on an anonymous complaint alleging, *inter alia*, that on or about July 1, 2022,¹ Respondent invoked her judicial office and intervened with police officers who were called to the scene of a party at which, *inter alia*, her husband and son were involved in a fight with minors (ASF ¶2; Ex 1).² The anonymous complaint also indicated that a video of the fight was circulating on social media, and that Respondent had been recorded on an officer’s body camera (*id.*).

By letter dated October 28, 2022, the Commission apprised Respondent of the Administrator’s Complaint, provided her with six videos containing body

¹ The events at issue began in the late evening hours of July 1, 2022, and continued past midnight into the early morning hours of July 2, 2022. To avoid confusion, hereafter those events will be referred to as having occurred on July 2, 2022.

² “ASF” refers to the Agreed Statement of Facts and “Ex” refers to exhibits annexed thereto.

camera (“bodycam”) and dashboard camera (“dashcam”) footage recorded by law enforcement, and directed her to appear and give testimony (ASF ¶3; Ex 2).³

On November 15, 2022, Respondent appeared with her attorney at the Commission’s Albany office, confirmed that she had reviewed all the video footage with her attorney, and testified about the events of July 2, 2022 (Ex 9, p 4). Respondent admitted to having committed the conduct depicted on the bodycam footage. She claimed to have acted under “exigent circumstances” after having witnessed her husband and son get attacked by a group of Black “kids,” and that her frustration grew because the police refused to remove the four “kids” who were stranded at the scene (Ex 9, pp 26-28, 62). Respondent further asserted that as a “mom of athletes,” her behavior that night was akin to how she gets “loud,” “super excited,” “upbeat,” and “animated” during her children’s sports competitions (Ex 9, p 35). She testified that she “had never witnessed a fight or an assault” (Ex 9, p 20) and “literally had never expected or experienced anything quite like” that (Ex 9, p 27).

On December 22, 2022, Respondent co-signed and submitted through her attorney a letter to the Commission, supplementing and clarifying parts of her testimony (ASF ¶5; Ex 10).

³ Copies of the bodycam and dashcam videos that were provided to Respondent in advance of her testimony were annexed to the ASF as Exhibits 3 through 8.

B. The Formal Written Complaint and Verified Answer

Respondent was served with a Formal Written Complaint dated May 23, 2023 (ASF ¶6-7; Ex 11).

Respondent filed a Verified Answer dated July 18, 2023 (ASF ¶8; Ex 12).

The Answer admitted, *inter alia*, that Respondent committed misconduct, proposed that a sanction less than removal be imposed, and set forth three affirmative defenses:

1. She acted as a wife and a mother who had seen her husband and son attacked;
2. On the bench she is fair, honest, respectful and conscientious toward all litigants and lawyers; and
3. Her conduct on July 2, 2022, was the result of extreme emotional distress triggered by [REDACTED] associated with a [REDACTED] assault that occurred in 1990.

THE STIPULATED EVIDENCE

The parties entered into an Agreed Statement of Facts, dated March 1, 2024, which the Commission accepted at the March meeting.

A. Respondent and her family attended a high school graduation party hosted by their friends.

On July 1, 2022, Stephen and Gina Pearce held a high school graduation party for their son, Jackson Pearce, at their residence at [REDACTED] Tibbitts Road in the Town of New Hartford (ASF ¶9). Respondent, her husband William Gall III, and their three teenage children, including her then 18-year-old son, William Gall IV,

were among the approximately 60 attendees who were invited by Stephen and Gina Pearce (ASF ¶10). In addition, Jackson Pearce separately invited a number of friends via private message over Snapchat (ASF ¶11).

The Pearces hired a bartender to serve alcoholic beverages from 6:30 PM to 10:00 PM. The Pearces also provided a keg of beer from which guests could serve themselves, and which remained accessible after the bartender left. At a hearing, Respondent would testify that she did not consume any alcohol at the party and was sober during the entirety of the events of July 2, 2022 (ASF ¶12).

B. Late in the evening, dozens of uninvited teenagers arrived at the party, and confrontations broke out.

Throughout the evening, dozens of teenagers, many of whom were invited, arrived at the party. At some point, the crowd extended outside the tent that the Pearces had set up on their front lawn and spread into and/or around the road adjoining the Pearces' property (ASF ¶¶13-14).

Sometime after 11:30 PM, a large number of individuals who had not been invited by the Pearces arrived at the party. Thereafter, arguments ensued between invited and uninvited individuals. Respondent saw an unknown individual, whom she believed was uninvited, overturn a tray of food, and she heard people talking loudly, some with vulgarity. In an attempt to clear the area, Respondent's husband and son, along with another invited adult, began to shepherd individuals away from the tent area and toward Tibbitts Road (ASF ¶15).

C. William Carter, Jahshiem Valladares, and two of their friends learned about the party on social media and arrived to find widespread chaos.

On the evening of July 1, 2022, four Black male teenagers – William Carter, Jahshiem Valladares, and two others known as “Dooley” and “Havo”⁴ – were socializing in Utica and discussing what to do that night when Havo learned about a party in New Hartford via a live video feed from an unidentified friend in attendance.⁵ At 11:44 PM, that friend texted the address to one of Mr. Carter’s group.⁶ A few minutes later, Mr. Carter drove Mr. Valladares and their two other friends to the party in his mother’s SUV. The drive took about 20 minutes. No one from Mr. Carter’s group was invited by any of the Pearces (ASF ¶16, 69).⁷

Mr. Carter’s group arrived at the Pearces’ address after midnight and parked on the shoulder of Tibbitts Road, across the street from the Pearces’ driveway and not on the Pearces’ property. At a hearing, Mr. Carter and Mr. Valladares would testify that, upon their arrival, they observed a large number of individuals,

⁴ Mr. Carter and Mr. Valladares declined to provide the full names or contact information for Havo and Dooley. Commission Counsel was unable to ascertain their identities or contact them.

⁵ Mr. Carter and Mr. Valladares declined to provide the name of the friend. It is unknown whether the friend had been invited to the party by Jackson Pearce or his parents.

⁶ The text lists the address as “█████ tibbits rd” (ASF ¶16; Ex 14), instead of █████ Tibbitts Road.

⁷ At the time, Mr. Carter had a learner’s permit, but not a full license. At a hearing in this matter, Mr. Valladares would testify that he smoked marijuana approximately an hour before leaving for the party, and Mr. Carter would testify that he did not smoke marijuana. Respondent did not know of any marijuana use until after the conclusion of the Commission’s investigation in this matter (ASF ¶16).

including teenagers and adults, congregating on Tibbitts Road, near the end of the Pearces' driveway (ASF ¶17).

At a hearing, Mr. Carter would testify that, shortly after getting out of the SUV, he heard raised voices and arguing. Although Mr. Carter did not see anyone physically fighting at that time, he quickly decided that he and his friends should leave. A cell phone video of the chaotic scene recorded by Mr. Carter at 12:19 AM on July 2, 2022, approximately three minutes before the first police officer arrived on the scene, shows Mr. Carter exclaiming, "What the fuck" as he pans his camera around to show a mob of teenagers arguing with one another in the middle of the road (ASF ¶18; [Ex 15](#)).⁸

Shortly after Mr. Carter stopped recording, a fight or multiple fights broke out among a large group of individuals, some of whom had not been invited to the party (ASF ¶19; *see* [Ex 19](#)). At a hearing, Mr. Carter and Mr. Valladares would testify that they attempted to avoid the fighting and leave the scene by returning to their SUV, after re-locating Havo and Dooley, from whom they had separated for a period. They would further testify that, as Mr. Carter was attempting to unlock the SUV, he and Mr. Valladares were grabbed from behind by other unidentified individuals and swept into a fight (ASF ¶25).

⁸ Exhibits appearing in [blue underlined text](#) are [clickable hyperlinks](#) to a digital version of the indicated exhibits.

D. Respondent's husband and son were also involved in a fight, but neither sought nor needed medical treatment.

At around the same time, Respondent's husband and two other adults were attempting to separate several unknown individuals who were fighting. In the confusion, Respondent's husband, Mr. Carter and Mr. Valladares became involved – though not necessarily with one another – in a physical altercation in or near a ditch along the road, during which Respondent's husband had the back of his shirt ripped and suffered injuries to his ears, while Mr. Carter sustained a small facial abrasion. Mr. Valladares suffered a laceration under one of his eyes, which bled and later required stitches (ASF ¶26; Exs 16-18).

At some point, as William Gall IV was continuing to help clear the area, he was attacked by individuals whom Respondent and her family had never seen before and believed were uninvited (ASF ¶20). At a hearing, Respondent would testify that her son was approximately five feet from her when she saw him get slapped on the right side of his head, and when he attempted to retreat, several unknown individuals violently attacked him, bringing him to the ground where they kicked, stomped and punched him about his head, face and body (ASF ¶21). Respondent would further testify that, while watching the attack, she “froze,” did not physically intervene, and stood there in shock without doing anything (ASF

¶22). Although William Gall IV sustained injuries to his ribs and face, those injuries did not require medical attention (ASF ¶21; attachments to Ex 10).⁹

When the fighting stopped, Respondent did not believe that her husband or son were injured to the extent that they needed medical attention, which she explicitly told a responding police officer few minutes later. Neither Respondent's son nor her husband sought or received any medical treatment (ASF ¶30).

E. Mr. Carter realized he had lost his car key.

When the fighting stopped, Mr. Carter realized he no longer had the key to the SUV. He and his three friends began searching the area for the key (ASF ¶31).

F. Officers from five law enforcement agencies arrived on the scene, broke up fights, and observed signs of underage drinking.

At 12:22 AM, New Hartford Police Department Officers Robert Cornish and Eric Cappelli arrived at the Pearce residence in response to multiple reports of a large party with numerous fights. Soon thereafter, police personnel from the Oneida County Sheriff's Department, the Kirkland Police Department, the Whitestown Police Department, and the New York Mills Police Department

⁹ During the Commission's investigation, Respondent identified photographs of Havo and Dooley as two of the individuals she saw fighting her son. At a hearing, Respondent would testify as to these identifications, as well to her belief that Havo and Dooley initiated the assault (ASF ¶¶23-24). However, in view of the totality of the circumstances surrounding the incident, including the darkness of night, rainy conditions, and large number of persons involved in the melee – many of whom were unknown to Respondent at the time – the parties agree that the evidence is insufficient to support any finding as to whether Havo and Dooley fought with or assaulted Respondent's son (ASF ¶24).

arrived at the scene as well (ASF ¶32). Respondent was aware that officers and deputies at the scene wore operational body cameras (ASF ¶34).

Upon arriving, Officers Cornish and Cappelli broke up numerous fights and directed the partygoers to leave the area. It appeared to them and other police personnel that many of the teenagers had been drinking alcohol and/or were intoxicated. Police personnel also observed numerous alcoholic beverage containers littering the ground on or around the Pearces' property, as well as along the road. Police personnel issued no tickets for underage drinking (ASF ¶33).

G. Over the course of approximately an hour and fifteen minutes, Respondent repeatedly invoked her judicial office and engaged in a loud, public, and profanity-laced confrontation with police and Mr. Carter's group, which included demands that Mr. Carter and his friends be arrested for trespassing and assault.

Shortly after the officers arrived, Respondent approached Officer Cappelli and volunteered, "I'm Erin Gall, I'm a Supreme Court judge." She told him that the Pearces' graduation party had gotten out of control (ASF ¶35; [Ex 4a](#)) (emphasis added).

Soon thereafter, Stephen Pearce, who appeared intoxicated, ran toward Mr. Carter's group and screamed obscenities at the four Black teens as they looked for the lost car key. As other adults physically restrained Mr. Pearce, Respondent – despite being a guest at the party who did not live in the neighborhood and had no ownership interest in the Pearces' property – yelled:

You got to leave! You're not going to find your keys. You got to call an Uber and get off the property. That's what I'm saying. No. Done. You're done. Done, done, done. Get off the property!

(ASF ¶36; [Exs 3a, 4b](#)).

Again invoking her judicial office, she continued, "And's that's from Judge Gall! I'm a fucking judge! And I'm telling you! Get off the fucking property!"

(ASF ¶36; [Ex 3a](#)) (emphasis added).

Apparently responding to someone who called her something other than "judge," she shouted, "No, judge. It's judge. I could give a fuck. . . . I don't want anyone on the property. If I have to clear it out, I will" (ASF ¶36; [Ex 3a](#)) (emphasis added).

When Officer Cornish asked Respondent if anyone needed medical attention, Respondent replied in a more moderate voice, "No, Jesus, no. No, honestly, I'm a Supreme Court judge" (ASF ¶37; [Ex 3b](#)) (emphasis added). She then resumed yelling:

They're not going to find keys . . . and you know what, this is just a stall tactic. They got to go. They got to go. There's no keys. There's absolutely no keys. You know what you're not going to find your mom's keys. You gotta ask her for a second set, bro!

(ASF ¶38; [Ex 3b](#)).

When Mr. Carter or one of his friends told Respondent, "It's not going to work like that," Respondent – invoking her judgeship yet again – replied:

Yeah, that's how it's going to work. I'm telling you, that's how it's working. Well, you're going to get in an Uber, buddy, or you're going to get a cop escort home. That's how it's happening. That's what I'm telling you right now. That's how I roll. That's how I roll. That's how Mrs. G rolls. That's how Judge Gall rolls. We're clearing this place out.

(ASF ¶39; [Ex 3b](#)) (emphasis added).

Stephen Pearce subsequently yelled at the officers that Mr. Carter's group should be arrested, and Respondent voiced her agreement, adding, "They were trespassing and . . . they should be arrested." (ASF ¶40; [Exs 4c](#), [6a](#)).

She went on to tell the officers, "This is not my first rodeo" and ask, "Are you from New Hartford?" Upon getting confirmation, Respondent stated, "Ok, New Hartford Police: they should either be arrested or driven off the property. We shouldn't be looking for their keys. They assaulted people here. We're not pressing charges. We just need them gone." When the officers did not do as she asked, Respondent said, "I don't know if I have to call the Chief of Police. This is ridiculous" (ASF ¶40; [Exs 4c](#), [6a](#)).

At a hearing, Respondent would testify that she was frustrated because she wanted the Pearce property cleared of the individuals whom she believed had fought with her son and husband, and she did not want her family and friends to be engaged in another violent encounter (ASF ¶41).

Several minutes later, when Respondent resumed screaming that everyone should stop looking for the lost car key, the following exchange occurred between

Respondent and Officer Cappelli:

Respondent: I'm not looking for keys. Guys, don't look for keys anymore, please. I don't care about this kid's fucking keys.

Ofc. Cappelli: I do. So relax.

Respondent: I don't.

Ofc. Cappelli: It's not even your house. Chill out.

Respondent: It's my jurisdiction though.

Ofc. Cappelli: Okay.

Respondent: Yeah it is! Yeah it is! Yeah it is! Don't laugh!

Ofc. Cappelli: I'm not.

Respondent: What's your name.

Ofc. Cappelli: Cappelli.

Respondent: Cappelli. Okay. I'll make sure I tell them. I mean seriously you're worried about a trespasser and an assaulter's keys. He committed a crime and you're looking for his keys.

Ofc. Cappelli: So did all of the adults giving all of these kids booze, so what do you want?

Respondent: What was that?

Ofc. Cappelli: So did all of the adults giving all of these kids booze.

Respondent: I don't know who this kid was. No, we don't even know who this kid is! No adult gave this kid booze. Cappelli.

(ASF ¶42; [Ex 4d](#)) (emphasis added).

When Respondent said, "Cappelli. Okay. I'll make sure I tell them," she was referring to her intention to call a lieutenant she knew in Officer Cappelli's department to complain about his actions that night (ASF ¶43).

While arguing with Deputy Steven Eilers about whether Mr. Carter's group had committed a trespass offense, Respondent once again touted her judgeship, stating, "If you're not invited by a homeowner, it's still trespassing. I've done this for a million years. I'm a lawyer. I'm a judge. I know this" (ASF ¶44; [Ex 5a](#)) (emphasis added). Respondent then told Officer Cornish to tow the SUV or to issue Mr. Carter a ticket. When Cornish explained to Respondent that they could not do either because the vehicle was not illegally parked, Respondent replied, "Well, put him in the back of a cop car and let him wait there" (ASF ¶45; [Ex 3c](#)).

At 12:50 AM, Mr. Valladares' sister, Mahkay-lah Mezza, arrived at the Pearce residence in response to Mr. Valladares's phone call. Because Ms. Mezza could not fit Mr. Carter and his three friends into her car, she waited with Mr. Carter's group in or around the SUV for a relative to arrive with a spare key, so they could all leave at the same time (ASF ¶46).

Shortly before 1:00 AM, Stephen Pearce screamed obscenities at the officers and deputies to remove Mr. Carter's group from the scene. Standing next to Mr. Pearce, Respondent yelled, "This is ridiculous," and again insisted that Mr. Carter and his friends were trespassing (ASF ¶47; [Exs 4e, 6b](#)). Asserting her judicial title once more, Respondent added, "I'm a judge, he's a lawyer. We're telling you. I'm telling you" (ASF ¶47; [Exs 4e, 6b](#)) (emphasis added).

Stephen Pearce argued with the deputies and officers about whether Mr. Carter could legally park on the shoulder of the road. Mr. Pearce told the deputies to "police the area. Police the fucking area." Respondent added, "Police it, police it. Oh, my god, you're not doing much. They're obstructing a public road. That's not a crime?" (ASF ¶48; [Exs 4e, 6b](#)).

When Respondent mentioned to Deputy Norman Lyke that she heard Mr. Carter's group wanted to press charges, Lyke stated:

But how about this? How about we end up in front of your court for a civil rights violation because we violated all their civil rights. That's what I'm getting at. My point is this, with social media--.

Respondent interjected and stated to Deputy Lyke:

Listen, but guess what, the good part is – the good part is I'm always on your side. You know I'd take anyone down for you guys. You know that. You know that. You know I am on your side.

(ASF ¶¶ 49-50; [Ex 3d](#)).

Shortly after 1:00 AM, as Stephen Pearce continued to complain that the police had made no arrests nor issued any tickets, Respondent asked if Mr. Carter's group had been charged with anything. Officer Cornish stated that Mr. Carter's group wanted to press charges for assault and underage drinking, and Respondent told the officer that he needed to get the names of the people in Mr. Carter's group because "we're pressing charges against them for trespassing" (ASF ¶52; [Ex 3e](#)).

When the police disputed whether Mr. Carter's group had been trespassing, Respondent stated:

It's a private property . . . wait, they were looking – you were looking. My point is he's saying they want to press charges so I'm saying if they're pressing charges we're pressing trespassing. . . . Well, can I say this, if they're pressing charges, we're pressing trespassing charges and assault.

(ASF ¶53; [Ex 3e](#)).

When a deputy advised Respondent that a charge of assault required physical injuries or substantial pain, Respondent laughed and – asserting her office yet again – stated, "Okay, I know the law. I'm a judge" (ASF ¶54; [Ex 3e](#)) (emphasis added).

Respondent disputed a statement by Officer Cornish that Mr. Carter's group had gotten the worst end of the fight, and she had her son show his face to the officers. After an officer commented that Respondent's son "look[ed] like a million bucks," Respondent said, "I taught my son well. He put a smack down

once he got hit” (ASF ¶55; [Ex 3f](#)). Repeatedly hitting her fist into the palm of her hand, Respondent continued, “Hopefully he did get the worst end of it because I taught my son to kick the shit out of anyone who hits him first” (ASF ¶56; [Ex 3f](#)). About a minute later, Respondent stated, “My husband and son got hit first . . . but they finished. Like I taught ‘em” (ASF ¶57; [Ex 6c](#)).

A short while later, when Deputy Eilers – speaking to other police personnel – said something about “not taking anything off [his] belt” because it would create too much paperwork, Respondent interjected:

Do you want to talk way too much paperwork? Guess what we have to do now? We’re all on call for ERPOs. . . . Do ERPOs make you guys crazy?

(ASF ¶58; [Ex 6d](#)).¹⁰ A deputy responded, “No, we’re not going to pay attention,” to which Respondent replied, “Don’t! Don’t! Because I get called in the middle of night, too, for those” (ASF ¶59; [Ex 6d](#)).

Respondent then argued to Deputy Eilers that Mr. Carter’s group had committed Criminal Trespass and/or Assault. Although Deputy Eilers explained to

¹⁰ Pursuant to Section 6340(1) of the CPLR, an Extreme Risk Protection Order (“ERPO”) is a “court-issued order of protection prohibiting a person from purchasing, possessing or attempting to purchase or possess a firearm, rifle or shotgun.” While anyone may file an application for an ERPO, all law enforcement officers are required by Section 6341 of the CPLR to file an application for an ERPO “upon the receipt of credible information that an individual is likely to engage in conduct that would result in serious harm to himself, herself or others.” Pursuant to CPLR §6341, such applications are to be filed in the supreme court in the county where the individual against whom the order is sought resides. As a supreme court justice, Respondent is required to review applications for ERPOs filed in her court.

Respondent that the New Hartford Police Department had jurisdiction over the matter, Respondent stated that she wanted to press charges and asserted that she could call Sergeant Grant Langheinrich to file charges through the sheriff's department ([Ex 5b](#)). Sergeant Langheinrich is personal friend of Respondent and, at the time, was in charge of security at Respondent's courthouse (ASF ¶60).

At 1:27 AM, as Mr. Carter and his friends sat in the SUV waiting for someone to arrive with a spare key, Respondent said to Deputy Eilers, "Watch, I bet if they push the button, the keys are in the car" (ASF ¶61; [Exs 5c, 6e](#)). Respondent, who a few minutes earlier had told Deputy Eilers that her son William would be attending business school in the fall, said of Mr. Carter and his group, "They don't look like they're that smart. They're not going to business school, that's for sure" (ASF ¶62; [Exs 5c, 6e](#)) (emphasis added).

At 1:35 AM, one of Mr. Carter's relatives arrived with an extra key for the SUV (ASF ¶63). As Mr. Valladares and Ms. Mezza were getting into Ms. Mezza's car to leave, Stephen Pearce said sarcastically, "Thanks for coming out, guys." Ms. Mezza replied, "You're welcome," and Mr. Pearce responded, "Go fuck yourselves." Ms. Mezza asked, "Whoa, is that acceptable?" Respondent laughed and yelled, "Yes, it is!" Ms. Mezza said, "I just came to get my brother, though." Mr. Pearce said, again sarcastically, "Thank you, thanks for coming." Ms. Mezza replied, "Man, you look like a fucking cokehead." Respondent remarked, "You

look like a cokehead, okay. We might be able to afford the coke, but we don't do it" (ASF ¶64; [Exs 5d, 6f](#)).

H. Respondent threatened to shoot the four Black teenagers if they returned to the property to look for their lost car key, and she encouraged the police to do the same.

At 1:37 AM, Mr. Carter drove away in the SUV with Havo and Dooley, leaving Mr. Valladares and Ms. Mezza at the scene (ASF ¶65). While Ms. Mezza and Mr. Valladares were sitting in Ms. Mezza's car with the windows open, trying to establish a GPS route, Officer Cornish approached Respondent and Stephen Pearce, who was continuing to yell. Officer Cornish noted that the key to the SUV might turn up in the morning, and Respondent interrupted him and said:

We're absolutely going to throw it in the toilet . . . You're welcome. If you think we're gonna – if you think we're gonna turn over – we're not looking for any keys.

(ASF ¶66; [Ex 3g](#)).

Officer Cornish suggested that the best outcome would be if someone found the key and turned it in to the police, in which case no one from Mr. Carter's group would need to return to look for it. In response, Respondent loudly declared that she or the officers could shoot the Black teens if they returned to look for the key:

Well, if they come back looking for it, I'll call you while they're on the property. Because you want to find them on the property. I'll call you when they're on the property. If they did, they'll be arrested, or they'll be shot on the property. Because when they trespass you can shoot them on the property. I'll shoot them on the property.

(ASF ¶ 68; [Ex 3g](#)) (emphasis added). From the passenger seat of Ms. Mezza’s vehicle, Mr. Valladares heard Respondent’s threat about shooting them and reported it to Deputy Eilers (ASF ¶68).

At that point, Kirkland Police Department Officer Joseph McCormick challenged Respondent with respect to her comment about shooting the Black teenagers. Calling her “lady” or “ma’am,” Officer McCormick told Respondent:

This isn’t Texas. You can’t shoot somebody for simply going on your property. . . . Do you hear what you’re saying? You’re all white, privileged people with high-power jobs.

(ASF ¶69). Respondent – once more invoking her judgeship – replied, “Don’t call me ‘Lady.’ ‘Judge.’ It’s ‘Judge.’ . . . You guys didn’t really do much” (ASF ¶¶69-70; [Exs 5e, 6g](#)) (emphasis added).

I. Weeks later, Respondent had conversations with three members of the sheriff’s department during which she complained about how police personnel handled the situation at the party.

On July 14, 2022, at the Oneida County Courthouse, Respondent had conversations with Sergeant Langheinrich, Deputy Edmund Wiatr and Deputy Michael Baker, during which she expressed, *inter alia*, her dissatisfaction with how the officers from New Hartford Police Department handled the situation at the Pearces’ party on July 2, 2022 (ASF ¶73).

J. Respondent acknowledged that her behavior during the altercation created at least the appearance of racial bias and bias in favor of law enforcement, and was otherwise incompatible with the role of a judge.

In the Agreed Statement of Facts, Respondent acknowledged that:

- she created “at least the appearance of racial bias” through her statements that Mr. Carter and his friends did not look “that smart” and were “not going to business school” like her son (ASF ¶75[D]).
- She additionally created “at least the appearance of racial bias” by stating that she would shoot the young Black men if they returned to search for the missing car key (*id.*).
- She created at least the appearance of bias in favor of law enforcement through her assertion to police personnel that she was “always on [their] side” and would “take anyone down” for the police, along with her disparaging statements concerning ERPOs (ASF ¶75[F]).
- Her expressions of satisfaction that her son had “kick[ed] the shit out of” and “put the smack down on” another partygoer, and her declaration that she would “shoot the young Black men if they returned to search for the missing car key, were unbecoming of and incompatible with the role of a judge” (ASF ¶75[E]).

K. Respondent acknowledged that by repeatedly invoking her judicial title and threatening to call an officer’s superior, she created at least the appearance that she was seeking preferential treatment based on her judicial status and/or lending the prestige of her office to advance private interests.

In the Agreed Statement of Facts, Respondent made the following acknowledgements about her conduct in the aftermath of the graduation party:

- By repeatedly invoking her judicial office to police officers during the events of July 2, 2022, Respondent created at least the appearance that she was seeking preferential treatment based on her status as a judge, and thus lent the prestige of her office to advance her own and her friends’ private interests;

- By repeatedly invoking her judicial office to Mr. Carter and his friends, Respondent created at least the appearance that she was speaking with judicial authority when ordering them to leave the Pearces' neighborhood, and thus lent the prestige of her office to advance her own and her friends' private interests; and
- Her threat to call an officer's superior created at least the appearance that she was leveraging her judicial position to pressure the officers on the scene to do as she wished.

(ASF ¶75[A]-[C]).

The parties further stipulated that Respondent would testify at a hearing that she regrets her behavior toward the officers and Mr. Carter's group, that she acknowledges that the officers handled the situation appropriately, and that her conduct made the officers' jobs more difficult (ASF ¶76[A]-[C]).

L. Respondent asserted that the behavior underlying her misconduct was related to [REDACTED] stemming from a [REDACTED] assault she suffered in 1990.

The parties further stipulated that, at a hearing before a Referee, Respondent would testify that (1) her overreaction to the events of July 2, 2022, was related to a traumatic event she suffered on April 29, 1990, when she was the victim of a [REDACTED] assault as an 18-year-old freshman attending Boston College, and (2) witnessing assaults on her son and husband on July 2, 2022, "triggered memories" of the 1990 [REDACTED] assault and caused her "severe emotional distress and feelings of [REDACTED]" (ASF ¶77). Additionally, at a hearing, Respondent would call Norman J. Lesswing, Ph.D., and Joanne Joseph, Ph.D., as witnesses in support

of her defense that her conduct on July 2, 2022, was triggered, in part, by a trauma-based reaction to her having been [REDACTED] assaulted in 1990 (ASF ¶78; Exs B-1, B-2, B-3, B-4).

THE STIPULATED CONCLUSIONS OF LAW

Respondent admitted that she failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules of the Chief Administrator of the Courts Governing Judicial Conduct (“Rules”); failed to avoid impropriety and the appearance of impropriety, in that she failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules, and lent the prestige of judicial office to advance her own private interest and/or the private interests of another, in violation of Section 100.2(C) of the Rules; and failed to conduct her extra-judicial activities so as to minimize the risk of conflict with judicial obligations, in that she failed to conduct her extra-judicial activities so that they do not cast reasonable doubt on her capacity to act impartially as a judge, do not detract from the dignity of judicial office, and are not incompatible with judicial office, in violation of Sections 100.4(A)(1), (2) and (3) of the Rules (ASF ¶74).

ARGUMENT

POINT I

RESPONDENT’S EGREGIOUS PUBLIC MISCONDUCT, WHICH INCLUDED RACIALLY-CHARGED AND PROFANITY-LACED TIRADES ALONG WITH REPEATED INVOCATIONS OF HER JUDICIAL OFFICE, RENDER HER UNFIT FOR THE BENCH.

Respondent has already conceded that her actions on July 2, 2022, violated the Rules and warrant public discipline (ASF ¶74). That is hardly surprising, seeing as she was caught on video *inter alia* (i) making comments that the four stranded Black teenagers “don’t look like they’re that smart,” (ii) suggesting the police could shoot the teenagers and stating that she would shoot them herself if they returned to the property, (iii) invoking her judicial office 14 times while attempting to convince the police to arrest the teenagers and bully the teens into leaving without their car, (iv) shouting profanity at the teenagers on a public street, and (v) attempting to persuade the officers to follow her directions by telling them that she is “always on [their] side” and would “take anyone down” for them.

Significantly, Respondent avers that she did not consume any alcohol and was sober throughout the entirety of the events – and her inexcusable statements and conduct – depicted here.

The severity and breadth of Respondent’s misconduct compels her removal from judicial office.

A. Respondent’s comments that the Black teenagers did not look “smart,” and that she would “shoot them” if they returned to the Pearce property, created the appearance of racial bias and compel her removal from office.

Racial bias has no place on the bench. Indeed, as this Commission recently held, even the appearance of racial bias is “wholly unacceptable for a member of the judiciary” and warrants removal. *Matter of Putorti*, 2023 Ann Rep of NY Commn on Jud Conduct at 230, 248. Respondent concedes that she created just such an appearance of racial bias here (ASF ¶ 75[D]).

That concession alone compels her removal. In upholding the Commission’s removal determination in *Putorti*, the Court of Appeals noted that the judge there conceded – as Respondent here has conceded – that his conduct “may have created the appearance of racial bias” and “stress[ed] that the ‘appearance of such impropriety is no less to be condemned than the impropriety itself.’” *Matter of Putorti*, 40 NY3d 359, 366 (2023) (citations omitted).

That holding is consistent with a long line of Commission and Court of Appeals cases holding that such statements “cast doubt on [a judge’s] ability to fairly judge all cases before [her],” warranting removal. *Matter of Schiff*, 83 NY2d 689, 692-93 (1994). *See also Matter of Esworthy*, 77 NY2d 280, 282-83 (1991) (removing judge who *inter alia* “used racially charged language that was highly insulting to certain ethnic groups,” which “necessarily ha[d] the effect of leaving litigants with the impression that our judicial system is unfair and unjust”).

1. Respondent created the appearance of racial bias by making comments that Mr. Carter and his friends did not look as “smart” as her son and that they presumably were poorer than she and her white friends. She exacerbated that misconduct by suggesting that if the police arrested the teens in violation of their civil rights, she would protect the officers in court.

In a relatively subdued moment in comparison to the rest of her tirade, Respondent laughed derisively and remarked to police personnel that the four Black teens – who at the time were waiting inside Mr. Carter’s vehicle – “don’t look like they’re that smart,” and that they – unlike her white son, William Gall IV – would not be “going to business school, that’s for sure” (ASF ¶¶61-62; [Exs 5c, 6e](#)).

Respondent admitted that these comments created the appearance of racial bias (ASF ¶75[D]). Indeed, because nothing about the four youths’ physical appearances could have signified that they were unintelligent or incapable of attending college, the only reasonable conclusion from Respondent’s comments is that, in her mind, they were inherently unintelligent because of the color of their skin, evoking a racist stereotype that Black men are incompetent and less intelligent than whites. *See, e.g.,* Mikah K. Thompson, *Bias on Trial: Toward an Open Discussion of Racial Stereotypes in the Courtroom*, 2018 Mich St L Rev 1243, 1261, 1306 (2018) (noting, *inter alia*, “the stereotype that African Americans are less intelligent than Whites”); Joseph W. Rand, *The Demeanor Gap: Race, Lie Detection and the Jury*, 33 Conn L Rev 1, 42 (2000) (same).

Respondent compounded the appearance that she harbored racial bias when she evoked yet another racist stereotype: that the Black teens were poor drug users. “Little needs be said about the pervasive and harmful stereotypes regarding African Americans and drugs.” *Harden v Hillman*, 993 F3d 465, 482-83 (6th Cir 2021) (discussing negative racial stereotype depicting Blacks as impoverished, inner-city crack and heroin addicts). Here, Respondent childishly cheered on Stephen Pearce’s vulgar suggestion that Ms. Mezza and Mr. Valladares “go fuck [them]selves” as they were quietly and peacefully getting into Ms. Mezza’s car to leave (ASF ¶64; Ex 64; [Exs 5d, 6f](#)). When Ms. Mezza replied that Mr. Pearce looked like a “fucking cokehead,” Respondent snidely remarked, “We might be able to afford the coke, but we don’t do it” (*id.*). Respondent’s comment, which clearly suggested that she and her white friends could afford cocaine while Black people like Ms. Mezza could not, evoked the stereotype that Black drug users – unlike whites – were impoverished crack addicts who were unable to afford pure cocaine.

Finally, Respondent greatly exacerbated her misconduct when she promised to use her judicial authority to protect the police against any subsequent civil rights lawsuit if they followed her advice to arrest the Black teens. When Respondent complained that the officers had not arrested Mr. Carter’s group, and Deputy Norman Lyke noted that doing so could land the officers in Respondent’s court on

the wrong end of a civil rights lawsuit (ASF ¶¶ 48-49; [Ex 3d](#)), Respondent stunningly abandoned all sense of judicial impartiality, saying: “[B]ut guess what, the good part is – the good part is I’m always on your side. You know I’d take anyone down for you guys You know I am on your side” (ASF ¶50; [Ex 3d](#)).

As she stipulated in the Agreed Statement, in making that assurance, Respondent created the appearance that she was biased in favor of law enforcement (ASF ¶50; [Ex 3d](#); ASF ¶75[F]). But even worse, she was clearly suggesting to the officers that she would help them get away with violating the teens’ constitutional rights, which underscored her demonstrated racial bias described above. Her statement “convey[ed] the message that [Respondent] is willing to conspire to flout the law,” making removal “an appropriate, and perhaps even the only appropriate, remedy.” *Matter of Backal*, 87 NY2d 1, 8 (1995).

2. Respondent’s suggestion that the police shoot the stranded Black teenagers if they returned to the property, and her subsequent threat to shoot them herself, exhibited racial bias inconsistent with judicial office.

Respondent forfeited the public’s trust when, amid her hour-plus tirade, she announced that if the stranded Black teenagers returned to look for their car key, they would be “shot on the property” (ASF ¶68; [Ex 3g](#)). Specifically, she told the police:

Well, if they come back looking for it, I’ll call you while they’re on the property. Because you want to find them on the property. I’ll call you when they’re on the property. If they

did, they'll be arrested, or they'll be shot on the property. Because when they trespass you can shoot them on the property.

(ASF ¶68; [Ex 3g](#)). Those threatening and racist comments – all captured on video – irreparably damaged public confidence in Respondent's capacity to be a fair and impartial arbiter. *See Putorti*, 40 NY3d at 367.

It is especially troubling that Respondent made these statements after having persistently reminded the officers that she was a "Supreme Court judge" who had "jurisdiction" and who "know(s) the law" (*see* Part B, *infra*). These repeated identifications of herself as a judge "change[d] the complexion of the interaction" and created the appearance that Respondent was "adding her judicial clout to all of her statements," including her authorization for armed police officers to shoot unarmed Black teens for doing nothing more than returning to look for their missing car key along a public road. *Michels*, 2019 Ann Rep of NY Commn on Jud Conduct at 171, 178.

While it was unlikely that any of the officers – who appropriately handled this situation – would have ever acceded to Respondent's suggestion, the reality is that Black men are "2.5 times more likely than white men to be killed by police." Priyadarshini Das, *What Counts as 'Racist Enough?': A Clearer Standard For New Trials When Jurors Demonstrate Racial Bias*, 31 J.L. & Pol'y 136, 137-138 (2022). Respondent's racist and reckless misstatement of the law was an affront to

common decency and risked having Mr. Carter and his friends becoming another tragic addition to that horrifying statistic.

In making her comments that the Black youths could be shot and threatening to shoot them herself, Respondent exploited the same “classic and common racist trope” that the Commission and Court of Appeals found so troubling in *Putorti*. 40 NY3d at 366. By threatening to shoot the Black teenagers for doing nothing more than returning to look for a lost car key, Respondent broadcast her belief that they would be dangerous or threatening even in that benign situation. But as a judge who repeatedly claimed to know the law (ASF ¶¶44, 55), Respondent must have been aware that Penal Law § 35.15(2) provides only limited circumstances in which a person is justified in using deadly physical force, and observing a group of teenagers looking for a lost car key alongside a public road is not among them.¹¹ Yet she made those threats anyway, and the circumstances strongly suggest that whatever fear she may have felt stemmed not from any kind of rational threat, but because the teens were Black. Critically, Respondent conceded as much in the ASF by acknowledging that “her statement that she would shoot the young Black

¹¹ Respondent would not even be justified in displaying a gun to frighten them under these circumstances. *See People v Perry*, 19 NY3d 70, 73 (2012). Absent an imminent threat of deadly physical force, pointing or brandishing a gun at another person – even as a deterrent with no intent to fire – constitutes the crime of Menacing in the Second Degree, which criminalizes “intentionally plac[ing] or attempt[ing] to place another person in reasonable fear of physical injury, serious physical injury or death by displaying . . . a pistol . . . or other firearm.” Penal Law § 120.14(1).

men if they returned to search for the missing car key, created at least the appearance of racial bias” (ASF ¶75[D]).

Even if Respondent had no racist intent, she should have recognized that a white judge publicly threatening and encouraging police to shoot young Black males would appear to be racially biased. Tellingly, even the police recognized as much. In response to Respondent’s threat, Officer McCormick told her, “You can’t shoot somebody for simply going on your property. . . . Do you hear what you’re saying? You’re all white, privileged people with high-power jobs” (ASF ¶69) (emphasis added).

No doubt the public’s perception will be the same. Whether those comments reflected actual racial bias or, as Respondent stipulated, the appearance of bias, removal is the appropriate sanction. Her conduct undermined the “public’s trust in [her] ability to discharge the responsibilities of judicial office in a fair and just manner.” *Putorti*, 40 NY3d at 367-68 (citing *Matter of Restaino*, 10 NY3d 577, 590 [2008]) (internal quotation marks omitted). Because Respondent’s conduct has “cast doubt on [her] ability to fairly judge all cases before h[er],” she must be removed from office, whether the racial bias she demonstrated was actual or perceived. *Schiff*, 83 NY2d at 693; *see also Putorti*, 40 NY3d at 366; *Esworthy*, 77 NY2d at 283.

B. Respondent’s repeated invocation of her judicial title in an attempt to strongarm or curry favor with the police and intimidate the Black teenagers, separately demonstrates her lack of fitness for office.

As the Court of Appeals held over 40 years ago, “a Judge cannot simply cordon off h[er] public role from h[er] private life and assume safely that the former will have no impact upon the latter.” *Matter of Steinberg*, 51 NY2d 74, 81 (1980). Rather, a judge “must always be sensitive to the fact that members of the public . . . will regard h[er] words and actions with heightened deference simply because [s]he is a Judge” – a title that may have a “persuasive and perhaps even subtly coercive effect” in the judge’s personal dealings, given the “power and prestige that the title implies.” *Id.* A judge thus commits misconduct whenever she acts in a manner that “could be ‘perceived as one backed by the power and prestige of judicial office.’” *Matter of Ayres*, 30 NY3d 59, 66 (2017) (quoting *Matter of Lonschein*, 50 NY2d 569, 572 [1980]).

Respondent violated that principle so egregiously here that, consistent with Commission precedent, removal is appropriate. The Commission has previously removed judges for invoking their judicial office for personal gain when the invocation or surrounding circumstances were egregious, and particularly where the judge used her title to try to influence police behavior. *See, e.g., Matter of Astacio*, 2018 Ann Rep of NY Commn on Jud Conduct at 71, *aff’d* 32 NY3d 131 (2018) (*inter alia*, after being stopped on suspicion of drunk driving, judge twice

invoked her office and told the officers they did not legally have sufficient probable cause for a DWI arrest); *Matter of Chase*, 1998 Ann Rep of NY Commn on Jud Conduct at 75 (judge used judicial title in two interactions with police, and one with another judge, handling matters concerning his daughter); *Matter of Straite*, 1988 Ann Rep of NY Commn on Jud Conduct at 226 (*inter alia*, judge used judicial title while complaining that the police had not sufficiently investigated a matter concerning his son).

Significantly, the Commission has not hesitated to censure a judge for even isolated invocations of judicial office for personal gain, and even when the invocation of office was not explicit. *See, e.g., Matter of Edwards*, 2020 Ann Rep of NY Commn on Jud Conduct at 108 (while representing daughter in a family court proceeding); *Matter of Dixon*, 2017 Ann Rep of NY Commn on Jud Conduct at 100 (while telephoning fellow judge about a personal lawsuit); *Matter of Sullivan*, 2016 Ann Rep of NY Commn on Jud Conduct at 209 (while seeking leniency from police for judge's son, "even in the absence of . . . an overt assertion of judicial status and authority") (emphasis added); *Matter of Calderon*, 2011 Ann Rep of NY Commn on Jud Conduct at 86 (in letters to prison official related judge's personal lawsuit against an inmate); *Matter of Dumar*, 2005 Ann Rep of NY Commn on Jud Conduct at 151 (during dispute with a snowmobile dealer).

Nothing about Respondent's invocations of her office was isolated or implicit. Rather, she explicitly and repeatedly invoked her judicial office and authority with police who were responding to a melee involving Respondent and her family, as well as with a group of Black teenagers she was trying to intimidate. Indeed, she touted her judicial office 14 times in a little over an hour, including long after the stress of the fight had subsided.

1. Respondent repeatedly invoked her judicial title while trying to strong-arm or curry favor with the police.

From the moment the police arrived on the scene, and she introduced herself as a "Supreme Court judge," through successive conversations with other officers and deputies and profane outbursts at four stranded Black teenagers, Respondent repeatedly invoked her judicial office while seeking preferential treatment from police, ordering the youths to leave her friends' neighborhood, and demanding that the police remove or arrest the Black teens. Respondent conceded that by repeatedly invoking her judicial office to police officers and Mr. Carter's group, she created the appearance that she was using the prestige of her judicial office to seek preferential treatment to advance her own and her friends' private interests (ASF ¶75[A]-[B]).

Respondent's invocations of office were entirely gratuitous. Upon approaching the first officer she saw, Respondent volunteered, "I'm Erin Gall, I'm a Supreme Court judge" (ASF ¶35; [Ex 4a](#)). Likewise, when another officer asked

her if anyone needed medical attention, Respondent irrelevantly replied with her judicial title, saying, “No, Jesus, no. No, honestly, I’m a Supreme Court judge” (ASF ¶37; [Ex 3b](#)). These unnecessary and irrelevant assertions of her judicial office served no purpose other than to ingratiate Respondent with law enforcement in an attempt to obtain preferential treatment.

Respondent committed even more serious misconduct when she explicitly wedded her invocations of office to demands that the officers defer to her on legal determinations they were making. Specifically:

- While arguing with a deputy about whether Mr. Carter and his friends were trespassers, Respondent remarked, “If you’re not invited by a homeowner, it’s still trespassing. I’ve done this for a million years. I’m a lawyer. I’m a judge. I know this” (ASF ¶44; [Ex 5a](#));
- When the officers refused to remove the stranded Black teens from the public road on which they were looking for their car key, Respondent asserted, “We didn’t invite him. There was trespassing, there were assaults. . . . I’m a judge, he’s a lawyer. We’re telling you. I’m telling you” (ASF ¶47; [Exs 4e, 6b](#));
- When Respondent commented that she wanted to press charges for assault and a deputy advised her in turn that assault required physical injury or substantial pain, Respondent replied, “Okay, I know the law. I’m a judge” (ASF ¶54; [Ex 3e](#)); and
- When an officer addressed Respondent as “lady” in challenging her statement that she or the police could shoot the Black teens for trespassing, Respondent quipped, “Don’t call me ‘Lady.’ ‘Judge.’ It’s ‘Judge’” (ASF ¶¶69-70; [Ex 5e](#)).

Given that context, it is obvious that Respondent sought to intentionally leverage her judicial title to get the police to believe her account, adopt her misguided view of the law, and resolve the situation in a manner advantageous to her and her friends. This overt and repeated use of her title increases her culpability, as it “suggest[s] a [habit and] willingness to misuse [her] judicial office for personal advantage – a quality that is antithetical to the judicial role.” *Matter of LaBombard*, 11 NY3d 294, 299 (2008).

When Respondent’s invocations of her judicial office were unsuccessful, she resorted to outright threats, commenting – at a time when all the police personnel knew she was a judge – that she would contact superior officers if she did not get her way. After the officers refused her call to arrest Mr. Carter and his friends, Respondent made sure the officers knew she knew which department they were from and commented, “I don’t know if I have to call the Chief of Police” (ASF ¶40; [Exs 4c, 6a](#)). Similarly, when another officer asked Respondent to “relax” and pointed out that she did not live at the adjacent property, Respondent proclaimed, “It’s my jurisdiction,” asked the officer’s name, and remarked, “Okay, I’ll make sure I tell them.” Respondent conceded that her comment referred to her intention to call a lieutenant she knew in that officer’s department, which created the appearance that she was leveraging her judicial position to pressure officers on the scene to do as she wished (ASF ¶¶42-43, 75[C], [Ex 4d](#)). And, when a sheriff’s

deputy disagreed with her that the teens had trespassed, Respondent replied that she could call a sergeant she knew to make sure the charges got filed (ASF ¶60; [Ex 5b](#)). By attempting to exploit her law enforcement connections to pressure the officers on the scene into acceding to her wishes, Respondent further aggravated the severity of her misconduct.

Respondent made another attempt to ingratiate herself to the officers by gratuitously complaining about having to be “on call for ERPOS” and encouraging the police to disregard their obligation under the law to file ERPOs in her court “[b]ecause [she] get[s] called in the middle of night, too, for those” (ASF ¶¶58-59; [Ex 6d](#)). It is impossible to overstate how outrageous – and how dangerous – these comments were. ERPOs are protective orders utilized only in cases where an individual’s possession of a firearm poses an “extreme risk” and law enforcement officers are required by Section 6341 of the CPLR to file an application for an ERPO “upon the receipt of credible information that an individual is likely to engage in conduct that would result in serious harm to himself, herself or others” (ASF ¶58, n7). When a deputy suggested that they were not going to “pay attention” to ERPOs, Respondent replied, “Don’t. Don’t.” (ASF ¶59). By encouraging the deputies to forgo their legal obligation to file ERPOs in her court, Respondent violated her obligation to be faithful to the law, with potentially perilous and even fatal consequences to the public.

In addition to being yet another improper invocation of judicial office, and a highly improper suggestion that law enforcement should ignore an important legal duty, Respondent conceded that these statements created the appearance of bias in favor of law enforcement (ASF ¶75[F]).

2. Respondent repeatedly invoked her judicial title in order to intimidate the stranded teenagers.

Much of Respondent's tirade in the aftermath of the party was directed at the stranded teenagers, who were unable to leave Tibbitts Road when the police arrived because Mr. Carter had lost the key to the SUV. Nonetheless, Respondent irrationally shouted at them, "You got to leave! You're not going to find your keys. . . . Get off the property!" (ASF ¶36; [Ex 3a](#)).

When the teens continued looking for the key, Respondent flaunted her judicial title, adding, "And's that's from Judge Gall! I'm a fucking judge! And I'm telling you! Get off the fucking property!" (ASF ¶36; [Ex 3a](#)). When one of the teens apparently responded by calling her something other than "Judge," Respondent shot back, "No, judge. It's judge. I could give a fuck. . . . I don't want anyone on the property. If I have to clear it out, I will" (ASF ¶36; [Ex 3a](#)).

Respondent continued a few minutes later, when she shouted, "[Y]ou're going to get in an Uber, buddy, or you're going to get a cop escort home. That's how it's happening That's how I roll . . . That's how Mrs. G rolls. That's how Judge Gall rolls" (ASF ¶¶38-39; [Ex 3b](#)).

The fact that Respondent repeatedly chose to add her judicial title to the equation when simply shouting did not achieve what she wanted further demonstrates her willingness to abuse her authority for personal gain, further illustrating her lack of fitness to hold that authority. Simply stated, these flagrant and repeated invocations of Respondent’s judicial office far exceed the isolated events that typically result in censures, and, by themselves, warrant Respondent’s removal from office.

3. Respondent continued to invoke her judicial office long after the fighting had ended, the police had de-escalated the situation, and she had calmed down.

Notably, Respondent invoked her judicial office not only in an isolated moment of “poor judgement or even extremely poor judgement” during the stress of an altercation (*Matter of Mazzei*, 81 NY2d 568, 572 [1993]), but repeatedly, and long after the fighting.¹² Indeed, even after the police had taken charge of the scene and she herself had finally calmed down, and the bodycam videos show her speaking jovially and talking down a belligerent Stephen Pearce, she could not resist reminding everyone that she was a judge (*see* [Exs 3d](#), [3e](#), [4a](#), [5c](#), [6d](#), [6e](#)). That Respondent repeatedly invoked her judicial title over such a lengthy period of time, in moments of quiet calm as well as loud agitation, underscores her flagrantly

¹² Respondent’s invocation of her office 14 times over the course of an hour averages to roughly once every four minutes.

intentional assertion of judicial prestige to advance her own interests. Such calculated abuse of her office further demonstrates her unfitness to be entrusted with it.

C. Respondent’s profanity-laced public tirade and celebration of the violence perpetrated against the stranded teenagers were unbecoming of a judge and support her removal from office.

During her public tirade in the aftermath of the party, Respondent – for over an hour and while completely sober (ASF ¶12) – screamed a barrage of profanities at the stranded teenagers, as well as at the police who were disregarding her directives to break the law. In particular, she screamed or uttered the following:

- “I’m a fucking judge! And I’m telling you!” (ASF ¶36; [Ex 3a](#));
- “Get off the fucking property!” (ASF ¶36; [Ex 3a](#));
- “I could give a fuck!” (ASF ¶36; [Ex 3a](#))!”;
- “I don’t care about this kid’s fucking keys” (ASF ¶42; [Ex 4d](#));
- “I taught my son to kick the shit out of anyone who hits him first” (ASF ¶56; [Ex 3f](#)).

This kind of language is plainly unbecoming of a judge, and in combination with her other misconduct, supports a determination of removal. *See Matter of Nunnery*, 2024 Ann Rep of NY Commn on Jud Conduct at 144; *Matter of Tawil*, 2020 Ann Rep of NY Commn on Jud Conduct at 158; *Matter of Romano*, 1999 Ann Rep of NY Commn on Jud Conduct at 133.

In addition, while attempting to persuade police personnel to charge the four Black teens with criminal assault, Respondent loudly expressed satisfaction that her son had “put a smack down” and “kick[ed] the shit out of” whoever hit him, and “finished” the fight “[l]ike [she] taught ‘em” (ASF ¶¶ 55-57, 75[E]; [Exs 3f, 6c](#)). Respondent conceded that these comments were unbecoming of and incompatible with the role of a judge (ASF ¶75[E]). They are all the more appalling in light of the fact that her son sustained only minor injuries and did not need medical attention (ASF ¶21), while both Mr. Carter and Mr. Valladares were left bleeding, and the latter required stitches to close a deep gash below his eye (ASF ¶26; Ex 17). That Respondent would celebrate injuries and pain inflicted on others, whatever the circumstances, again demonstrates her lack of fitness for judicial office.

D. Respondent aggravated her misconduct by complaining about the police response to various members of the sheriff’s department, two weeks after the fact.

The Court of Appeals has made clear that a judge’s “misconduct is compounded” when she “fail[s] to recognize [her] breaches of our ethical standards” and “continue[s] to minimize the import of [her] actions.” *Matter of Ayres*, 30 NY3d at 65.

That Respondent remained upset two weeks after the melee and was still complaining that the officers on scene had disregarded her demands and had not

deferred to her judicial status, evinces an utter lack of awareness or remorse for her misconduct.

As the bodycam footage clearly shows, the officers at the scene acted calmly and professionally throughout, trying to defuse the hostility even while Respondent was proclaiming that she was “a fucking judge.” Rather than show remorse at the scene or in the days after her despicable behavior, Respondent continued to complain. At her courthouse weeks later, to three different members of the sheriff’s department, she criticized police personnel for how they handled the situation – *i.e.*, that they ignored her assertions of influence and refused to remove or arrest the four Black teenagers. This included Sergeant Langheinrich, whom Respondent had previously mentioned having contacted about filing charges against the teens (ASF ¶¶60, 73).

Notwithstanding her sustained vitriol toward the New Hartford police officers, Respondent only now acknowledges – as she faces possible removal from office – that the officers handled the situation appropriately, that her conduct made their jobs more difficult, and that she regrets her behavior toward them (ASF ¶¶75-76). Her belated acknowledgement that they were right to withstand her barrage is hardly mitigating. As the Court of Appeals said in *Matter of Bauer*: “In some instances contrition may be insincere, and in others no amount of it will override inexcusable conduct.” 3 NY3d 158, 165 (2004).

E. Given the totality of Respondent’s egregious misconduct, removal is the only appropriate sanction.

Respondent’s concession that her conduct created the appearance of racial bias, by itself, compels the sanction of removal. Racial bias is a “familiar and recurring evil that, if left unaddressed, would risk systemic injury to the administration of justice.” *Pena-Rodriguez v Colorado*, 580 US 206, 224 (2016). Because Respondent’s comments denigrating the intelligence of the stranded Black teenagers and her suggestion that they should be shot if they returned to the property “cast doubt on [her] ability to fairly judge all cases before [her],” she must be removed from office to mitigate that evil and maintain the public’s confidence in the integrity of the judiciary. *Schiff*, 83 NY2d at 693.

Likewise, Respondent’s egregious and repeated attempts to leverage the power and prestige of her judicial office to curry favor with the police and compel them to arrest Mr. Carter and his friends, and to intimidate the stranded Black teens who were trying to find their car key, separately demand that she be removed from office. Indeed, the “unseemly display of invective and intimidation” Respondent displayed upon “gratuitously interject[ing] [her] judicial status into the incident” broadcast her willingness to exploit her judicial authority not only to advance her own private interests in the face of a police investigation, but to facilitate illegal action on the part of law enforcement. *See Matter of Pennington*, 2004 Ann Rep of

NY Commn on Jud Conduct at 139, 141-42. Following that display, the public can have no trust in Respondent's ability to act as an impartial arbiter.

A single act of misconduct may be so egregious as to warrant a judge's removal. *Matter of Blackburne*, 7 NY3d 213 (2006). Alternatively, removal may be warranted by a judge's misbehavior in the aggregate. *Matter of Miller*, 35 NY3d 484, 490 (2020); *see Matter of O'Connor*, 32 NY3d 121, 128-29 (2018). Here, Respondent's misconduct meets both standards.

Respondent's inexcusable public display of racial bias is cause for removal *per se*. Combined with her other egregious misconduct – her repeated assertions of judicial office, her demands that the police lawlessly arrest the Black teenagers, her threats to retaliate against the police for not acceding to her demands, her suggestion that she would use her judicial power to protect police in a civil rights lawsuit against them if they arrested the teenagers at her behest, her repeated use of profanity during her extended tirade, her undignified comments, her suggestion that the officers ignore their public safety duties with respect to ERPOs because she finds them inconvenient, her generally rude and unbecoming behavior, and her demonstrated lack of remorse in the weeks that followed – her integrity as a judge is irretrievably lost, and her removal from office is the only appropriate sanction.

Respondent's eleventh hour attempts to justify or excuse her actions – alleging she was acting as a “mother and wife” (ASF ¶¶8[A], 76[A]), or reacting to

██████████ from an attack against her in 1990 (ASF ¶¶77-78) – are unavailing. The former claim can be summarily rejected, as the Court of Appeals has made clear that parental instincts “do not justify a departure from the standards expected of the judiciary.” *Matter of Edwards*, 67 NY2d 153, 155 (1986). And while Respondent’s horrific experience in 1990 must have been traumatizing, the unfortunate reality is that her misconduct here was “so inexcusable that no amount of mitigation can be sufficient to restore the public’s trust in the judge’s ability to discharge the responsibilities of judicial office in a fair and just manner.” *Putorti*, 40 NY3d at 367.

Respondent should be removed from office.


CONCLUSION

Counsel to the Commission respectfully requests that the Commission should render a determination that Respondent has engaged in egregious judicial misconduct and should be removed from office.

Dated: April 26, 2024
Albany, New York

Respectfully submitted,

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