

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

----- X
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. :
----- X

ORAL ARGUMENT

Commission Office
61 Broadway, Suite 1200
New York, NY 10006

June 13, 2024
10:49 AM

B e f o r e:

Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Marvin Ray Raskin, Esq.
Graham B. Seiter, Esq.
Honorable Anil C. Singh
Akosua Garcia Yeboah
Commission Members

P r e s e n t:

For the Commission

S. Peter Pedrotty, Esq., Senior Attorney
Cathleen S. Cenci, Esq., Deputy Administrator

For the Respondent

Robert F. Julian, Esq.
Honorable Erin P. Gall

A l s o P r e s e n t:

Celia A. Zahner, Esq., Clerk of the Commission

Robert H. Tembeckjian, Esq., Administrator & Counsel
Denise Buckley, Esq., Senior Litigation Counsel
David Stromes, Esq., Senior Litigation Counsel

Jacqueline Ayala, Assistant Administrative Officer
Meghan Gentile, Information Technology Specialist
Richard Keating, Information Technology Director
Michael Maisonet, Senior Clerk

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MS. ZAHNER: Good morning, Ms. Grays and members of the Commission. This is the oral argument in the Matter of *Erin P. Gall*, a Justice of the Supreme Court. Judge Gall is appearing with her attorney, Mr. Julian. And Mr. Pedrotty is appearing for the Commission.

MS. GRAYS: Thank you very much, Ms. Zahner. Good morning, everyone. Good morning, everyone.

JUDGE GALL: Good morning.

MS. GRAYS: In the *Matter of Erin P. Gall*, a Justice of the Supreme Court, this is the oral argument with respect to what an appropriate sanction shall be.

Counsel will each have 30 minutes for their argument. Counsel for the Commission may reserve a portion of his time for rebuttal. After the initial presentations, the judge may, if she wishes, make a presentation to the Commission not to exceed 10 minutes. Counsel for respondent may reserve time to speak after the judge, but prior to the rebuttal. The judge and counsel are subject to questioning by the Commission at any time during their presentation. Counsel is advised that their

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

argument should be confined to the record and any statements outside the record will be disregarded. So, please contain it to what's in that agreed statement of fact.

You will notice that there are lights on the podium to indicate your time. The green light means you may speak, the blinking green light means there are two minutes left and the yellow light means there is one minute left and the red light means you should stop your argument. And in addition to that, I may ask you to wrap things up.

We'd like to remind everyone to please silence your cellphones, if you haven't done so already, and electronic devices to prevent any interference with the recording of the proceeding.

We do have one member, as you can see to your left, my right, Dr. Nina Moore, who is appearing remotely.

And if there are any technical difficulties, we will pause the argument at any time so we won't lose count of, so the loss of that time will not be counted against your presentation. And we will make sure the staff knows that.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

So, at this point we are ready to proceed with the oral argument. And we will now have Mr. Pedrotty, from the Commission, begin to speak. Thank you.

MR. PEDROTTY: Good morning. May I please reserve five minutes for rebuttal?

MS. GRAYS: So noted.

MR. PEDROTTY: Shocking to watch the wide, varying acts of misconduct committed by respondent, all captured on video. She repeatedly invoked her judicial office. She demanded police unlawfully arrest four Black kids. She spewed profanities. She evoked racist stereotypes. She told police they could shoot the kids if they returned. She added she would shoot them herself. She pledged favoritism to law enforcement and she dangerously minimized protective orders designed to prevent people from causing serious harm.

Two weeks later, after a vacation with time to calmly reflect on her actions, she returned to her courthouse and complained to three different deputies about how the police had handled the situation, showing a lack of remorse and awareness for her misconduct. The breadth and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

totality of respondent’s misconduct is so overwhelming that there is no psychological explanation that can excuse it and that can undo the damage she has done to the integrity, her integrity –

JUDGE SINGH: – How about, how about the argument that, that was caused by social stress and issues that she saw with her family, would that be a basis to mitigate her behavior?

MR. PEDROTTY: This misconduct is so outrageous that there is no mitigation that can do that. But even if you find that there is, the Court of Appeals said, there is, parental instincts do not justify departure from the high standards of the conduct. Again, the conduct you see on that video, it’s so terrible. It cannot undo the harm that she has caused to the integrity of the judiciary.

When five police agencies arrived at a high school graduation party hosted by her friends, respondent invoked her judicial office over a dozen times. She demanded police arrest four Black kids who lost their keys and whom she believed had fought with her son and husband, despite the officers’ insistence that there was no

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

legal basis to do so. She told police they could shoot the kids if they returned to look for their missing car keys. When an officer confronted her about the racial implications of her shooting comments, respondent berated him for not addressing her as judge. She said that the Black teens did not look that smart. And unlike her white son, were not going to business to school, “that’s for sure.” Even though she knew nothing about them. They appeared clean-cut and they wore unassuming clothes, suggesting she assessed them based solely on the color of their skins.

She screamed profanity such as, “I am fucking judge,” “It’s judge,” “I could give a fuck,” and “I don’t care about these kid’s fucking keys,” among others. She threatened to report officers who refused to accede to her unlawful demands. And then when that failed she tried to curry favor with them. She pledged, “The good part is I’m always on your side, you know I’d take anyone down for you guys” when a deputy expressed concern about ending up in her court for violating the kids’ civil rights. She put people’s lives in danger by encouraging police

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

not to follow their legal obligations to file ERPOs in her court because she didn't want to be inconvenienced by them. Notwithstanding their obligation to do so when they received credible information that somebody's likely to cause serious harm to themselves or others. That is so shocking and outrageous by itself. She bragged that her son had kicked the shit of and put a smackdown at someone at the party.

The respondent returned to her courthouse two weeks later after a relaxing vacation and continued to complain about the officers who she now concedes acted appropriately. And that she made their jobs only more difficult, shows that her conduct cannot be explained solely based on a prior trauma momentarily induced in the moment. And it shows her lack of awareness or remorse for her misconduct.

Respondent conceded that her conduct created the appearance of racial bias and that alone compels a removal. In *Putorti*, just last year the Commission and the Court of Appeals said that even the appearance of racial bias is wholly unacceptable of a member of the judiciary and is just as damaging to the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

perception of a judge’s impartiality is actual bias. Respondent states that litigants of all races appear before her. Those litigants can have no confidence in her impartiality, given her conduct, that she concedes created the appearance of racial bias. And they will have grounds for her recusal in every single case. You cannot keep a judge on the bench who has to recuse herself on the basis of race. You cannot do it. And after respondent pledged to always be on police’s side and take anyone down for them, no litigant can appear before her opposite a police officer and have any confidence in her impartiality.

JUDGE MILLER: Counsel, I just wanted to clarify some things. Is there evidence, one way or the other, that the judge was able to see the fight? And was it between these young men and her husband? I mean there was a video but it was very confusing as to who was fighting. What’s your position as to what the record is? Is it conceded that she saw the fight?

MR. PEDROTTY: It’s conceded that she saw the fight. But ultimately she stipulated that the evidence would be insufficient to make any finding that two members of Carter’s group

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

which she believed had followed her son, did in fact fight with or assault her son. There is no evidence in the record as to who instigated the fighting. If you look at the text message and the video provided by Carter, they corroborate that his group arrived after midnight when the party was already in chaos, look at Exhibit 15, that's his cellphone video and you can see in the background it's all chaos, there's people arguing with one another and you can see his reaction. I believe it's, "what the fuck" because he's so surprised at what they've found themselves in. And then, the stipulated record is within three minutes of him stopping that recording, the police arrived and within that three minutes that he and Valladares are grabbed from behind and swept into a fight. And Valladares receives a serious slash on his face that later requires stitches. So, there's no evidence in this record that they are the ones that instigated or assaulted any of his neighbor's family members.

DR. MOORE: Yes.
MR. RASKIN: Mr. Pedrotty?
DR. MOORE: Oh, but –
MR. RASKIN: – Oh.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

DR. MOORE: I'm sorry. If, if I could follow up on that question. I looked at the bodycam footage. As I understand it, the judge did initially state definitively that Mr. Carter, the person who was looking for his keys, is the person who had assaulted her. First, did I get that correct? However, once we get to the agreed statement then it's conceded that it was not possible under the conditions to say definitively that that was him.

MR. PEDROTTY: Yes, that's correct. I believe in the bodycam footage, you see her blaming kind of the whole group indiscriminately and then by the time, you know, the ASF comes around, she has conceded that Havo and Dooley, who she identified during her testimony, there's insufficient evidence that they could have, to make any finding that they fought with or assaulted her son. And then in the ASF, it's stipulated that Carter and Valladares were trying to leave. They were grabbed from behind and swept into a fight. Ultimately they ended up in a ditch with respondent's husband but not necessarily fighting with him. So, that's, that's the record on that.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MS. GRAYS: Mr. Raskin?

MR. RASKIN: Yes. Mr. Pedrotty, in terms of your investigation of Carter and Valladares, I understand that they refused to give the identification of Havo and Dooley. Is that a fair statement?

MR. PEDROTTY: They declined to. What's in the record is that they declined to provide that information.

MR. RASKIN: What efforts, if any, did the Commission make to secure not only the identification of Dooley and Havo, but what, if any, assessment they had of the events of the evening?

MR. PEDROTTY: Efforts were made. To go through those efforts, I would have to go outside the record, which I cannot do.

MR. RASKIN: Okay. Thank you very much, Mr. Pedrotty.

JUDGE FALK: Mr. Pedrotty, it is fair to say I know the judge said at one point that she talked about a group of 40 kids. They are all a group of good friends. Is it fair to say that the fight was instigated by somebody who was outside that group of 40 friends, regardless of

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

race?

MR. PEDROTTY: It's, it's difficult to tell in the record. It sounded like there was fighting amongst invited and uninvited kids. As she says, it was a melee. It was chaos. It was crazy. It was dark. It was raining. It was very hard to figure out what exactly was going on there and who instigated the fighting. You can tell by watching the bodycam footage and the police when they arrived, there's multiple fights going on. It's not just this one fight, there's tons of kids there and there is a lot of fighting going on.

DR. MOORE: There were upwards to 30 fights, according to the police bodycam, right?

MR. PEDROTTY: I believe that was said at one point –

DR. MOORE: – 20 to 30 fights and multiple reports to the police.

MR. PEDROTTY: Yes, that's, that's correct. Yeah, there was multiple reports to the police. There was multiple fighting going on. You can see the police when they arrived, they are walking down the street. Police are pulling all sorts of kids off of each other and just breaking everything up, trying to diffuse the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

situation the best they could.

If there are no further questions at this time, I will sit down.

MS. GRAYS: Thank you very much.

MR. PEDROTTY: Thank you.

DR. MOORE: I, I do have one, if I could?

MS. GRAYS: Okay. Sorry about that.

MR. PEDROTTY: Sure.

DR. MOORE: Mr. Pedrotty, I just have one last question for you. I understand from a couple of statements by the persons involved and in the bodycam footage that this was streamed on social media. Can you offer any more details about that?

MR. PEDROTTY: Oh, I'm sorry, could you please repeat the question? I'm not sure I understood it.

DR. MOORE: I'm asking about the social media streaming. As I understand it from one of the participants at the party, this was streamed live on social media and then helped to bring more people to the party. Do you have any more details about the social media coverage of this?

MR. PEDROTTY: I know that the host, the son, the graduate, he had invited a bunch of

1 people via Snapchat. And Carter's group found
2 out about the party through somebody there who
3 was streaming live and other than that I am not
4 really sure what other streaming about the party
5 was happening. But certainly kids these days
6 stream live a lot. They're on social media, so
7 I'm sure word got around.

8 DR. MOORE: Thank you.

9 MR. PEDROTTY: Thank you.

10 MR. JULIAN: May it please the
11 Commission, I'd like to reserve five minutes
12 also, please.

13 MS. GRAYS: So noted.

14 MR. JULIAN: First as to the question Dr.
15 Moore, my understanding of the facts in this case
16 are that Carter and Valladares received a
17 communication by some electronic means. A
18 copy of it is in the record. And it is noteworthy
19 that Carter and Valladares also refused to
20 identify who gave them that information. And it
21 was the wrong address. So, I thank you for that
22 question. And I just wanted to clarify that
23 response.

24 DR. MOORE: Thank you for that.

25 Respectfully, Mr. Julian, my question was about

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Mr. Carter at one point appearing on the officer’s bodycam over his actual cellphone camera footage to show that he was live-streaming at the time. But I appreciate (INAUDIBLE) your insights.

MR. JULIAN: But I, I’m so sorry, I didn’t fully comprehend the question and I thank you for that clarification. Thank you, Dr. Moore.

DR. MOORE: Sure.

MR. JULIAN: I want to begin by, on behalf of my client and myself, thanking you for your service. I want you to know that I have personally great respect for not just the work the Commission does but also the work that Commission counsel performs. I’ve had the privilege to litigate against this distinguished group a number of times. This will be my fifth appearance before this Commission, first post-COVID.

However, I have, in our brief had to say some pointed things about the investigation that occurred in this case. Now there are several non-lawyers here, but I think they have become inculcated in the process that we lawyers engage in, it’s called discovery. And discovery with the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Commission is very different from discovery in civil cases, in that they get to essentially curate, control the facts in a case.

To your point, Mr. Raskin, if we were having a civil litigation, I would have deposed Carter and Valladares and if they declined to answer the question as to who Havo and Dooley were, I would have obtained a court order.

JUDGE MILLER: Counsel, could I ask you –

MR. JULIAN: – Yes, sir. –

JUDGE MILLER: – that’s all –

MR. JULIAN: – Yes, Judge. I’m sorry.

JUDGE MILLER: I apologize for that. I mean that’s all well and good, discovery or not, but I mean, I think the judge invoked her office over a dozen times. So, what does that have to do with you questioning these two men? How is that even relevant?

MR. JULIAN: It is relevant because, Judge, I think it gives context to the opinions of Dr. Lesswing and Dr. Joseph that she was responding in a trauma situation. That Carter, that, that Havo and Dooley were to her perception, to her understanding, based on the

1 facts the people who incited the fight and that
2 that provoked. You know now from the papers
3 she was a victim of a [REDACTED]. You know now that
4 from the papers that she has [REDACTED]
5 [REDACTED]. That was not even plumbed by the
6 Commission. They didn't have her examined by
7 a psychologist.

8 JUDGE SINGH: Counsel, counsel –

9 MR. JULIAN: – Yes, sir. Judge, I'm sorry.

10 JUDGE SINGH: I understand, I understand
11 maybe at the time of the melee, the stress of
12 seeing family members being hurt. But how do
13 you square that with what happened two weeks
14 later? Because your client seems to double
15 down. So, I don't see the stress going on two
16 weeks later. The situation has changed. Things
17 are calmer.

18 MR. JULIAN: Sure.

19 JUDGE SINGH: But, but your client took
20 a completely contrary approach, right?

21 MR. JULIAN: The ah, you, you're
22 factually correct as to what she said. May I
23 differ in your conclusion?

24 JUDGE SINGH: Absolutely.

25 MR. JULIAN: Thank you. My point is

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

this, if you look at Dr. Lesswing’s work up, if you look at the very definition of [REDACTED] [REDACTED] and how people respond to it, it is not like you broke your arm or your leg. It is something that evolves over time. And in this case, she had a recurrent condition. And Judge Singh, if, if, if what Dr. Lesswing is saying and what I am saying is incorrect or inaccurate, why didn’t Commission counsel have her examined by a psychologist of their choice? Why are they relying on the reply brief putting into before this Commission scientific information that has no foundational basis? So, my, my response to you is directly when she was examined 11 months later by Dr. Lesswing, she tested positively, still, for [REDACTED]. It is a common reaction of denial, justification. Let me point out that Dr. Lesswing said that her actions were frantic, unreflected and emotionally dysregulated efforts to take charge of the situation at the party. The common definition of dysregulation –

JUDGE SINGH: – Again, that’s at the event itself. I am asking you to focus on what occurred two weeks later. What do the doctors

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

say or the, the, the Ph.D. say about that?

MR. JULIAN: What the Ph.D. said he did not focus specifically on that interchange. But what he said, and he found, was that she was still experiencing [REDACTED]. He gave her the [REDACTED], which was positive. 11 months later she was diagnosed not just by Dr. Lesswing but also by her therapist, Dr. Joseph, who she had seen for the [REDACTED] previously, as having [REDACTED]. So, I think it's part of a continuum, Your Honor.

MS. GRAYS: Mr. Julian, why did it –

DR. MOORE: – I –

MS. GRAYS: – So, I'm sorry, Dr. Moore, just one moment. So, you indicated it was nine months later. Why did it occur nine months later?

MR. JULIAN: The examination?

MS. GRAYS: Yes.

MR. JULIAN: That's a great question and thank you for it. [REDACTED] is very different again from having a physical injury. It requires a recognition on the part of the person suffering from it that that is what is happening. And I can tell you what happened

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

between the judge and myself, in response to your question. When she initially presented to me, her focus was very scattered. She – we then received various notices from the Commission. They sent us discovery. There’s the what seems like forever various bodycams. She couldn’t watch them. I mean she tried to watch them. She’d walk out of the room. She gave her deposition, and again attempted, I think in not necessarily a totally focused way to testify. After that, I’m a lawyer, I’m not a Hollywood script writer, so I don’t make up facts. I look at my client and I say to my client as in this case, you need to go back to therapy. You need to figure out why you are only quasi cooperative in defending this case and why you can’t talk to me about it in any way that logically makes sense. We call that –

DR. MOORE: – Okay, so if I could have –

MR. JULIAN: – Thank you –

DR. MOORE: – I’m sorry. I would like to come back to that. But first respond to what my colleague was earlier pointing out that not only does the judge go back on July 14th to continue the traumatic event that occurred on July 2nd,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

right, so there's a couple of weeks afterward that the [REDACTED] somehow appears to still be in operation and yet, according to Dr. Lesswing's report, it was the very next day that Judge Gall returned to being Judge Gall, and this is listed. So, I, I do have some thoughts about how the next day we are back to being Judge Gall but then two weeks later we're back at the event. But to come to the more recent issue that you raised, certainly here's a report, Dr. Lesswing's report indicates that you are the person who had contacted him –

MR. JULIAN: – Correct.

DR. MOORE: In order to set up a, the evaluation that started on June 20th. It's not until after that, on June 29th, that the meetings with Dr. Joseph had began. But I won't say and just ask if you would respond to this. None of this happens until after the May 23, 2023 notice from the Commission that in fact a formal complaint was going to be processed. So, how do you respond to what looks like on the surface an after the fact series of events to address a problem that seemed to have emerged fully a year before?

MR. JULIAN: Thank you, Dr. Moore.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

The, and if I may try to respond in part to what Ms. Grays said also. And if I, if I have trouble doing both it's because I have trouble doing two things at one time. So, just tell me if I didn't respond. But it's, it is, those of us who represent injured people who practice law and represent injured people and see [REDACTED] [REDACTED] know that it is a process. It is and not frequently an immediate process.

Let me point out that Dr. Lesswing found that she had emotional lability. She was labile at the time of the event and he found that she continued to have [REDACTED] 11 months later. The reasons for the delay are multiple and Judge Gall will address in her, but I can tell you and it will be entirely consistent with what she says among other things, her children did not know about her [REDACTED] And, as we discussed that, she understood that if she was disciplined that the children would learn about the [REDACTED] and she deferred and postponed getting the kind of assistance I thought she should have because of her concern that her history would become a matter of public record that her children would learn about.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MS. GRAYS: Mr. Julian –

MR. JULIAN: – Yeah?

MS. GRAYS: I just want to stop you for a moment. If you could just stop the clock. Celia, could you provide a tissue, I’m sorry –

JUDGE GALL: – I already have. Thank you.

MS. GRAYS: Oh. Okay. Alright. The time can resume and you can resume as well, Mr. Julian.

MR. JULIAN: Yeah. And, and, Dr. Moore to your point and, and, I, I, I am aware of your body of work and I am aware of what you do for a living and I know it’s evidence-based also but in a situation like this, one must embrace the notion that recurrent [REDACTED] is a condition that individuals have and that waxes and wanes. And what we have put forward here is a very logical, properly tested report by a consulting psychologist and also opinions by the treating psychologist. Why are they unrefuted? Did Commission counsel consult with a psychologist to offer a counter argument with regard to it? And did they make the determination not to use or call that person

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

because that person wasn't in concord? I think you can draw that inference. We have five lawyers on the briefs here. Might a psychologist have also been helpful?

And, finally to the issue of the amount of time that passed and delayed and my referral, as a matter of practice, I refer and I think every lawyer and/or judge when they practice law refer clients to experts when they see the need, every day, routine. I always ask my experts to make sure that I am the referral source because that is integrity and when you put a witness forward on cross-examination and you haven't disclosed it, it's devastating and damaging. So, I did that but I didn't do that for the purpose of either concocting a diagnosis or not. I did that for the purpose of seeing whether there was a diagnosis.

JUDGE MILLER: Counsel, can I ask you from the terrible incident back in college up until this incident, were there other incidents where the [REDACTED] was exhibited?

MR. JULIAN: Thank you, thank you, Judge. This is a distinguished judge who worked in the court system as a trial judge handling asbestos cases, the most complicated cases, 42

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

counties. The answer is no. Worked as law clerk in criminal court. I think this is the only instance where she has seen her son beaten within five feet of her. And with all due respect to Mr. Pedrotty’s characterization of the event, she identified Carter – the photographs of Valle— of Havo and Dooley at her deposition. The stipulation that we entered into was based upon the fact that we did not have their testimony. And so therefore, and back to your question, why is that important? Because as to the issue of implicit bias, if she is talking to Havo and Dooley and yelling and screaming at them because they started the fight with her son and beating and kicking them, isn’t that commentary directed toward the individual and not the race?

And, again, if this case were going to go to trial and we have people in this room who do trials –

JUDGE SINGH: – But counsel, how does that square with, with the assertion that that these young Black men weren’t intelligent? I mean, what, what, what leads to that conclusion?

MR. JULIAN: Well –

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JUDGE SINGH: – Maybe if you can say they were aggressive, but –

MR. JULIAN: – Well, Judge, she, she said in her deposition, she’ll tell you when she speaks to you, that conclusion was reached by their conduct. I mean, let’s understand their conduct. At midnight, they arrived in a –

JUDGE SINGH: – But her son is engaged in the same conduct. They were all fighting –

MR. JULIAN: – But he was defending himself.

JUDGE SINGH: Okay.

MR. JULIAN: That’s the difference. I mean, this is New Hartford High School, a small high school. They all know each other. They had, they had a number of graduation parties. It is ironic that the fight breaks out and the police are called when Carter, Valladares, Havo and Dooley arrived. And, oh, by the way, who are Havo and Dooley? What’s their record? Were they asked, have you ever done this before? I mean is this something you make a common practice of? Their conduct is an inciting event here that is extraordinary.

JUDGE SINGH: So, what cases support

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

your position of censure as opposed to removal?

MR. JULIAN: Now I have to switch gears.

MS. GRAYS: Before you switch gears let me just ask –

DR. MOORE: – But before you switch gears –

MR. JULIAN: – Okay –

MS. GRAYS: – Dr. Moore, Dr. Moore, let me just ask one question. And I just wanted to be clear, this is a follow-up to Judge Miller’s question, that in the reports that are provided, the expert reports, that there isn’t any indication of other incidents that were a reaction indicating [REDACTED]. There’s nothing else in those exhibits which are in the record, right, agreed statement of facts –

MR. JULIAN: – Right.

MS. GRAYS: Nothing else that indicates that?

MR. JULIAN: Thereafter, after July 2nd?

MS. GRAYS: Before.

MR. JULIAN: Before. No.

MS. GRAYS: Okay.

MR. JULIAN: No other indication.

MS. GRAYS: Okay. Thank you. Okay.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Dr. Moore?

DR. MOORE: Yes, I just want to, attorney to just offer some thoughts about what I find is a very interesting argument that you are making that it was in fact the behavior of the alleged assailants because again the ASF doesn't establish that they could but be identified as such, but that it was their behavior that the judge was responding to and making comments about their intellectual ability but also their socio-economic status and being able to afford cocaine and then there's another matter that comes across on the videos that was not covered in the papers and that is her switch to what most understand to be a Black vernacular by referring to them as "bro" and talking about how she "rolls." So, I think the question stands as to how is that simply about behavior when you consider also that the homeowner, Mr. Pearce was probably the most belligerent, also inebriated, and I may not be right about this but I believe an attorney, a professional and so the idea that certain (INAUDIBLE). So, so, if I could just get your (INAUDIBLE).

MR. JULIAN: Yes.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MS. GRAYS: Mr. Julian, I'm sorry, did, is there some interruption? I think Dr. Moore, your last part of your statement wasn't clear. Or did you, I'm sorry, did you understand what she was asking? –

DR. MOORE: – Yes, I was mentioning that it is behavior that it accounted for the judge's characterization of these individuals as being uneducated and being poor, but also somehow needing to be spoken to in the street vernacular that she used. If it's behavior, that did not carry over to the other individuals because again we were talking some 20 to 30 fights. But also her own friend, Stephen Pearce, had engaged in the same behavior. So, I am sort of hard-pressed to see that as not having a racial taint. But I would agree with you that it doesn't have to be either or either behavior or racial, racially charged information or thoughts. It could be both, and. But if you could just respond to that because I, this is an issue.

MR. JULIAN: Sure. And I, I understand that. I, I came here today, frankly, concerned about how to defend against the specific language that was used. And I am not going to

1 make any excuse for that. However, I think you
2 have to look at that language, again, in the
3 context of Dr. Lesswing's unrefuted opinion,
4 which was that she was dysregulated. She
5 engaged in a frantic, unreflective and
6 emotionally dysregulated efforts to take charge
7 of the situation at the party.

8 The causal relationship between seeing her
9 son assaulted, the fact that the Carter group
10 remained on the premises for an hour and a half
11 of, for whatever reasons were all factors that
12 incited and provoked her trauma reaction. And
13 so, and, and, we are not here, and I want to make
14 this clear, we are not here to blame. We are here
15 to talk about the facts from the point of view of
16 what happened and the judge has accepted
17 responsibility for her comments. But in the, in
18 the stipulation, the stipulation is complex
19 because while we acknowledge that language
20 that was used had the appearance, it has to be put
21 into the context of the facts of the case and it has
22 to be put into the context of her underlying
23 diagnosis.

24 MS. GRAYS: Mr. Julian?

25 MR. JULIAN: I hope I answered.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MS. GRAYS: Dr. Moore, we have two other questions. So, did that satisfy your question? Okay. I know we are getting a little close for time. Mr. Raskin, I know you have a question.

MR. RASKIN: Yeah.

MS. GRAYS: And Judge Singh, I know you asked a question. I interrupted it because I wanted to go on that thread before we switched over to the other part. So, we may go over just a little bit, so.

MR. RASKIN: What's your pleasure, Madam Chair?

MS. GRAYS: Is your question aligned to this thread?

MR. RASKIN: It is in the same vicinity.

MS. GRAYS: Okay so, let's proceed to that and then we'll get back to Dr. – to Judge Singh's question.

MR. RASKIN: Mr. Julian, I don't know if this question is properly made to you or your client. But, other than Carter, Valladares, Dooley and Havo, to your knowledge were there other kids of color at the party?

MR. JULIAN: I'm going to – I wasn't

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

there and I know that Judge Gall wants to answer that question. So, may I defer that to –

MR. RASKIN: – You may. And I will, I’ll defer. Thank you, Madam Chair.

MS. GRAYS: Okay. And so then we’ll end with the question that Judge Singh had about the sanction.

JUDGE SINGH: My question, sir, is, what cases support your position that there should be a censure in this case as opposed to a removal?

MR. JULIAN: In the reply brief in my wanning years, Judge, I am not as good as at remembering names of cases as I –

JUDGE SINGH: – Don’t have to remember the names. Facts is facts –

MR. JULIAN: – Well, we have one Buffalo judge who invoke her judgeship serially while trying to, I think it’s *Panepinto*, over months engaging in conduct that was advocacy and not appropriately –

JUDGE SINGH: – But did she invoke her judicial office in that case?

MR. JULIAN: Best of my recollection, inferentially, shows up at the courthouse, her courthouse with the people protesting.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JUDGE SINGH: And how did she conduct herself, was it inflammatory or in some other fashion?

MR. JULIAN: I would not say it was inflammatory. I would say it was however advocacy –

JUDGE SINGH: – Is that a different situation here?

MR. JULIAN: Well, yeah. I, I think this is *sui generis*. I cited it in citing Dr. Moore in my reply brief. There’s nothing quite like this. Very different from your most recent case of *Grisanti*. Unlike Judge Grisanti, Judge Gall did not seek this confrontation. Unlike –

JUDGE SINGH: – But Grisanti didn’t invoke his judicial office. He was invoking everybody else’s office.

MR. JULIAN: I agree.

MS. GRAYS: Okay. Alright, so, thank you very much.

MR. JULIAN: Thank you.

MS. GRAYS: And then we will return to Commission counsel. Mr. Pedrotty? Oh, I’m sorry. I’m sorry. Judge Gall. Thank you. Apologies.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JUDGE GALL: I'll try to answer all your questions within my, within my prepared statement. But I welcome any additional questions. Okay. Good morning, ladies and gentlemen of the Commission. I would like to thank each and every one of you for your time, your attention, dedication to this Commission and willingness to consider the words I have to say to you today. I welcome your questions and hope to provide you with additional insight.

I fully understand that it's my actions which caused me to be here today. I appreciate fully that if I had not invoked my office over nine times, engaged in profanity, asked the police officers to act, insulted individuals I regarded as the attackers of my son and husband with regard to their intelligence and wealth and declared that a return of the property by, to the property by the attackers would result in shooting them, I would not be here today. The events of that evening triggered a response that I could not control. And to this day, I cannot fully explain without the help of my psychologists.

I would like to express my sincere remorse and apology for the events that occurred. I am

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

humiliated by my words and actions and poor behavior. I ask that you accept my recounting of the incident and my statements as an explanation and not an excuse. And that you try to understand my conduct in the context of the history of my trauma. Dr. Lesswing and Dr. Joseph both tell me my response was a dysregulation. That in summary, my actions were out of my control. My irrational behavior was trauma-based. I was labile, yelling, negotiating, acting out of fear on July 2, 2022. That is true in the sense that I have never conducted myself in that manner before or after. Knowing today what I now know about trauma-based dysregulation, I can tell you that I have insight and defense strategies to make certain this will never happen again.

My family and I were invited to our friends, the Pearce's, for their son Jackson's graduation party. He and my son, William, have been friends for over 16 years. We had attended my son's legion baseball game and arrived at the party late. I left shortly thereafter to pick up my daughter [REDACTED] from gymnastics. We returned to the party and sat under the tent to have dinner.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

It wasn't long after that that my son [REDACTED] and my daughter [REDACTED] asked to be driven home. I returned to the party at approximately 11:30 pm.

The events that followed within minutes upon my return were unexpected, unprovoked, violent, brutal and traumatizing. Several cars of unknown individuals arrived at the party. It began to rain and kids gathered under the tent. There were only a few adults remaining at the party, which was beginning to get out of control. The few fathers that were under the tent began to ask everyone to leave. Some of Jackson's friends, including my son William, were doing the same. I was hearing loud talk and profanity and the intensity was noticeably growing. As my son was asking people to leave, an unknown individual slapped him in the side of the head. He awkwardly laughed being caught off guard and attempted to walk away when a group of four or more unknown individuals attacked him and brought him to the ground. He was approximately five feet from where I was standing. Within seconds he was at the bottom of a ditch being struck in the head and body, pummeled and kicked, completely outnumbered.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

The attack was brutal. It was unprovoked, violent and extremely scary. I froze.

When deposed, I identified Havo and Dooley as the individuals who started the fight, bringing William to the ground. I froze and am ashamed to say I did nothing to intervene. I watched as William was getting punched and kicked helpless in the ditch. It seemed like time stood still. He was not the only one involved in the fighting. It was mayhem as there was fighting going on all around us. The scene was complete chaos. The three fathers, including my husband, attempted to break up the fighting. Each of them being struck and attacked themselves. It was a brawl and a violent nightmare comparable to the brutal assault I endured 30 years before.

As you may expect, I have relived this moment hundreds of times since it occurred. I don't go a day without thinking about the attack. I also don't usually sleep a full night without waking to thoughts of me standing by as I witness several people striking my son and husband. But what keeps me up is knowing that I froze and did nothing. I've been told that there

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

was nothing I could have or should have done to stop the attack. But the question I will keep asking myself is what mother doesn't attempt to protect her son? Why didn't I just cover him and let them strike me instead? I accept that I could not have intervened. But I will never forgive myself for not attempting to protect him. My utterly over-the-top, completely out of character response was in part an attempt to compensate for that failure by aggressively pursuing the police, the attackers and anyone else with profane, hurtful words.

By the time the police had arrived, much of the fighting had subsided. But the tension was still very high. My action after the police arrived was a poor attempt to do something, to try to fix the situation and make it better. The attack rekindled my worst nightmare and I began acting out to the police for over an hour after the event. It is what I now know to be trauma-based dysregulation. I am yelling. I am hysterical. I am negotiating. I'm verbally attacking out of proportion and with no rhyme or reason. I was seeking help while at the same time trying to compensate for failing as a mother.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

When I am in my right mind, I know that I cannot use my office, insult police officers or individuals. As time passed and the police were not clearing the property, my fear and frustration was growing and I believed we were not being protected. I acknowledge what I said was wrong. I was yelling at those who brutally attacked my son and husband and was reacting as a mother and a wife who had just moments before witnessed a brutal assault upon her family and friends. I had never witnessed a fight or an assault, especially upon my son. I watched him get his head kicked over and over. All I could see were his two arms trying to cover his face as he was being pummeled and violently attacked and I did nothing to help him. I stood by and froze. This was shocking to say the least. Something you would never expect to happen at a graduation party. It was a nightmarish return to a dark event 30 years before and I frantically attempted to respond wrongly.

Sometime in September of 2022, I received a notice that an anonymous complaint was filed against me concerning this incident and I was scheduled to testify at a deposition in November

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

of 2022. In preparation for my testimony, I tried to review the bodycam videos with Mr. Julian. I can't quite put into words how I felt and continue to react to my conduct. I am humiliated, embarrassed and mortified by my out of character conduct. But at the same time am disturbed and traumatized by reliving the events of that evening. The visual images bring back the trauma of July 2nd and the likenesses to my attack 34 years ago. The darkness, the chaos, the disbelief and my out of body experience. I told my lawyer how I was feeling and he advised me that I should recommence counseling. I was resistant for many months, hoping this would go away. The feelings, that is. I did not want my children to learn of my [REDACTED] I was advised if disciplined, the entire record would likely become public, not just the bodycam but the history of my [REDACTED] I finally relented. I knew I needed therapy and I believed reaction, my reaction was trauma related.

First and foremost, I stand before you here today to sincerely tell you that my words and actions were not racially motivated. I am not a racist nor have I ever treated anyone unfairly or

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

unjustly as a result of their race, age, gender or sexual preference. I identified Havo and Dooley, Valladares and Carter as the individuals who assaulted my son and husband. And when two of them were questioned about it, they admitted to being involved in the fight. It's undisputed that the unknown individuals were not invited to the graduation party and were not familiar with any of the invited guests. I did not choose the individuals that chose to attack my son. My inappropriate conduct was exaggerated, spontaneous response to a group of individuals not based on the color of their skin but because of their violent actions. My statements were highly inappropriate and when taken out of context can be viewed as racially motivated. However, please consider the circumstances.

First, I have been an employee of the court system for 26 years and have dealt with individuals of all races, age, gender and sexual preferences and at no time have been inappropriate, prejudicial or unfair. This was an isolated incident that was emotionally driven in a direct dysregulated response to my previous trauma. And one cannot evaluate my conduct

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

without considering the traumatic assault that I just moments before had witnessed upon my family.

Further, I have been under investigation for two years and have continued to conduct myself judiciously and respectfully on and off the bench. I do not deny that in the aftermath of the chaos, I stated that the unknown individuals did not look that smart and unlike my son were not going to business school. My words were a direct assault and attack on the very individuals who assaulted my son. Their color was irrelevant to me. My attack on their intelligence was a direct response to the fact that they had arrived at a party in the dark of night where they knew no one, were not invited and proceeded to start a fight. Not what I believe to be the conduct of smart individuals.

My statements concerning shooting them were motivated by my trauma reaction and quite honestly were my out-of-control response to wanting to fight back. To fight back against the man who [REDACTED] me and to fight back against the men who assaulted my son five feet from me. The police had not obtained the names and

1 identity of the attackers over the course of two
2 hours. And to this day we do not know who
3 Havo and Dooley are. Were my statements
4 rational? I was afraid I would see them again at
5 my house or somewhere else. I wanted them,
6 albeit incorrectly, to feel that there would be
7 consequences if they returned. It was a baseless
8 threat. I do not own a weapon of any type. And
9 were my statements logical? Absolutely not.

10 MS. GRAYS: Judge?

11 JUDGE GALL: Were my statements
12 racially motivated? Absolutely not.

13 MS. GRAYS: I ask if you could wrap up.
14 I'm, I'm sorry. We're – you're over for time.

15 JUDGE GALL: 34 years later I struggle
16 with confusion. I suffer from nightmares, lack of
17 sleep, nausea. I wake up in the middle of night
18 to images of me frozen, submissive and lifeless.
19 I now recognize these flashbacks as symptoms of
20 [REDACTED]. I never wanted to
21 go back to the darkest time in my life. I put it on
22 a shelf for 20 years and thought I was better.
23 After continuing counseling I understand that
24 somethings are beyond our control. I continue to
25 work with my doctors, to identify triggers and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

manage these symptoms so that I can maintain a full and professional life. I urge you to not create a precedent that judges with [REDACTED], a [REDACTED] victim, a child abuse victim, a military war veteran or that any of these people are unfit to be on the bench. I am not making excuses. I am a human being who has experienced two traumatic events in my life and after two years of reflection, I offer this as background and not as an excuse.

Please my conduct did not occur on the bench but in a violent setting. It is conduct well understood for a trauma victim such as myself. I ask that you not virtually end my unblemished career by removing me as a judge and I also ask that you please give careful thought to the publicity of my trauma as you deliberate. Thank you.

MR. RASKIN: Judge Gall, if I may?

JUDGE GALL: Yes. Yeah. Thank you.

MR. RASKIN: Can you advise us whether or not aside from the four individuals that we've discussed, were there any partygoers of color at the party?

JUDGE GALL: So, there were individuals

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

of color that were invited to the party. I actually had hired one as my law clerk for – as an intern for the following year so I was having a conversation with him. He was a graduate of Villanova. There were several that were invited. And the cars of uninvited guests were of mixed races. They were not a large group of Black individuals. They were of all races.

MR. RASKIN: Thank you.

DR. MOORE: If I could follow-up on that again going back to the footage of the incident as you go out to focus in on Mr. Carter and his friends trying to find the keys surrounding you to the right, your immediate right, the far off right and to the left are groups of other individuals, most of whom, most of whom were white individuals. And so, my question had been how you managed to zero in on Havo and Dooley and so it has been mentioned a couple of times by both you and counsel that somehow the identification of Havo and Dooley were definitive but paragraph 24 of the Agreed Statement of Facts makes clear that the evidence is insufficient to support any finding as to whether Havo and Dooley fought with or

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

assaulted, you responded. So, I just wanted to throw that out there. But if, Madam Chairman, if it's okay because I want to wrap up with my questions here. Let me say Judge that I am sorry for what happened to you in 1990 and also the events of July 1st to July 2nd and the diagnosis of [REDACTED]. But I got to tell you, I have some real concerns about how your [REDACTED] seems to work because you mentioned a moment ago that you were traumatized by the evening and having observed your son and husband being assaulted by someone. However, you seemed to have rebounded fairly quickly and as I observed your behavior, you took charge. You were the person who asked Mr. Pearce to stop talking. You directed others to not look for the keys. You engaged in very rational, I found even persuasive arguments with the police about arresting them. You proceeded to indicate you would call the lieutenant and even throw the keys in the toilet. So, that's the first thing. I am not seeing how we go from being traumatized to suddenly being the ringleader who is directing all of what's happening and as I said, you appeared very rational to me. And I'll come back to the thing

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

that's been mentioned before, I don't see how the
[REDACTED], however traumatic and however much the
behavior of those individuals might have been
offensive, how that ends up with engaging in
racially charged behavior. So, if you could just
respond to either of the concerns I've raised,
either first that –

MS. GRAYS: – Dr. Moore? –

DR. MOORE: – The identification –

MS. GRAYS: – Dr. Moore? –

DR. MOORE: – According to what you
agreed to –

MS. GRAYS: – Dr. Moore? –

DR. MOORE: – Is in question –

MS. GRAYS: – Dr. Moore. I apologize.

DR. MOORE: Yes?

MS. GRAYS: So, can you, one, your
camera is not on your face and I think it's
because of the sun. So, you need to adjust that.

DR. MOORE: I'll lean back.

MS. GRAYS: But the second –

DR. MOORE: – Is that better?

MS. GRAYS: No, because we only see the
bottom part of your face.

DR. MOORE: Okay. I'm going to pull it

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

over.

JUDGE GALL: I think I understand your question, if you'd like –

MS. GRAYS: – Okay. But, so, there, you asked two questions. We have someone else who needs to, who also wants to ask a question.

MS. YEBOAH: (INAUDIBLE)

MS. GRAYS: Are you sure? So, can you just –

DR. MOORE: – (INAUDIBLE) –

MS. GRAYS: – Can you just limit it to one? Just answer one.

DR. MOORE: Yeah. Okay.

MS. GRAYS: Okay. Thank you.

JUDGE GALL: I think I –

DR. MOORE: – And the one I would prefer that you answer is the one that has to do with how the traumatization disappeared ten minutes later.

JUDGE GALL: Okay. So, 34 years ago when I [REDACTED] I responded unlike what someone might call a typical [REDACTED] victim. Most [REDACTED] victims don't report their crimes, don't disclose it immediately. My [REDACTED] was disclosed within moments of me being attacked. And, when I,

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

and the, the therapist, Dr. Joseph, that I see now, was also my therapist at the time when I was 18 years old and she counseled me with regards to that. And, I appeared to the police cool, calm and collected. I have no words for why I react the way I do. I, after that event, chose to continue and stay at Boston College for the three weeks left of college even after being brutally [REDACTED] right outside of my dorm room. And I've, I've always felt that I'm stronger than this and I'd never want it to define myself. And at this time when I froze I literally froze as I watched my son getting beat up in front of me. It was five feet from me, watching this. I froze and I did nothing. And in my right mind I think I'm the mom that would be able to lift up the car if my kid was caught under it. And I just froze and it's the same thing that I did 34 years ago. And when I was starting to have these nightmares, you know, when I would talk to law enforcement and when I would talk about the [REDACTED] I sort of made myself a little bit of a hero and I'd say, I yelled. I fought back. I tried to get away. And all of a sudden I'm having these nightmares that I didn't, that I froze and I did nothing. And I say

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

to my therapist is this what I do? That's not my personality. And she said, you tried to fix it by going back and you're yelling at the cops and you're, you're trying to fix everything because you're acknowledging that you did nothing. And honestly, it's, it is not rational. It's not acceptable.

MS. GRAYS: Thank you for that. And we have one more question. Ms. Yeboah?

MS. YEBOAH: Thank you, Madam Chair. Judge, Gall –

JUDGE GALL: – Yes?

MS. YEBOAH: You mentioned that you have come up with some defense mechanisms and techniques that would prevent this from this from happening again. My limited understanding of how [REDACTED] works is that it can pop up at any time. Can you give us some assurance, I don't want to pry into the confidential therapy sessions –

JUDGE GALL: – That's okay.

MS. YEBOAH: But can you give us some assurance as to why we should be confident that this will not happen again in the future?

JUDGE GALL: Yes. Thank you for that

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

question. I don't mind disclosing what I talk to my therapist about. And one of those things is the freezing mechanism. But more so, how do I control myself should this happen? And if I could tie that in, ma'am, with Judge Miller's concern about how do I go 34 years without? I have learned over the years to handle small stress, smaller stresses than watching an assault. Okay, I'll say this, where I have learned how to respond. Whether it be, you know, the moment when I have a panic attack and I'm in the driveway and I have to call for my husband to come out and get me. Or, if, if I'm having nightmares, how I get through the next day with a phone call to my therapist to talk through what my nightmare was. So, I've been able, I've had, yes, episodes and, and instances where the fear has overcome me and the [REDACTED] has come back. I never knew that that was [REDACTED]. Going forward, I have learned how to remove myself from situations and quite honestly I live so differently since July 2, 2022. I'm very confined to being with my family and close friends and I definitely isolate myself much more so that I am not in a situation like that. This was an isolated

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

event that will never happen again. Never.

MS. GRAYS: Thank you, Judge Gall.

JUDGE GALL: Thank you.

MS. GRAYS: Yes. Okay. Mr. Pedrotty?
Or we're going back to you for a rebuttal?

MR. JULIAN: Could be me.

MS. GRAYS: For your five minutes?

MR. JULIAN: Don't rely upon me though.

MR. GRAYS: Okay. Five minutes. You
wanted five minutes, right?

MR. JULIAN: Okay. The, Dr. Moore, if I
could just address your question a little bit
further. The question that you asked with regard
to how did Judge Gall appear rational in
negotiating and in control one minute and not in
control the next minute? And one of the things,
and I think the judges in this room will have
experienced that judges learn at judges' school is
how not to portray yourself and that means not
invoking your office virtually anywhere except
in the courtroom, but especially in situations
where you're confronting law enforcement. And
I am not being glib when I say this, but it's, it's,
it's a reaction that I had when I first saw these
bodycams, which Judge Gall knew. She knew

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

she was on these bodycams. She gave a seminar on how not to. And this is a very intelligent, very capable woman who was labile, dysregulated, invoking her office nine, maybe twelve times. It's not conduct that you would expect, even in a modest or minor situation. In this case, with her trauma history, it provoked her dysregulation.

And. Let, let me just say to you in summary, you've read all the papers, we've, we've, I don't think you can fairly ignore the absence of a response to the psychological experts that we've put forward nor do I think you can reach a conclusion of removal having not heard from Havo and Dooley. The nature of these proceedings is such that Commission Counsel has great control over what comes before this body. And I respect very much, the work that they do. But in this case I have great difference with them in terms of how this case comes forward.

In terms of this judge's ability to appear and go forward, it is, I think, readily explained by the psychological testimony that is presented. And downstream, this will not be the first [REDACTED]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

██████████ case you've seen nor will it be the last. You are creating a precedent with regard to how this condition is embraced, the same as you have, in my view, not used punitive justices – justice, or making examples of people, but rather attempted to look into the judge's soul and person and what problems they have and make a determination *sui generis* based on facts.

One of your earlier colleagues made the comment that a removal case is a career death penalty case. This is the not the first removal case that I've had the privilege or the burden of arguing before this body. And there's nothing more truer than that. To take an individual with a distinguished career in this fact situation and at her age, remove her for – on a record that is beyond imperfect, I think would be unfairness and injustice.

Terence Rattigan wrote a play that – called “The Winslow Boy” and, and I think it's applicable to this case. The main character, Sir Robert Morton, a barrister, after he vindicated the Winslow boy, was asked about the proceeding and he said in response, “It is easy to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

do justice. It's difficult to do fairness." We ask that you do both justice and fairness in this case.

MS. GRAYS: Thank you, Mr. Julian. And now, Mr. Pedrotty.

MR. PEDROTTY: I don't think there's a person in this room who doesn't have sympathy –

JUDGE MILLER: – Counsel, can I ask you –

MR. PEDROTTY: – For what respondent went through. Yes?

JUDGE MILLER: The real issue that your colleague on the other side has put forward is that they have undisputed, uncontested evidence of a psychological disorder that explains her outrageous behavior and the Commission for whatever reason has nothing contrary and therefore it's essentially established. I'm just summarizing his argument. Why isn't he correct? Why didn't, why doesn't the Commission have some obligation to refute that, the evidence that's in the record and it's frankly is essentially ignored by the Commission?

MR. PEDROTTY: So, we, we do dispute it. We made clear in the ASF that we would

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

argue at sanction that her psychological explanation neither explained nor excused her misconduct, nor her reliance on the, on her psychological reports. And in fact, what you see here is her conduct is so outrageous that the conduct itself, regardless of any psychological explanation disqualified her from presiding over a whole classes of parties. It rendered her, on its face, unfit for judicial office, no matter what that explanation is. But also, if you look at Lesswing’s report –

JUDGE SINGH: – Aren’t there circumstances where we have maybe taken a more lenient view with out of court misconduct when it relates to personal issues? Why does this case, in your view, not fall within those, that parameter?

MR. PEDROTTY: I think the major deciding factor here, well, there’s so many different types of misconduct that she committed here. So, ultimately her appearance of racial bias, I guess, that just, it disqualifies her from so many cases. How can you have her stay on the bench, no matter if you excuse even a few of the things that she did, how can you have her

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

continue to preside over cases when she has to
recuse herself for racial bias? There's no amount
of mitigation here. Her conduct is so outrageous.
Even if you excuse one or two things, there are
so many other things which collectively or
independently requires her removal here.

And I just want to get back to, like if you
look at Lesswing's report, his conclusions, he
called his own objectivity into question when he
concluded that the Commission authorized a
formal written complaint that was tainted by
prosecutorial confirmation bias. Which is
interesting because the allegations in the formal
written complaint are based pretty much
exclusively on the undisputed video recorded
evidence. So, if you question his conclusion as
to that, you have to question his conclusions as
to everything. There was no need to even cross-
examine him or call a witness to oppose him
because her conduct was so bad and his report
was so obviously biased, that it was unnecessary.

I just want to get back, look I, you guys are
all good people. Believe it or not, we're good
people here too. We do have sympathy for what
she went through in 1990 and even for seeing

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

her, her son and husband in an attack. But the public perception of the impartiality of the judiciary has to take precedence here. She must be removed from office. Thank you.

MS. GRAYS: Okay. Well thank you both very much. No questions for Commission counsel? Okay. Alright. We are concluded. Thank you.

JUDGE GALL: Thank you.

(Whereupon the oral argument was concluded at 12:03 PM.)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATION

I, JACQUELINE AYALA, an Assistant
Administrative Officer of the State Commission on Judicial
Conduct, do hereby certify that the foregoing is a true and
accurate transcript of the audio recording of the proceedings
transcribed by me, to the best of my knowledge and belief, in
the matter held on June 13, 2024.

Dated: July 3, 2024



JACQUELINE AYALA