

ROBERT F. JULIAN, P.C.
ATTORNEY AT LAW

2037 Genesee St.
Utica, New York 13501-5951

Phone: 315-797-5610
Toll Free: 855-735-5291

Fax: 877-292-2037
www.rfjulian.com

Robert F. Julian

Richard Pertz, Of Counsel

Stephanie A. Palmer

July 29, 2024

VIA HAND DELIVERY

Lisa LeCours
Chief Clerk and Legal Counsel
New York State Court of Appeals
20 Eagle Street
Albany, NY 12207-1095

RECEIVED

JUL 29 2024

**NYS COMMISSION ON
JUDICIAL CONDUCT
ALBANY**

RE: The Matter of the Honorable Erin P. Gall

Dear Ms. LeCours:

As you know, I represent New York State Supreme Court Justice Erin Gall in her matter which will now shortly be pending before your Court as we intend to seek a review pursuant to Judiciary Law Section 44(7) of the Commission on Judicial Conduct decision in this matter.

However, in response to your letter of July 22, 2024 I am writing to advise you that Justice Gall is fully prepared to continue to serve as a Justice of the New York State Supreme Court and is willing to work in that capacity for the Court system pending the Court of Appeals review. If it is the determination of this Court that she is suspended, we would join with the Commission on Judicial Conduct Counsel in requesting that the Court follow its prior precedent in compensating judges pending the 44(7) Judiciary Law review and continue to compensate the Judge pending the Appeal. Although I am sure you are aware of the long line of cases, just to recite several in support. In re Barron 97 N.Y.2d 699 (2002); Matter of Astacio 31 N.Y.3d 996 (2018); In re Edwards 66 N.Y.2 898 (1985).

In summary, it is Justice Gall's position that the Commission without proper expert basis ignored the opinions of two Doctors of Psychology who examined and treated the Judge. By way of brief background, Justice Gall was brutally assaulted in college when she was 18 and sought psychological counseling for the assault. That psychological counselor with a Ph.D. in Psychology who is a treating psychologist is one of two psychologists who gave opinion to the Commission on Judicial Conduct that Justice Gall was suffering from a recurrence of her [REDACTED] on July 2, 2022. On that date, July 2, 2022, she was present when interlopers came uninvited to a party of her very best friends which she was attending with her husband and children. Those individuals started a fight, striking her son brutally and fighting with her husband.

Office Hours by Appointment only
5760 Commons Park, Suite 300, East Syracuse, NY 13057
Fayetteville, NY 13066

Lisa LeCours

RE: The Matter of the Honorable Erin P. Gall

July 29, 2024

Page 2

within five feet of Justice Gall. In response to that it is the opinion of the examining psychologist, Dr. Norman Lesswing, who administered testing as well as engaged in a psychological examination of her and formed the opinion that she was suffering from [REDACTED] at the time of the occurrence which was a trauma reaction to her prior [REDACTED] event and [REDACTED] when she was brutally assaulted at age 18. It was Dr. Lesswing's opinion at page 7 of his report that she was continuing to have symptoms of [REDACTED] which were subjectively distressing but did not compromise her ability to function.

Inexplicably the Commission on Judicial Conduct ignored these findings and even though Commission Counsel did not present any contrary expert testimony and discounted these findings without basis.

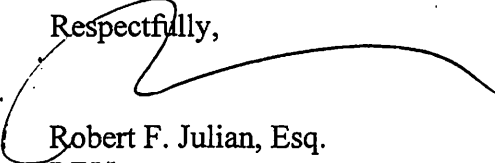
As concerning is the fact that in the concurring opinion, the Commission on Judicial Conduct members accuse Justice Gall of engaging in mocking by use of vernacular in addressing the four African American young men who were the interlopers and who she believed commenced the fight and attacked her son and husband. That was not charged. The Concurring opinion cites two articles that are not a part of the record before the Commission on Judicial Conduct. In essence, it appears that a Commission member or members were functioning as experts on the panel in a circumstance where respondent was not given the opportunity to cross-examine or otherwise respond to their opinions.

There are other issues as well relevant to the decision including failure on the part of the Commission Counsel to locate and obtain the testimony of two of the four interloping individuals. Remarkably, these are two individuals that Justice Gall identified months later from a photo array as perpetrating the attack on her son and who she believed were the main actors in the violence that ensued. It is noteworthy that fighting went on for many minutes before the police actually arrived, some of which was captured on video.

Justice Gall acknowledges that her conduct was inappropriate but the record without any factual dispute is clear that she was suffering from a trauma reaction secondary to her prior brutal assault and precipitated by watching and observing her son and husband in a fist fight at a high school graduation party, an entirely unexpected and traumatic event.

For the reasons set forth above, we respectfully pray that Justice Gall not be suspended but if she is, that she be suspended with pay consistent with the Court's jurisprudence on this matter. I thank you for your courtesies. I also submit an Affidavit of Service by email evidencing service upon the Commission on Judicial Conduct of this letter.

Respectfully,


Robert F. Julian, Esq.
RFJ/ljs

Office Hours by Appointment only
5760 Commons Park, Suite 300, East Syracuse, NY 13057
Fayetteville, NY 13066

Lisa LeCours

RE: The Matter of the Honorable Erin P. Gall

July 29, 2024

Page 3

cc: Judges of the Court of Appeals

Robert H. Tembeckjian, Esq.

Hon. Joseph A. Zayas