

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

DETERMINATION

PHILIP J. GENTILE,

a Justice of the Rossie Town Court,
St. Lawrence County.

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Stefano Cambareri, Esq.
Brian C. Doyle, Esq.
Honorable John A. Falk
Robin Chappelle Golston
Honorable Robert J. Miller
Nina M. Moore, Ph.D.
Honorable Peter H. Moulton
Marvin Ray Raskin, Esq.

APPEARANCES:

Robert H. Tembeckjian (Cathleen S. Cenci and S. Peter Pedrotty, Of
Counsel) for the Commission

Case & Leader, LLP (by Henry J. Leader) for respondent

Respondent, Philip J. Gentile, a Justice of the Rossie Town Court, St. Lawrence County, was served with a Formal Written Complaint (“Complaint”) dated March 3, 2025 containing two charges. Charge I of the Complaint alleged that from November 2022 to March 2024, while presiding over *People v Jesse R. Bender*, respondent engaged in prohibited *ex parte* communications, made rude and discourteous comments, and otherwise acted inappropriately, in that he:

- A. Spoke with the prosecutor, outside the presence of the defendant and his attorney, concerning (i) the defendant’s motion to modify an Order of Protection and (ii) the defendant’s reputation and criminal history;
- B. Initiated a conversation with the superintendent of the defendant’s son’s school, outside the presence of the defendant and the attorneys, concerning the merits of the defendant’s motion, which he later denied based in part upon information he learned during the conversation; and
- C. Engaged in an undignified, discourteous, and otherwise inappropriate exchange, on-the-record, with the defendant and the mother of the defendant’s son, when they came to court to pay a fine, during which Respondent *inter alia* used profanity, baselessly accused the mother of having “perjured” herself about her marital status, and discussed the evidence presented at the defendant’s jury trial as well as the evidence the judge thought should have been presented on the defendant’s behalf.

Charge II alleged that on January 18, 2023, between presiding over court proceedings but while the court’s audio recording system was running, respondent used profanity and baselessly insinuated to an attorney appearing before him that a town justice in another court, who had presided over a zoning ordinance violation filed against respondent, had been in a romantic affair with the zoning/code

enforcement officer who issued the violation.

On April 24, 2025, the Administrator, respondent's counsel and respondent entered into an Agreed Statement of Facts ("Agreed Statement") pursuant to Section 44, subdivision 5, of the Judiciary Law, stipulating that the Commission make its determination based upon the agreed facts, recommending that respondent be censured and waiving further submissions and oral argument.

On May 1, 2025, the Commission accepted the Agreed Statement and made the following determination:

1. Respondent has been a Justice of the Rossie Town Court, St. Lawrence County, since January 1, 2018. Respondent's current term expires on December 31, 2025. Respondent is not an attorney.

As to Charge I of the Formal Written Complaint

2. On August 7, 2022, Morristown Town Justice James T. Phillips, Jr., arraigned Jesse R. Bender on charges of Assault in the Third Degree, Disorderly Conduct, and [REDACTED]. The charges stemmed from an incident on July 4, 2022, in which Mr. Bender and April Price, the mother of his youngest son ("N.B."), were involved in a physical altercation with Arthur and Lori Howie on the property of the [REDACTED] School. At the arraignment, Judge Phillips issued a temporary Order of Protection, directing Mr. Bender to stay away from the Howies, including their places of employment.

3. At all times relevant herein, N.B. was a student at the [REDACTED]

[REDACTED] School, where Ms. Howie was an employee.

4. On September 2, 2022, *People v Jesse R. Bender* was transferred to the Rossie Town Court.

5. On November 16, 2022, Mr. Bender appeared with his attorney, Brad Riendeau, before respondent. Assistant District Attorney Dillon Bullard of St. Lawrence County appeared for the People. At the appearance, Mr. Riendeau made a motion to modify the Order of Protection issued by Judge Phillips on the grounds that it prevented Mr. Bender from going to his son's school. Respondent reserved judgment on the motion until November 23, 2022, to allow the parties an opportunity to reach an agreement regarding a modification.

6. Approximately five minutes after the *Bender* proceeding concluded, without Mr. Bender and Mr. Riendeau present, respondent engaged in a conversation with Mr. Bullard concerning the *Bender* case, during which:

- A. They debated whether Mr. Bender had a constitutional right to go to his son's school;
- B. They discussed (i) that Ms. Price had purportedly been charged with [REDACTED] in Morristown Town Court for entering school property after the school had issued her a notice directing her not to enter the school premises and (ii) whether Mr. Bender had received a similar notice from the school;
- C. Respondent told Mr. Bullard he should consider having the protected party or parties come into court and appear before him at the next appearance. When Mr. Bullard said he did not know how

Mr. Bender would react to that, stating, “So, I mean, he’s pretty -- he gets...”, respondent said, “Animated is the term,” referring to Mr. Bender;

D. Mr. Bullard said (i) Mr. Bender and Ms. Price had approached him in a parking lot and asked him for things, and (ii) that they “push and push” and that “everybody in [his] office is aware of--Of dealing with him.” Respondent stated, “Yeah. I know the name just from living around here” and “I guess he has a long history of, you know, of that”; and

E. Mr. Bullard said, “if [Ms. Price is] not supposed to come into school and [Mr. Bender is] on the road,¹ then somebody’s been able to pick up the child, so.”

7. Respondent did not disclose this conversation to Mr. Riendeau or Mr. Bender.

8. Between November 16, 2022, and November 23, 2022, without notice to and in the absence of Mr. Bender, Mr. Riendeau and Mr. Bullard, respondent telephoned and spoke to Douglas McQueer, the superintendent of the [REDACTED] School District. Respondent (i) mentioned the Order of Protection against Mr. Bender in favor of Ms. Howie and Ms. Howie’s employment at the school, and (ii) inquired if the school had a policy covering such circumstances. Mr. McQueer stated, in sum or substance, that Mr. Bender was not permitted on the school property pursuant to the school district’s own directive to him.

9. On November 23, 2022, Mr. Bender, Mr. Riendeau and Mr. Bullard appeared before respondent. After Mr. Riendeau and Mr. Bullard informed

¹ Mr. Bender was employed as a commercial truck driver.

respondent that Mr. Bullard had emailed him a proposed modification to the Order of Protection, respondent stated, “The school itself has a policy on this. I was in contact with the school district and I’m waiting for . . . their policy and their report on this. They have a policy in place for this specific situation, it looks like.” Mr. Riendeau responded, “Your Honor, that may be true but that is outside of what properly this court should consider.” Respondent provided no further details at this appearance about whom he had contacted at the school district, what was discussed, or what the school district’s purported policy entailed. Nor did respondent provide the parties with an opportunity to respond to the information he learned during the communication with the superintendent. After apparently locating the email from Mr. Bullard with the proposed modification, respondent stated he would issue a decision on the motion by the following week.

10. By Order dated November 30, 2022, respondent denied Mr. Bender’s motion to modify the Order of Protection, writing as follows:

The Court has learned the [REDACTED] School District provides a telephone call service where the School will escort a student from the school building to a defendants’ vehicle parked at the school grounds perimeter to avoid contact between a defendant and protected party and to prevent any trespass. The Court finds this service is an acceptable solution to the first oral motion and finds the Defendants [*sic*] justification for relief from the Order of Protection for the second oral motion baseless and nonsensical.

11. On May 17, 2023, following a jury trial before respondent, Mr. Bender was found guilty of Assault in the Third Degree and Disorderly Conduct. The jury found him not guilty of [REDACTED].

12. On August 2, 2023, respondent sentenced Mr. Bender to six months in jail and imposed a fine and surcharge totaling \$455 on the Assault charge, and a one-year conditional discharge for the Disorderly Conduct charge. Notwithstanding that Mr. Bender was acquitted of the [REDACTED] charge, the Commitment Order signed by respondent erroneously indicated that he had been convicted of it.

13. On February 7, 2024, after he served his jail term, Mr. Bender appeared in court before respondent. He was accompanied by Ms. Price. During a discussion about Mr. Bender's outstanding fine and monthly expenses, respondent asked if he had a rent or mortgage payment. When Ms. Price stated that she owned their home, respondent asked if they were married and Ms. Price said, "No." Respondent then demanded that she answer whether they were legally married. When Ms. Price declined to answer, respondent said, "Are you not speaking because your previous statement was false?" Ms. Price – who was not under oath, had not testified under oath about her and Mr. Bender's marital status at any point during the pendency of *People v Bender* and was not under the court's jurisdiction – replied, in sum or substance, "I'm not the one here, I wasn't in court." When

respondent persisted, “Are you legally married or not?”, Mr. Bender interjected that they were legally married in the Commonwealth of Massachusetts.

Respondent replied that meant they were legally married in New York State.

Respondent then required Mr. Bender to enter into a payment plan whereby he agreed to pay at least \$25 per month to the court until the fine and surcharge were satisfied. Respondent gave Mr. Bender until March 6, 2024, to make his next fine payment. Near the end of the appearance, Ms. Price joined in Mr. Bender’s request to be provided with documentation showing that the records pertaining to a dismissed [REDACTED] charge against Mr. Bender had been sealed by the court pursuant to Section 160.50 of the Criminal Procedure Law. Respondent told Mr. Bender he was required to make a motion to receive such records, which Ms. Price disputed as unnecessary.

14. On March 6, 2024, Mr. Bender, who was accompanied by Ms. Price, appeared in court before respondent. At the outset, respondent accused Ms. Price of having “perjured” herself and “lied to the court” about her marital status to Mr. Bender.

15. Later in the appearance on March 6, after respondent agreed to provide Mr. Bender with documentation that the records pertaining to the [REDACTED] charge had been sealed, Mr. Bender also requested documentation showing that the records pertaining to the [REDACTED] charge had been ordered sealed. Mr.

Bender pointed out that respondent's Commitment Order incorrectly indicated that he had been convicted of [REDACTED], notwithstanding his acquittal of that charge, and asserted that the erroneous conviction was showing up in employer background checks and affecting his ability to gain employment. At one point during a lengthy and at times heated discussion about the court correcting the error, respondent said to Mr. Bender, "Well, yelling at me isn't good either, okay? That doesn't make me want to do shit for you, okay?"

16. At another point during the March 6 appearance, respondent engaged Mr. Bender in a discussion about the proof that was and was not presented at his jury trial. When Mr. Bender mentioned that Ms. Price's neck had been broken during the altercation with the Howies, respondent replied that no evidence of such an injury had been presented at the trial and questioned why Mr. Bender and Ms. Price had not presented any medical evidence or witnesses in support of it. With respect to calling medical experts as witnesses to authenticate medical documents, respondent stated, "Oh, shit. If you told-- if that was submitted, I would-- they would have been subpoenaed." When Ms. Price said the prosecution had copies of their medical evidence, respondent replied it was Mr. Riendeau's responsibility to have offered that evidence at the trial, not the prosecutor's. Respondent stated, "That trial was tough on you, I'll tell you. . . . [P]eople think . . . I'm an ass-- I'm an asshole for putting people in jail. And . . . you think I enjoy that . . . Well, I'll

tell you. If you think I enjoy that, you need to go back and get an education then, okay?”

As to Charge II of the Formal Written Complaint

17. By Information and Complaint dated September 9, 2021, the Theresa Town Zoning/Code Enforcement Officer, Terry McKeever, charged respondent with having violated a Town of Theresa zoning ordinance, related to the location at which he had parked a recreational vehicle.

18. On September 21, 2021, respondent appeared in the Theresa Town Court before Theresa Town Justice Rachel A. Roberts. Respondent was represented by Steven G. Ballan. Mr. McKeever was also present. Amid heated exchanges between Mr. Ballan and Mr. McKeever, Judge Roberts granted Mr. Ballan’s request for a 45-day adjournment. The case was subsequently transferred to the Philadelphia Town Court and, in December 2021, following a motion to dismiss by Mr. Ballan, and on consent of the legal representative of the Town of Theresa, the charge was dismissed.

19. On January 18, 2023, in the Rossie Town Court, in between presiding over court proceedings, respondent conversed with attorney John Hallett, who also practices law in the Theresa Town Court before Judge Roberts. The court’s audio recording system was running. After Mr. Hallett said he had resolved an unidentified zoning matter in the Theresa Town Court, respondent referenced his

own September 2021 appearance in the Theresa Town Court and, without evidence, said his experience led him to believe that Judge Roberts and Mr. McKeever “were tight” and “boyfriends and girlfriends [*sic*],” and that “it was kind of like . . . Kathleen Turner and William Hurt in *Body Heat* you know because they were so . . . close in the court that they were finishing each other’s sentences and stuff.”²

20. Later during the conversation, after saying one of his friends had received a similar zoning violation ticket from Mr. McKeever, respondent said, “You think they would learn, you know? I mean, you know, [Judge Roberts] got pounded pretty bad for what she did to me, you know? Fucking-- and they just continue on with their”

Additional Factors

21. Respondent has been cooperative with the Commission throughout this proceeding.

22. As to Charge I, respondent recognizes that, while he sentenced the defendant to jail for a term four months less than recommended by the prosecution, his comments created at least the appearance that he was less than impartial.

23. Respondent believed at the time of the *Bender* matter that the

² *Body Heat* is a 1981 film in which William Hurt’s character, a lawyer, begins a passionate affair with Kathleen Turner’s character, and they plot to murder the latter’s husband.

information he sought from the school superintendent was public information of which he could take judicial notice. He now recognizes that it is improper for a judge to seek or obtain such information concerning a pending matter on an *ex parte* basis. Respondent further acknowledges that he should not have discussed any aspect of the case with the prosecutor outside the presence of the defendant or his attorney, and that his interrogation of Ms. Price about her marital status was improper.

24. As to Charge II, respondent recognizes that his comments about another judge and the code officer were without basis, uttered out of pique and highly inappropriate.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.3(B)(2), 100.3(B)(3), 100.3(B)(6) and 100.4(A)(2) of the Rules Governing Judicial Conduct (“Rules”) and should be disciplined for cause, pursuant to Article VI, Section 22, subdivision a, of the New York State Constitution and Section 44, subdivision 1, of the Judiciary Law. Charges I and II of the Formal Written Complaint are sustained insofar as they are consistent with the above findings and conclusions and respondent’s misconduct is established.

Respondent’s conduct was inconsistent with his obligations to maintain high standards of conduct and to “act at all times in a manner that promotes public

confidence in the integrity and impartiality of the judiciary.” (Rules, §§100.1, 100.2(A)) The Rules, with limited exceptions not applicable here, prohibit a judge from initiating, permitting or considering *ex parte* communications about a pending matter. (Rules, §100.3(B)(6)) In addition, the Rules require a judge to maintain “order and decorum in proceedings before the judge” and provide that a judge must “conduct all of the judge’s extra-judicial activities so that they do not . . . detract from the dignity of judicial office . . .” (Rules §§100.3(B)(2), 100.4(A)(2)) Respondent acknowledged that he violated the Rules when he engaged in *ex parte* communications concerning the *Bender* matter with the prosecutor and with the school district superintendent. In addition, respondent was undignified and discourteous to a litigant in the *Bender* matter. Respondent also improperly used profanity and made disparaging remarks to an attorney about a judge in another town during a break in court proceedings.

In the *Bender* matter, a few minutes after an appearance before respondent was concluded, and in the absence of Mr. Bender and his counsel, respondent engaged in an improper *ex parte* conversation with the prosecutor who had just appeared before him on the matter. In violation of the Rules, respondent inappropriately discussed issues relating to the case with the prosecutor. Respondent also initiated an *ex parte* communication with the superintendent of the school district where the defendant’s son attended school. During this *ex parte*

communication, respondent learned information regarding the defendant as well as the school district's policies. Respondent then relied upon that information to deny the defendant's motion to modify an Order of Protection.

It is well-settled that judges are prohibited from engaging in such *ex parte* communications regarding a pending matter. *See, Matter of Carter*, 2021 Ann Rep of NY Commn on Jud Conduct at 71 (judge initiated *ex parte* contact with a correctional facility for information after reading a defense motion to preclude recorded conversations made from the facility); *Matter of Arndt*, 2023 Ann Rep of NY Commn on Jud Conduct at 72 (judge engaged in an *ex parte* conversation with defense counsel and modified a negotiated plea bargain without notice to or consent of the prosecutor); *Matter of Valentino*, 2004 Ann Rep of NY Commn on Jud Conduct at 157 (judge had an improper *ex parte* conversation with a prosecutor not assigned to the case about the propriety of a defendant's arrest).

Compounding his misconduct, respondent failed to comply with his obligation to disclose his *ex parte* communications. Even "brief and unsolicited" *ex parte* communications must be disclosed to the parties. *Matter of Marshall*, 2008 Ann Rep of NY Commn on Jud Conduct at 161, 165, *aff'd*, 8 NY3d 741 (2007).

In additional misconduct, respondent failed to be dignified and courteous and to maintain decorum in his courtroom when he used profanity toward a

litigant. During one court appearance, respondent stated to a litigant, “That doesn’t make me want to do shit for you, okay?” Respondent also admitted that he improperly interrogated an individual about her marital status. *See, Matter of Going*, 1998 Ann Rep of NY Commn on Jud Conduct at 129 (“By his disparagement of a litigant from the bench, respondent . . violated his obligation to be patient, dignified and courteous to all those who come before him.”); *Matter of McKevitt*, 1997 Ann Rep of NY Commn on Jud Conduct at 106, 107 (“By his angry and profane remark concerning the sheriff, respondent violated his obligation to be patient, dignified and courteous in carrying out judicial duties.”).

Similarly, respondent detracted from the dignity of his judicial office when he used profanity and made highly inappropriate comments about a judge in another town. *See, Matter of Fiechter*, 2003 Ann Rep of NY Commn on Jud Conduct at 110, 113 (“By widely disseminating his letter to the Commission, which contained inaccurate, unsubstantiated allegations denigrating a fellow judge, respondent engaged in conduct that detracted from the dignity of judicial office”) In making these improper comments, respondent undermined public confidence in the integrity and impartiality of the judiciary.

In accepting the jointly recommended sanction of censure, we have taken into consideration that respondent has acknowledged that his conduct was improper and warrants public discipline. We trust that respondent has learned

from this experience and in the future will act in strict accordance with his obligation to abide by all the Rules Governing Judicial Conduct.

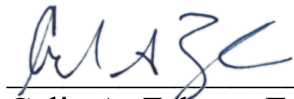
By reason of the foregoing, the Commission determines that the appropriate disposition is censure.

Mr. Belluck, Ms. Grays, Judge Camacho, Mr. Cambareri, Mr. Doyle, Judge Falk, Ms. Golston, Judge Miller, Professor Moore, Judge Moulton and Mr. Raskin concur.

CERTIFICATION

It is certified that the foregoing is the determination of the State Commission on Judicial Conduct.

Dated: May 30, 2025

A handwritten signature in blue ink, appearing to read 'C. Zahner', is written over a horizontal line.

Celia A. Zahner, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct