

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

JEFFREY A. GERSHUNY,

a Judge of the New York City Criminal Court,
New York 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
Honorable David Fried
Robin Chappelle Golston
Nina M. Moore, Ph.D.
Honorable Peter H. Moulton
Marvin Ray Raskin, Esq.

APPEARANCES:

Robert H. Tembeckjian (Mark Levine and Vickie Ma, Of Counsel) for
the Commission

Law Office of Michael C. Farkas, PLLC (Michael C. Farkas) for
respondent

Respondent, Jeffrey A. Gershuny, a Judge of the New York City Criminal

Court, New York County, was served with a Formal Written Complaint (“Complaint”) dated May 14, 2026 containing one charge. The Complaint alleged that on August 5, 2025, while presiding over a suppression hearing in *People v N.F.* to determine the validity of a police search that resulted in the recovery of a handgun, respondent undermined the integrity of the judicial process when he intentionally deceived a witness in open court while conducting what he called “a little experiment” involving his personal handgun, during the testimony of a police officer.

On September 11, 2026, 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 September 24, 2026, the Commission accepted the Agreed Statement and made the following determination:

1. Respondent was admitted to the practice of law in New York in 2002. He has been a Judge of the New York City Criminal Court, New York County, since 2025, having previously served in Kings County, from about 2024 to about

2025, and Queens County, from about 2019 to about 2024.¹ Respondent's term expires on December 31, 2031.

2. On August 5, 2025, while presiding over a suppression hearing in *People v N.F.* to determine the validity of a police search that resulted in the recovery of a handgun, respondent undermined the integrity of the judicial process when he intentionally deceived a witness in open court while conducting what he called "a little experiment" involving his personal handgun, during the testimony of a police officer, in that:

- A. After the officer had been examined by the prosecution and cross-examined by the defense, respondent said he was placing his personal firearm in a bag so the officer could provide testimony about "what it is about the bag and [the] firearm in the bag that gives off a distinction of it being a firearm."
- B. After discussion with two security officers, respondent held up his personal firearm for all in the courtroom to see, indicating he would be putting it in the bag despite knowing he had no intention of doing so.
- C. While concealing what he was actually doing from the witness, the parties, the lawyers and others in the courtroom, respondent placed a stapler in the bag.
- D. Respondent then asked the officer a number of questions about what he repeatedly and falsely represented was a gun in the bag.
- E. Having repeatedly misrepresented himself as to what was in the bag to the witness, the parties, the lawyers and others in the courtroom, on the record, respondent then revealed his deception,

¹ Respondent also served as an Interim Judge of the Civil Court, Queens County, from about 2018 to about 2019, and an Acting Justice of the Supreme Court, Kings County, from about 2024 to about 2025.

informing the witness and everyone else in the courtroom that it was a stapler, not a gun, in the bag.

3. At all times relevant to this proceeding, respondent owned and was licensed to carry a firearm – a SIG Sauer P365 pistol – which he typically brought with him to the courthouse and, during court proceedings, concealed in a holster under his judicial robe.

4. On August 5, 2025, respondent presided over a suppression hearing in *People v N.F.* to determine the validity of a search by law enforcement that led to the recovery of a handgun.

5. Respondent called a recess at the conclusion of the prosecution’s direct examination of the police officer who had conducted the search and had retrieved the handgun.

6. During the recess, respondent went to his chambers, retrieved a shopping bag and a stapler, returned to the courtroom with them, and took the bench. Court was still in recess.

7. At the bench, in a manner that only Sgt. Jessenia Oyola (a court officer) could see, respondent removed his firearm from its holster, ejected the magazine, and placed the magazine and the firearm on his bench, the top of which was framed by a four-inch-high lip, such that the gun was not visible to anyone else in the courtroom.

8. In a manner that could not be heard by the witness or the attorneys,

respondent told Sgt. Oyola he wanted to show his gun to the witness, and he asked Sgt. Oyola to check it to ensure there was no ammunition in it. Respondent explained that he planned to tell the witness he was putting the gun in a bag, but in fact he was going to put the gun by his foot and show the witness a bag that contained a stapler.

9. Sgt. Oyola told respondent that she was uncomfortable with his request and telephoned her supervisor, Capt. Erica Mercado. Sgt. Oyola asked respondent to wait to recall the case until Capt. Mercado arrived.

10. A short time later, Capt. Mercado entered the courtroom and approached respondent at the bench.

11. In a manner that could not be heard by the witness or the attorneys, respondent told Capt. Mercado that he wanted to display his firearm to the witness and make the witness think he was putting the firearm in a bag when in fact he was putting a stapler in the bag.

12. Capt. Mercado replied that she had spoken with her supervisor who had advised against respondent doing so. Although respondent does not recall being so advised by Capt. Mercado, he does not dispute that she said it. After further discussion with respondent about what he planned to do, Capt. Mercado told him not to give the gun to anybody.

13. When the proceeding resumed, the police officer returned to the stand

and was cross-examined by defense counsel.

14. Thereafter, respondent announced that he had some clarification questions and proceeded to question the witness at length about his encounter with the defendant, including the witness's observations of an L-shaped object in the defendant's crossbody bag.

15. During his questioning, respondent said that he wanted to conduct "a little experiment" to help him "understand" the officer's "point of view" and that what he had "asked [his] security" to do was "kind of unprecedented" and that he had "security check it out."

16. Respondent then said he had a personally licensed firearm that he was going to place in a "Five Below" bag.² Respondent explained that he wanted the witness to describe how he could tell that there was a firearm in the bag by providing testimony about "what it is about the bag and [the] firearm in the bag that gives off a distinction of it being a firearm."

17. Respondent announced that he was going to show the witness his firearm, at which point he displayed the empty firearm to the witness in view of the parties and others in the courtroom. The prosecutor objected and noted *inter alia* that the gun and the bag respondent was using were different than the ones at issue, and that respondent could not recreate what had occurred the night of the crime.

² "Five Below" is a retail shop that sells a variety of consumer products.

18. Respondent overruled the objection, continued to question the officer, then stated he wished to proceed with his “experiment.” Respondent announced that he was showing the officer the weapon and he was going to put it in the bag. However, behind the bench, respondent secretly placed the gun beside his foot and put a stapler into the bag. He then held up the bag while questioning the witness as to how the witness could tell that there was a gun in the bag.

19. Throughout the colloquy between respondent and the witness, respondent repeatedly and untruthfully represented that there was a gun in the bag, *inter alia*, by saying he had put one in there, which he knew to be untrue, or specifically making references to the gun being in the bag, which he also knew to be untrue. The witness repeatedly declined to say he could see a gun in the bag. At one point, in response to one of respondent’s references to the bag containing a gun, the witness testified that he saw an L-shaped object in the bag, and that he could tell that the L-shaped object had “a predicament [sic] of a firearm,” but he would have to conduct a frisk to confirm that. The witness also stated that both the object and the contours of the bag as displayed by respondent in court were different than the ones during the street encounter at issue.

20. At the conclusion of his questioning, respondent revealed that he had put a stapler, not his gun, in the bag, and he told the witness, “I guess you what you identified is an L-shaped object, which is a Swingline Stapler.”

21. The prosecutor repeated her objection to the experiment.

22. At the conclusion of the hearing, respondent suppressed the gun. In explaining his ruling from the bench, respondent said the officer had made up a “convoluted story” about seeing a bulge. While respondent referenced his “experiment” as one of several factors influencing his decision, he did not reference his own fictitious story of a “gun” in the bag.

23. Thereafter, the People declined to prosecute, and the case was dismissed. The People did not file an appeal.

Additional Factors

24. While the Penal Law generally prohibits possessing a licensed handgun in a court or other “sensitive location,” judges of certain courts located in New York City – including the New York City Criminal Court on which respondent sits – are exempted from the prohibition and are authorized to possess their licensed handguns in court. Penal Law §§ 265.01-e(3)(g) and 400.00(2)(d).³

25. The Office of Court Administration does not have a policy addressing or prohibiting a judge’s possession of a licensed handgun in a New York City court.

26. Opinion 06-51 of the Advisory Committee on Judicial Ethics advised

³ A sensitive location is defined as any place owned or under the control of federal, state or local government, for the purpose of government administration, including courts (*see* Penal Law § 265.01-e[2][a]).

that judges are not prohibited by the Rules from carrying their duly licensed firearms at the bench while performing judicial duties, although they are advised to keep their firearms concealed and safeguarded on their person while they are on the bench.

27. Respondent avers, and the Administrator has no evidence to the contrary, that he was sensitive to the dangerous nature of firearms, which is why he asked a court officer to verify that his weapon was unloaded and in a safe condition before he performed his deceptive “experiment” with the witness. Respondent nevertheless appreciates now that he put the court officer in a difficult position and should not have performed the “experiment.”

28. Since the incident described herein, respondent no longer brings his firearm into the courtroom.

29. Respondent cooperated with the Office of Court Administration (“OCA”), his Administrative Judge, and the Commission throughout this matter. He was contrite and has acknowledged the impropriety of his conduct.

30. Respondent has no prior disciplinary history with the Commission.

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)(1), 100.3(B)(4) and 100.3(B)(7) 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. Charge I of the Formal Written Complaint is sustained insofar as it is consistent with the above findings and conclusions and respondent's misconduct is established.

The Rules require judges to personally observe 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 also require judges to “be faithful to the law and maintain professional competence in it” and to “dispose of all judicial matters . . . fairly.” (Rules §§100.3(B)(1) and (7)) Respondent acknowledged that he violated the Rules when he intentionally deceived a witness during the *People v N.F.* suppression hearing.⁴

“Judges personify the justice system upon which the public relies to resolve all manner of controversy, civil and criminal. A society that empowers Judges to decide the fate of human beings and the disposition of property has the right to insist upon the highest level of judicial honesty and integrity. A Judge's conduct that departs from this high standard erodes the public confidence in our justice system so vital to its effective functioning.” *Matter of Mazzei*, 81 NY2d 568, 571-572 (1993). “Members of the judiciary should be acutely aware that any action

⁴ We take no position on the merits of respondent's decision to suppress the gun, which would have been for an appellate court to decide.

they take, whether on or off the bench, must be measured against exacting standards of scrutiny to the end that public perception of the integrity of the judiciary will be preserved.” *Matter of Lonschein*, 50 NY2d 569, 572 (1980) (citation omitted). By his conduct during the *People v N.F.* hearing, respondent failed to meet these high standards and undermined public confidence in the integrity of the judiciary.

It is fundamental that “deception is antithetical to the role of a Judge who is sworn to uphold the law and seek the truth . . .” *Matter of Myers*, 67 NY2d 550, 554 (1986) (citation omitted). Respondent exercised poor judgment when he engaged in deceptive conduct while on the bench by, *inter alia*, falsely telling the witness that he had placed his gun in a bag when in fact respondent’s firearm was on the floor next to respondent’s foot. His conduct was also deceptive toward others in the courtroom including the prosecutor and defense counsel. Respondent’s actions were inappropriate for a judge who is “sworn to uphold the truth-seeking process.” *Matter of Steinberg*, 51 NY2d 74, 79, fn 1 (1980).

Unlike many of the prior disciplinary matters involving deception by a judge, respondent did not derive any personal benefit from his conduct. His misconduct involved a single incident and he disclosed his ill-advised misrepresentations during the proceeding in which he made them.

We note that New York State law, Penal Law §§265.01-e(3)(g) and

400.00(2)(d), allows certain judges, including judges of the New York City Criminal Court where respondent is assigned, to be licensed to have and carry concealed a pistol in court. It was stipulated that respondent was properly licensed to carry a firearm. However, during the suppression hearing on August 5, 2025, respondent failed to safeguard his firearm on his person while he was on the bench which was inconsistent with the guidance in Advisory Opinion 06-51 of the Advisory Committee on Judicial Ethics. We also note that respondent no longer brings his firearm into the courtroom.

Although permitted by law, we urge OCA to review the rules related to certain judges carrying weapons in the courthouse. We urge further that OCA take steps to familiarize all judges with the appropriate rules and safe procedures, and ensure that court officers are appropriately advised of any weapons in courthouses.

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. In addition, respondent has no prior disciplinary history with the Commission. 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.

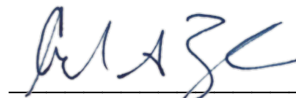
By reason of the foregoing, the Commission determines that the appropriate disposition is censure.

Mr. Belluck, Ms. Grays, Judge Camacho, Mr. Cambareri, Mr. Doyle, Judge Falk, Judge Fried, Ms. Golston, Ms. 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: October 2, 2026

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