

STATE OF NEW YORK  
COMMISSION ON JUDICIAL CONDUCT

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In the Matter of an Investigation  
Pursuant to Section 44, subdivision 4,  
of the Judiciary Law in Relation to  
**WALTER W. JONES,**

*Respondent,*

a Judge of the Canandaigua Town Court,  
Ontario County.

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**MEMORANDUM OF LAW SUBMITTED**  
**ON BEHALF OF HON. WALTER W. JONES, JR.**

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## PRELIMINARY STATEMENT

This Memorandum of Law is submitted on behalf of the Respondent, the Hon. Walter W. Jones, Jr. (hereafter “Judge Jones”), Canandaigua Town Court Judge. As set forth more fully below, we respectfully submit that Judge Jones’ conduct on May 10, 2024 and May 15, 2024 did not violate Article VI, Section 22, subdivision (a), of the N.Y. Constitution, Section 44, subdivision 1, of the Judiciary Law or Section 100 of the Rules.

## FACTS<sup>1</sup>

The salient facts underlying the two charges levied by the Commission against Judge Jones are neither complex nor in serious dispute. On May 10, 2024, Judge Jones was presiding at a Centralized Arraignment Part (“CAP”) conducted at the Ontario County Jail in Hopewell, New York. Also present at the CAP arraignments were Cali Anne Valenti, Assistant Ontario County Public Defender and Kristen Bartolotta, Judge Jones’ Court Clerk. After the court proceedings were concluded, Judge Jones, Ms. Valenti and Ms. Bartolotta left the jail together and went to Judge Jones’ car in the parking lot so that he could show them a gift he had purchased for his wife and give Ms. Valenti several books to read. While in the vicinity of Judge Jones’ car, Judge Jones had a conversation with Ms. Bartolotta and Ms. Valenti in which he told them a story about how his father had grown up in rural Texas in a racist environment and had himself become a racist. Despite this fact, as a child Judge Jones’ father developed a friendship with an African American male of roughly the same age named Harry. Many years later, when Judge Jones was 8 or 9 years old, Judge Jones and his father returned to Texas for a visit. While they were driving down a road, Judge Jones’ father saw Harry and said to Judge Jones “That’s

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<sup>1</sup> For a full recitation of the facts, we respectfully refer to the Proposed Findings of Fact submitted herewith. The facts are only re-stated here to the extent necessary to frame Judge Jones’ legal arguments.

‘N-word<sup>2</sup> Harry’. Judge Jones’ father stopped his car, ordered Judge Jones into the back seat and insisted on giving Harry a ride to his destination. In recounting this story, Judge Jones spoke in a normal conversational tone of voice and only used the N-word once. No proof was adduced that anyone else in the area heard this story other than Ms. Bartolotta and Ms. Valenti.

On May 15, 2024, Judge Jones presided over another CAP session at the Ontario County Jail. One of the criminal defendants being arraigned was S ■■■ D ■■■, who was being represented at the arraignment by Ontario County Assistant Public Defender Patrick Conklin<sup>3</sup>. Ms. D ■■■ was charged with Attempted Assault in the Second Degree (a class E violent felony) as well as misdemeanor charges of Criminal Mischief in the Fourth Degree, Obstructing Governmental Administration, Harassment in the Second Degree, Criminal Tampering in the Third Degree and Resisting Arrest. During her arraignment, Ms. D ■■■ made a number of allegations that the criminal justice system in general, and Judge Jones in particular, were discriminating against her on the basis of her race<sup>4</sup> because Judge Jones concurred in the bail recommendation made by the Ontario County District Attorney’s office<sup>5</sup>. After Ms. D ■■■ left the courtroom and out of her hearing, although on the record, Judge Jones said “Naturally, she played the race card”. At the hearing, Judge Jones readily conceded that making the “race card” statement was a “Dumb thing to do. Stupid thing to do. I shouldn’t have done it. A mistake”.

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<sup>2</sup> It is conceded that Judge Jones father used the actual N-word and that Judge Jones, quoting his father, did so as well.

<sup>3</sup> Ms. D ■■■ did not want the Public Defender’s Office to represent her other than at the arraignment.

<sup>4</sup> Ms. D ■■■ is African American.

<sup>5</sup> It was conceded by Mr. Conklin that arraigning judges commonly concur with the District Attorney’s bail recommendations. Judge Jones’ bail determination in Ms. D ■■■’ case was not part of the Commission’s charges against him.

## ARGUMENT

It requires no recitation of authority to assert that the N-word is a disgusting, horribly offensive and derogatory word. Judge Jones readily acknowledges this fact. Indeed, the entire reason why Judge Jones used the actual word in quoting his father was to underscore the point of the story which was, despite the fact that his father was an avowed racist who referred to African Americans in such terms, at the same time his father was able to form a bond with an African American youth and that that bond continued into adulthood. If Judge Jones erred in directly quoting his father, we respectfully submit that this error was innocent. Similarly, Judge Jones' "race card" comment, which he acknowledges was a "dumb" mistake, is unaccompanied by either allegation or proof that he treated Ms. D■■■■ any differently than any other criminal defendant.

Undoubtedly, the Commission will rely heavily on the N.Y. Court of Appeals' decision in *Matter of Agresta*, 64 NY2d 327 (1985). In *Agresta*, the petitioner, a former New York Supreme Court Justice, in the course of a colloquy in a criminal case, said "I know there is another [N-word<sup>6</sup>] in the woodpile". The Court, in quoting the Commission's own holding, stated "[petitioner's] use of the term [N-word<sup>7</sup>] in any context is indefensible". *Id* (emphasis supplied). We respectfully submit that the Commission's finding and, by its adoption, that of the learned justices of the Court of Appeals, while well-intentioned goes too far. The context in which a word is uttered may be, and, in this case is, critical. The proof was uncontroverted that Judge Jones was simply quoting his father directly and used the word to demonstrate that his father, despite being a racist "did the right thing" in one isolated instance.

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<sup>6</sup> The actual N-word was used by the Court of Appeals in its decision. We elect not to directly quote the Court.

<sup>7</sup> See footnote 6, *supra*.

It does not require great flights of imagination to envision circumstances in which a judge should be permitted to use the N-word without fear of violating the rules. By the Commission's logic, if Judge Jones were to conduct a library reading of *Tom Sawyer* without substituting a euphemism for the N-word, he would be equally guilty<sup>8</sup>. Ironically, by the Commissions' logic, if Judge Jones were to read aloud and *verbatim* the Commission's own findings or the Court of Appeals' opinion in *Agresta*, he would be equally guilty of a disciplinary infraction. We submit that such an absurd conclusion is the necessary consequence of a finding that the use of the N-word by a judge *in any context* constitutes a violation of the disciplinary rules.

With reference to the "race card" comment, Judge Jones has unequivocally acknowledged that his statement was "stupid" and "dumb". In mitigation of this error, we note that the comment was not made in Ms. D [REDACTED]' presence and the uncontroverted proof was that Judge Jones did not treat her any differently than any other criminal defendant.

The cases cited in the *Agresta* opinion amply demonstrate that Judge Jones's statements on May 10 and May 15, 2024 are far less egregious than the statements and conduct of the respondents in those proceedings. Thus, in *Matter of Aldrich v. State Comm. on Judicial Conduct*, 58 N.Y.2d 279 (1983), the court upheld a finding of judicial misconduct where the judge, while on the bench and under the influence of alcohol used "profane, improper and menacing language and inappropriate racial references". *Id.* In *Matter of Kuehnel v. State Comm. on Judicial Conduct*, 49 N.Y.2d 465 (1980), the respondent judge not only physically assaulted four youths, but also engaged in "outrageous verbal and physical abuse and virulent racism". *Id.* Finally, in *Cerbone v. State Comm. on Judicial Conduct*, 61 N.Y.2d 93 (1984) the

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<sup>8</sup> At the hearing, counsel for the Commission inferred that because Mark Twain's books were written in the late 1800's, this reference is irrelevant. The N-word appears throughout American literature and was liberally utilized in the recent novel *James*, by Percival Everett (Doubleday, 2024).

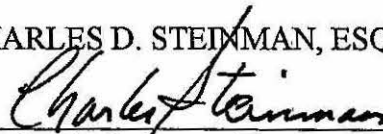
judge uttered threatening remarks and racial epithets in a bar. Judge Jones' conduct does not begin to rise to the level of outrageous conduct exhibited by the judges in the foregoing cases.

**CONCLUSION**

While held to the highest standards of conduct, judges remain imperfect beings. No judge who has ever ascended to the bench has never uttered a word or committed an act which, upon reflection, s/he wishes had not been said or done. However, even viewing Judge Jones' conduct in the light most favorable to the Commission, we respectfully submit that his conduct on May 10 and May 15, 2024 does not rise to the levels of impropriety required by the law to sustain disciplinary action by the Commission and seek the dismissal of the two charges contained in the Formal Written Complaint, dated April 3, 2025.

Dated: October 22, 2025

CHARLES D. STEINMAN, ESQ., PLLC



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**PROPOSED FINDINGS OF FACT SUBMITTED  
ON BEHALF OF HON. WALTER W. JONES, JR.**

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The Respondent, the Hon. Walter W. Jones, Jr., Canandaigua Town Court Judge, by his attorney, Charles D. Steinman, Esq., hereby submits the following Proposed Findings of Fact:

**JUDGE JONES' BACKGROUND**

1. The Respondent, the Hon. Walter W. Jones, Jr.<sup>1</sup>, continuously since 1999 and at all times relevant herein, has been a duly elected Judge of the Canandaigua Town Court (T133, L10-L13<sup>2</sup>).
2. Judge Jones obtained his undergraduate degree from Wichita State University in 1965 and his law degree from the University of Kansas in 1969 (T130, L11-18).
3. Judge Jones has been admitted to practice law in New York state for 45 years and maintains a law practice in Canandaigua, New York (T130, L.19-24).
4. Judge Jones was born in Wichita, Kansas on February 3, 1944 and was, at the time of the hearing 81 years old (T129, L23-L24-T130, L1)
5. Until the age of 25, Judge Jones lived with his parents in Kansas (T130, L2-L3).
6. Although Judge Jones never lived in the southern United States, both his parents and grandparents were born and raised in Savoy, Texas, a small rural community (T134, L1-L6).
7. Judge Jones' parents had unpleasant views about racial and other minorities (T134, L7-L12).
8. Judge Jones' father was a racist and occasionally used the "N-word" around Judge Jones in referring to African-American individuals (T134, L18-L22; T147, L14-L15).

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<sup>1</sup> Hereafter referred to as "Judge Jones".

<sup>2</sup> References to "T\_\_\_" and "L\_\_\_" are to pages and lines in the Transcript of the hearing conducted on August 21, 2025.

9. As a child Judge Jones knew no better and did not adopt a position one way or the other with respect to his parents' racial attitudes (T135, L4-9).
10. Although Judge Jones did not personally witness any overt forms of racial discrimination during his early childhood, on multiple trip to Texas when he was 8 or 9 years old, he observed segregated facilities at the rail stations in Oklahoma and was curious as to why there was a difference between those facilities and those in Kansas (T136, L1-L4; T136, L12-T137, L11).
11. Several years later, while on a trip to visit a cousin in North Carolina, Judge Jones again observed the operation of Jim Crow laws which mandated that African-Americans ride in the back of public busses (T137, L12-T138, L10).
12. Judge Jones was disturbed by the operation of the Jim Crow laws and believed that "it didn't make any sense" (T138, L.8-10).
13. Judge Jones became aware of the evolving civil rights movement of the 1960's and the emergence of civil rights leaders such as Martin Luther King (T139, L12-L24).
14. Judge Jones had a slow but steady epiphany from the time he was eight or ten years old until the time he was in his late twenties that "the whole business of treating people differently is appalling. It's ghastly." (T140, L1-L11).
15. This resulted in Judge Jones having arguments with his father about the treatment of minorities which almost resulted in him being thrown out of his parents' house (T138, L17-L25).

**JUDGE JONES' FATHER'S RELATIONSHIP WITH "HARRY" AND HIS FATHER'S REFFERRING TO "HARRY" BY USE OF THE N-WORD**

16. During the Depression, Judge Jones' grandfather owned a cotton farm in rural Texas, at which Judge Jones' father worked in the fields, as well as a number of black employees who also did so (T140, L19-L21, T141, L1-4).
17. If the black workers got ahead of Judge Jones' father, Judge Jones' grandfather would pull down his father's pants and whip his legs until they bled (T141, L4-L7).
18. One of the black workers, whose name was Harry, made sure that none of the other black workers got ahead of Judge Jones' father, thus sparing him a whipping (T141, L8-13).
19. This act of kindness by Harry evolved into a friendship between the two children of different races, to the extent that such a relationship was permitted in rural Texas during the Depression, and despite the dangers to Judge Jones' father and Harry (T141, L14-T.143, L8).
20. Many years later, in 1957 Judge Jones and his father were visiting relatives in Savoy, Texas and were driving Judge Jones' father's new car along the road (T143, L13-23).
21. Judge Jones' father saw Harry walking along the side of the road and said to Judge Jones "That's N-word<sup>3</sup> Harry" (T143, L 23-L25).
22. Judge Jones' father stopped the car and told Judge Jones to roll down the passenger's side window (T143, L24; T144, L4-5).
23. Harry approached the car, leaned in and spoke with Judge Jones' father (T144, L3-10).

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<sup>3</sup> It is stipulated by Judge Jones that his father used the word spelled "N-I-G-G-E-R", as did Judge Jones in quoting his father when he told the story to Ms. Valenti and Ms. Bartolotta.

24. Judge Jones' father instructed Judge Jones to get in the back of the car and, over Harry's objection, insisted that Harry ride in the front seat to be taken to his destination (T144, L15-L22).
25. To Judge Jones, this incident demonstrated that, despite the fact that his father was a racist, "for this magical 10 or 15 minutes, whatever it was, Dad did the right thing." (T147, L14-17).

**THE EVENTS OF MAY 10, 2024**

26. Judge Jones presided over an afternoon term of the Ontario County Centralized Arraignment Part ("CAP"), which was conducted at the Ontario County Jail on May 10, 2024 (T23, L25-T24, L1).
27. Aside from Judge Jones, the CAP session was attended by Cali Anne Valenti, Assistant Ontario County Public Defender and Judge Jones' court clerk, Kristen Bartolotta (T23, L18-L20; T76, L18-22).
28. At the end of the court session, Judge Jones exited the jail building with Ms. Valenti and Ms. Bartolotta and proceeded toward Judge Jones' car, where he showed them a Mothers' Day gift he had purchased for his wife and gave several books to Ms. Valenti (T25, L7-L10; T26, L1-3).
29. During this interaction, Judge Jones told Ms. Valenti and Ms. Bartolotta the story involving Judge Jones' father and his relationship with Harry, including the 1957 incident on the Texas road where Judge Jones' father stopped his car to talk with Harry and give him a ride (T28, L4-T29, L22).

30. During the recounting of this story, Judge Jones directly quoted his father and, in doing so, used the N-word exactly as his father had<sup>4</sup> (Commission Exhibit 4; T54, L4-L8; T79, L3-L6; T96, L10-14).
31. In Ms. Bartolotta's opinion, "the story was not in a derogatory way", despite the use of the N-word (T78, L22-L23).
32. In recounting the story to Ms. Bartolotta and Ms. Valenti, Judge Jones spoke in a normal conversational volume and did not raise his voice (T81, L7-L9; T99, L1-L4, L7-L10; T153, L24-T154, L.3).
33. Judge Jones used the N-word once in recounting the story (T151, L16-L19).
34. A vehicle was parked 4 or 5 spaces away from the location of Judge Jones' conversation with Ms. Valenti and Ms. Bartolotta with someone in the driver's seat using a cell phone (T33, L6-L12; T81, L2-L6).
35. There is no proof that this individual overheard Judge Jones speak with Ms. Bartolotta and Ms. Valenti or use the N-word.
36. There was no one else in the parking lot area who could possibly have heard Judge Jones' recounting of the story in question (T179, L24-T180, L2; T180, L12-L18).
37. Ms. Valenti has never heard Judge Jones using any racially derogatory terms or referring to any person by use of the N-word (T53, L15-T54, L3).
38. Ms. Valenti was unable to identify any case in which she believed Judge Jones discriminated against her clients of minority background (T52, L25-T53, L4).

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<sup>4</sup> See fn.3, *supra*.

39. Ms. Bartolotta has worked as Judge Jones' court clerk for six years and has observed that Judge Jones treats everyone with dignity and respect, including minorities, and never uses racial epithets (T94, L14-T95, L15).
40. Judge Jones believes that the N-word is a horribly inappropriate and insulting term and does not use it himself (T147, L20, T153, L19-L23).
41. Judge Jones regrets using the N-word in the context of the story he told to Ms. Bartolotta and Ms. Valenti (T153, L11-L13).

**THE EVENTS OF MAY 15, 2024**

42. Judge Jones presided at a CAP session conducted at the Ontario County Jail on May 15, 2024 at approximately 7:41 a.m. (Commission Exhibit 6, hereafter "Exh.6").
43. At that time, Judge Jones arraigned a defendant named S [REDACTED] D [REDACTED] on charges of Attempted Assault in the Second Degree (a class E violent felony) as well as misdemeanor charges of Criminal Mischief in the Fourth Degree, Obstructing Governmental Administration, Harassment in the Second Degree, Criminal Tampering in the Third Degree and Resisting Arrest (Commission Exhibit 7).
44. Ms. D [REDACTED] did not want to be represented by Patrick Conklin of the Ontario County Public Defender's Office, however, she consented to having Mr. Conklin represent her solely for the purpose of the arraignment (Exh.6, P2, L23-P3, L2).
45. In the course of her arraignment, Ms. D [REDACTED] made the following statements:
- "This is a racist county" (Exh.6, P11, L11-L12)
- "I'm, I'm the wrong color to be here" (Exh.6, P8, L12).
- "Like I said, I'm in the wrong county" (Exh.6, P12, L12-L13).

"And he [Judge Jones], he's holding me because I'm African American" (Exh.6, P13, L14-L15).

"- - And he [Judge Jones], then he's holding me because I'm African American" (Exh.6, P13, L11-L12, L14-L15).

"He's [Judge Jones is] holding me because I'm African American" (Exh.6, P13, L12-L13).

He's [Judge Jones is] going by what the People say, because I'm African American. I'm the wrong race" (Exh.6, P13, L14-L15).

"I know this is a racist-ass county- -."(Exh.6, P13, L20).

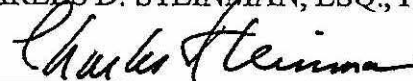
46. After Ms. D [REDACTED] was removed from the court and, out of her hearing, Judge Jones said "Naturally, she played the race card". (Exh.6, P14, L16).

47. Judge Jones felt badly for Ms. D [REDACTED] because, based on her comments during the arraignment, he believed that she considered herself to be a victim because of her race (T156, L16-L23).

48. Judge Jones acknowledges that his comment was a "Dumb thing to do. Stupid thing to do. I shouldn't have done it. A mistake" (T154, L25-T155, L1).

Dated: October 22, 2025

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