STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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.

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

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PRELIMINARY STATEMENT

This Reply Memorandum is submitted to the Referee on behalf of the Respondent, the Hon. Walter W. Jones, Jr., Canandaigua Town Court Judge (hereafter "Judge Jones"), in response to the Proposed Findings of Fact and Memorandum submitted by the New York State Commission on Judicial Conduct (hereafter "the Commission"). As set forth in detail below, we respectfully submit that there is inadequate proof to sustain many of the findings of fact proposed by the Commission. We also take issue with many of the arguments propounded by the Commission and the conclusions it would have the Referee reach.

In an effort to reduce confusion, we will address the various factual arguments in separate headings.

ARGUMENT

A. Judge Jones did not "yell" the "n-word".

Perhaps the most egregious liberty the Commission takes with the facts is its dogged insistence that Judge Jones "yelled" the "n-word" in the course of his May 10, 2025 conversation with Ms. Bartolotta and Ms. Valenti in the parking lot of the Ontario County Jail (see Commission Post-Hearing Memorandum and Proposed Findings of Fact [hereafter collectively "Comm. Mem."], p. 7; p.A3, No.10). There were three witnesses to the conversation; two of them, *including the Commission's own witness,* Ms. Bartolotta, unequivocally deny this and testified that Judge Jones' volume of speech was "normal"[1].

In addition, a review of the hearing testimony demonstrates that, as Judge Jones recounted the story, him "yelling" the "n-word" makes no sense. Judge Jones was riding in a car with his

[1] The Commission blatantly attempts to bury in a footnote Ms. Bartolotta's outright contradiction of the Commission's sole witness to the contrary

father when his father said "That's ['n-word'] Harry". Judge Jones father did not yell this out the window at or to Harry, as Judge Jones unequivocally testified that his father would never have used such an epithet in Harry's presence. Thus, there would have been no logic to Judge Jones' father "yelling" at or to his son, who was seated right next to him in the car. Since Judge Jones father did not "yell" the "n-word", in recounting the story there would be no reason for Judge Jones to do so.

Ample circumstantial evidence buttresses this conclusion. Of the several individuals who were in the area of the parking lot at the time of the relevant events, from the videotape it is clear that no one reacted to anyone supposedly "yelling" anything, much less a vile racial epithet, as one would have expected in such unusual circumstances. Furthermore, although there was testimony that there was someone in a car approximately three spaces away from Judge Jones' car, there is nothing but speculation to support the contention that this individual overheard any portion of Judge Jones' story.

It is also noteworthy that, although the Commission repeatedly attempted to populate the parking lot with multiple individuals who *might*[2] have heard Judge Jones' story, a review of the videotape clearly demonstrates that of the several people who were in the general area of the parking lot, several went no further than the sidewalk in front of the jail and the one who was walking in the parking lot was walking at a distance away from Judge Jones, Ms. Bartolotta and Ms. Valenti.

We wish to be clear: Judge Jones said the "n-word". It was uttered in a public parking lot and overheard by Ms. Bartolotta and Ms. Valenti. However, the Commission's attempt to portray Judge Jones as repeatedly "yelling" that word in the parking lot does violence to the proof.

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[2] The Commission produced no such witnesses from the parking lot.

B. Judge Jones used the "n-word" once.

As to one point, we agree with the Commission. It does not matter how many times Judge Jones used the "n-word" (Comm. Mem., p.16-17). Given this acknowledgement, it begs the question why the Commission insists, and expends considerable effort attempting to prove, that Judge Jones used the word "repeatedly" (Comm. Mem., p.5).

That Judge Jones would have done so is belied by the facts. The reference to "n-word" Harry appears once in the entirety of Judge Jones' narrative of the story involving Judge Jones' father and Harry, during the car ride in 1957. Judge Jones testified that his father never used that epithet in Harry's presence when they were growing up, so it makes no sense that Judge Jones would have used it in any context other than that of the 1957 event.

As noted above, Judge Jones used the "n-word". The Commission's attempt to inflate the severity of this charge by alleging that the word was used more than once is, by its own concession, unnecessary and ungrounded in fact.

C. Ms. D[redacted] was not "saddled with high bail".

On May 15, 2024, while presiding at a Centralized Arraignment Part, Judge Jones arraigned a defendant named S[redacted] D[redacted] on criminal charges of Attempted Assault in the Second Degree. 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. When she appeared during her arraignment, she had been fitted with a "spit shield" by jail staff and had significant swelling in the area of her eye. During her arraignment, Ms. D[redacted] 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[3] because Judge Jones concurred in the bail recommendation made by the Ontario County District Attorney's office. After Ms. D[redacted] 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". We re-affirm this position. Similarly, Judge Jones made a comment after Ms. D[redacted] left the court to the effect that she might have assaulted her Public Defender if she had been given a chance. We readily concede that this comment, like the "race card" statement, was inappropriate.

However, the Commission's assertion that Judge Jones imposed "high bail" on Ms. D[redacted] is wholly unwarranted and factually incorrect. What is "high bail" is, absent a judicial determination, a matter of opinion. Ms. D[redacted] may very well have had the opinion that her bail was "high", but that does not make it true. From a purely legal standpoint, until such time as Judge Jones' bail determination is reversed as excessive by a higher court[4], it is the determination of the court and entitled to deference. The Commission's attempt to portray Judge Jones as a racist because he set "high bail" is absurd. This is especially true in light of the fact that Judge Jones did not come up with the bail numbers in a vacuum; he was simply concurring in the bail recommendation of the District Attorney's Office, a practice which Ms. D[redacted]' own attorney conceded was the rule rather than the exception.

Finally, with respect to statement made by Judge Jones concerning the potential violence of Ms. D[redacted] toward her attorney, we unequivocally re-state that this comment was a mistake by Judge Jones and should never have been said, even in jest. However, the Commission goes too

[3] Ms. D[redacted] is African American.
[4] There is no proof in the record that Ms. D[redacted]' bail was ever lowered by a higher court.

far when it attempts to portray these comments as wholly without any basis in fact and solely the product of the "Angry Black Woman" trope. Ms. D[redacted] is legally entitled to the presumption of innocence. However, this does not mean that Judge Jones must turn a blind eye to the reality of the situation confronting him. Ms. D[redacted] was charged with attempting to assault a police officer. There were obvious signs of a struggle. While it could not be established at that moment who was the aggressor, by the Commission's logic Judge Jones should have assumed it was not Ms. D[redacted]. Similarly, Ms. D[redacted] appeared with a spit shield. While the reasons underlying this decision by law enforcement do not appear on the record, the Commission's implication that Judge Jones should have assumed that this was unwarranted flies in the face of logic.

CONCLUSION

As we have asserted previously, the essential facts of this case are not complicated nor in serious dispute. Judge Jones uttered the "N-word", quoting his father from an incident in 1957. Judge Jones never referred to Harry by that term, but simply related the incident in which his father did. He stated this term once, in a normal tone of voice and it was overheard only by Ms. Bartolotta and Ms. Valenti. As to Ms. D[redacted]' case, we concede that Judge Jones' comments were wholly inappropriate. Despite the foregoing, we respectfully submit that, when viewed in the context of all the facts, the Commission has failed to prove that Judge Jones has violated the Rules of Judicial Conduct and that the charges against him should be dismissed.

Dated: November 19, 2025

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