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April 2, 2026

Hon. Rowan D. Wilson
N.Y. Court of Appeals
N.Y. Court of Appeals Hall
20 Eagle St.
Albany, NY 12207-1095

RE: *Matter of Hon. Walter W. Jones, Jr., Petitioner v. N.Y.S. Commission on Judicial Conduct, Respondent*

To the Justices of the N.Y. Court of Appeals:

I represent the petitioner herein, the Hon. Walter W. Jones, Jr., Judge of the Canandaigua Town Court (hereafter "Judge Jones"). By a Determination, dated March 12, 2026, the N.Y.S. Commission on Judicial Conduct (hereafter "the Commission") sustained two charges against Judge Jones and determined that he should be removed from office. Within the specified time period, we will file our request that this determination be reviewed and modified by this Court in accordance with §530.1(b) of the Rules of the N.Y. Court of Appeals.

By a letter, dated March 26, 2026, the Clerk of the Court of Appeals has advised the parties that Judge Jones may submit to the Court any reasons why he should not be suspended pending this Court's review of the Commission's determination. For the reasons set forth below, we respectfully submit that Judge Jones should not be suspended pending the Court's review of the Commission's Determination.

FACTS

The salient facts underlying the two charges brought by the Commission against Judge Jones are neither complex nor in serious dispute. Charge 1 stems from an incident on May 10, 2024, after Judge Jones had concluded presiding over a Centralized Arraignment Part ("CAP") conducted at the Ontario County Jail. 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 to 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 that his father was also a racist and often used the "N-word" in referring to African American persons. Despite this fact, as a child Judge Jones' father developed an unlikely friendship with an African American child named Harry of roughly the same age. As an adult, Judge Jones' father married and left Texas to work and raise his family in Kansas. Many years later, in 1957 when Judge Jones was 8 or 9 years old, he and his father returned to Texas for a visit. While they were driving down a road, Judge Jones' father saw Harry, now an adult as well, and said to Judge Jones "That's 'N-word[1]' Harry". Judge Jones' father stopped his car, ordered Judge Jones into the back seat to allow Harry to ride in front and insisted on giving Harry a ride to his destination. In recounting this story, Judge Jones testified that he spoke in a normal conversational tone of voice and only used the "N-word" once. Ms. Bartolotta also testified that Judge Jones spoke in a normal conversational tone. Despite lengthy efforts by the Commission to prove that other persons in the area may have heard Judge Jones, no proof was ever adduced that anyone else in the area heard this story other than Ms. Bartolotta and Ms. Valenti.

On May 14, 2024, Judge Jones presided over another CAP session at the Ontario County Jail. One of the criminal defendants being arraigned was S[redacted] D[redacted] who was being represented at the arraignment by Ontario County Assistant Public Defender Patrick Conklin. Ms. D[redacted] 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[redacted] made a number of allegations, some profane, that the criminal justice system in general, and Judge Jones in particular, were discriminating against her on the basis of her race[2] 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". He also stated that he felt that Ms. D[redacted] was so angry that he thought she might assault Mr. Conkling. At the disciplinary hearing, Judge Jones testified and readily conceded that making the foregoing statements was a "Dumb thing to do. Stupid thing to do. I shouldn't' have done it. A mistake". Judge Jones has never denied making the statements attributed to him and has acknowledged that his conduct violated the Rules of Judicial Conduct.

Based upon the foregoing, in our submission to the Commission Judge Jones admitted that he violated the Rules of Judicial Conduct with respect to the two charges

[1] It is conceded that Judge Jones' father used the actual "N-word" and that Judge Jones, *quoting his father*, did so as well in the telling of this story. As we have throughout these proceedings, we decline to use the actual word used by Judge Jones' father either in our written filings or during oral argument before the Commission.

[2] Ms. D[redacted] is African American.

brought by the Commission. Our argument before the Commission was that, in accordance with the prevailing cases most similar to Judge Jones', a sanction short of removal from office was appropriate.

ARGUMENT

THE PENALTY ASSESSED BY THE COMMISSION IS EXCESSIVE AND IS LIKELY TO BE AMENDED BY THIS COURT

We respectfully submit that the Commission's Determination should be amended to assess the penalty as, at a minimum, a Letter of Caution and, at a maximum, a Letter of Censure. Our argument is based, in part, on this Court's holding in *Matter of Agresta*, 64 NY2d 327 (1985), in which the Court held that a judge's use of the "N-word" "*in any context*" subjects the judge to disciplinary proceeding (emphasis supplied). With all due respect to the learned judges of the *Agresta* court, we submit that a literal application of the language in *Agresta* leads to consequences which the *Agresta* court did not intend. For only one example, the official decision in *Agresta* contains the actual "N-word", and not the euphemism. Thus, while the judges of the *Agresta* court could write the word and have it published in the official reports, neither they nor any other judge in New York could read the decision aloud[3]. Other examples abound and will be contained in our brief to the Court. In the present case, Judge Jones uttered the "N-word" *in quoting his father*. He did not direct to anyone either in or out of his presence and did not intend in a malicious or venal manner. We respectfully submit that this was not what the Court in *Agresta* intended and that it has never been applied in factual circumstances similar to those in this case.

With respect to the second charge involving the statements made by Judge Jones after the [redacted] arraignment, he has acknowledged his misconduct.

We respectfully submit that neither of the two charges against Judge Jones, either singly or in combination, warrant the extreme sanction imposed by the Commission. Ironically, the case most heavily relied upon by Commission Counsel, *Matter of Agresta, supra,* is one such case. In *Agresta,* while on the record and in the presence of a black defendant, in a blatant attempt to coerce the defendant into implicating his uncle in the crime, the respondent judge stated "I know there is another [N-word] in the woodpile." *Agresta,* at 327. Despite the fact that the offensive comment in *Agresta* was made in the presence of a black defendant and in open court, this Commission determined that censure was the appropriate remedy, citing the *Agresta* respondent's unblemished record on the bench and his age.

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[3] The Commission's decision in *Agresta* also contained the actual "N-word". By the same logic the judges on the Commission could not read its decision aloud, although the lay members could.

We respectfully submit that the facts of *Agresta* are far more egregious than those of the present case. In *Agresta*, the respondent's statements were made in open court and in the presence of the defendant, who was black. Arguably, the respondent's comments were additionally inappropriate on the grounds that they were made in the context of attempting to coerce the defendant into implicating his uncle in the crime. In the present case, Judge Jones' comments on May 10, 2024 were completely unrelated to his judicial functions, were made out of court to only two individuals[4]. With reference to the factors considered by the *Agresta* court, in his 26 years on the bench, Judge Jones has received only two prior letters of caution, which accompanied the dismissal of both charges. With respect to the other factors relied upon by the *Agresta* court, Judge Jones has been on the bench since 1999 and is 81 years old. Without intending to be callous, it must be said that Judge Jones' tenure on the bench will not last into the distant future. See also, *Matter of Edwards*, 67 N.Y.2d 153 (1987) (removal unwarranted based upon "aberrational" nature of judge's misconduct and his 21 years on the bench and unblemished disciplinary history).

CONCLUSION

Judge Jones has never denied making the statements attributed to him and has acknowledged that his conduct violated the Rules of Judicial Conduct. Nevertheless, we respectfully submit that the Commission's sanction is grossly disproportionate to his conceded conduct and that, upon review by this Court and based upon the prevailing case law, this Court should amend the sanction to either a letter of caution or, at worst, a letter of sanction. Since we submit that the sanction should be reduced to one which would not affect his tenure on the bench and for the other reasons set forth herein, this Court should not suspend Judge Jones pending a full review of the proceedings below.

Respectfully submitted,

Charles D. Steinman

cc: Robert Tembeckjian, Esq.
Cassie Kocher, Esq.

[4] Despite Commission Counsel's repeated attempts to prove that someone else *might* have overheard Judge Jones' comments, the Referee found that there was no proof that anyone else overheard him (see Referee's Report, ¶32).