



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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NEWS RELEASE

January 5, 2024

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Greene County Town Justice Should Be Removed for Financial Self-Dealing with Court Funds

The New York State Commission on Judicial Conduct has determined that Edward Timothy Mercer, a part-time Justice of the Athens Town Court (Greene County) who also owns a private contracting company, should be removed from office for awarding a no-bid \$3,300 contract to his own company for courthouse improvements, and falsifying his invoice by not revealing that the equipment he bought cost \$760 less than he listed. Although the judge then signed a voucher authorizing payment to his own company, the money was not paid when his misconduct was discovered.

In 2020, the Athens Town Court submitted a Justice Court Assistance Program (JCAP) grant application to the Office of Justice Court Support (OJCS) to be used for court improvements. The initial application, which was approved by the Athens Town Board, included a request to purchase two air conditioners, window blinds, a paper shredder, a desk chair, and reimbursement for COVID-19 related expenses. In connection with the JCAP grant Judge Mercer did the following:

- Directed the senior court clerk to add a security camera system to the JCAP application before submitting it to OJCS without approval from his co-judge or the Town Board. The total cost was listed as

\$3,329.99, which covered \$2,329.99 for equipment and \$1,000 for installation.

- Assigned the security camera installation contract to his own company, Mercer Associates, without disclosing his personal interest to the town or to the state, after OJCS awarded the grant solely for the security camera.
- Purchased a camera that was \$760 less than the system listed on the JCAP application and knowingly falsified an invoice reflecting the purchase price of the higher-priced system.
- Signed a voucher in his capacity as Town Justice, authorizing payment of the invoice to his own company.
- Invoked his judicial status in an attempt to obtain payment of his invoice by utilizing his judicial email address to leverage his request for payment after the invoice had been flagged by the town as a conflict of interest. After being advised by the town that it was looking into the ethical issues of his conduct, the judge advised that he would charge interest if the town continued to refuse payment, and then issued a subsequent invoice which included a fee for nonpayment.
- Withdrew his request for payment and removed the security camera system when the Commission started its investigation.

Judge Mercer, who is not an attorney, became a Justice of the Athens Town Court in 2020. His current term expired on December 31, 2023.

Under the state Constitution, removal from office bars a judge from ever returning to the bench.

Statement by Commission Administrator

Commission Administrator Robert H. Tembeckjian made the following statement.

“Leveraging judicial office for personal financial gain, and dealing dishonestly with town and court system officials in the process, undermines public confidence in the integrity of the courts and disqualifies a person from further service on the bench.”

The Commission Proceedings

Judge Mercer was served with a Formal Written Complaint dated October 13, 2022, containing one charge, and filed an Answer dated December 7, 2022.

The Commission designated David M. Garber, Esq., as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on May 16 and 17, 2023 in Albany. The referee filed a report dated October 4, 2023.

The Administrator recommended that the referee's report be confirmed, and that Judge Mercer be removed from office. The judge acknowledged that he engaged in misconduct and asked that the Commission "show leniency." On December 7, 2023, the Commission heard oral argument.

The Commission Determination

The Commission filed a determination dated December 27, 2023, in which 10 members concurred: Joseph W. Belluck, Esq. (the Commission Chair), Taa Grays, Esq., (the Vice Chair), Hon. Fernando M. Camacho, Brian C. Doyle, Esq., Judge John A. Falk, Nina M. Moore, Marvin Ray Raskin, Esq., Graham B. Seiter, Esq., Judge Anil C. Singh, and Akosua Garcia Yeboah.

Judge Robert J. Miller did not participate.

The Commission's removal decision said in part that Judge Mercer engaged in "self-dealing to further his own business interests in connection with the JCAP grant." The Commission also stated that:

"... even after [Judge Mercer] was made aware of the ethical issues surrounding his actions, he did not take any remedial steps to mitigate his wrongdoing" and "by continuing to insist on payment even after being made aware of the ethical issues, [the judge] compounded his misconduct and demonstrated a lack of understanding of the inappropriateness of his actions."

Court of Appeals Review

The Commission transmitted its determination to the Chief Judge of the Court of Appeals, pursuant to Judiciary Law Section 44, subdivision 7. Judge Mercer received it on December 30, 2023, and the Commission was subsequently notified by the Court of Appeals that service was complete. Consequently, the matter is now public.

A judge may either accept the Commission's determination or, within 30 days from receipt, make a written request to the Chief Judge for a review of the determination by the Court of Appeals.

Pursuant to Judiciary Law Section 44, subdivision 7, if Judge Mercer does not request review by the Court of Appeals, the Court of Appeals will remove him in accordance with the determination.

If a Commission determination is reviewed by the Court of Appeals, the Court may accept the determined sanction, impose a different sanction including admonition, censure or removal, or impose no sanction.

Statistics Relating to Prior Determinations

Since 1978, the Commission has issued 181 determinations of removal against judges in New York State. The Commission has issued 349 determinations of censure and 283 determinations of admonition.

The Court of Appeals has reviewed 102 Commission determinations. The Court accepted the Commission's sanctions in 86 cases (77 of which were removals, six were censures and three were admonitions). Of the remaining 16 cases, two sanctions were increased from censure to removal, and 13 were reduced: nine removal determinations were modified to censure, one removal was modified to admonition, two censures were modified to admonition, and one censure was rejected and the charges dismissed. The Court remitted one matter to the Commission for further proceedings.

Counsel

In the proceedings before the Commission, Judge Mercer represented himself.

The Commission was represented by Deputy Administrator Cathleen S. Cenci, Principal Attorney S. Peter Pedrotty and Senior Investigator Ryan Fitzpatrick.

Background Information on Judge Mercer

First Took Office:	2020
Current Term Expired:	December 31, 2023

Members of the Commission

The Commission members serve four-year terms. A list of members is appended.

The Public File

The determination and other records are available on the Commission's website:

www.cjc.ny.gov.

MEMBERS OF THE STATE COMMISSION ON JUDICIAL CONDUCT

Member	Appointing Authority	Term End
Joseph W. Belluck, Esq., Chair	Former Governor Andrew M. Cuomo	March 31, 2024
Taa Grays, Esq., Vice Chair	Senate President Pro Tem Andrea Stewart-Cousins	March 31, 2027
Hon. Fernando M. Camacho	Former Chief Judge Janet DiFiore	March 31, 2024
Brian C. Doyle, Esq.	Senate Minority Leader Robert G. Ort	March 31, 2024
Hon. John A. Falk	Former Chief Judge Janet DiFiore	March 31, 2025
Hon. Robert J. Miller	Governor Kathy Hochul	March 31, 2026
Nina M. Moore	Governor Kathy Hochul	March 31, 2027
Marvin Ray Raskin, Esq.	Assembly Speaker Carl E. Heastie	March 31, 2026
Graham B. Seiter, Esq.	Assembly Minority Leader William A. Barclay	March 31, 2025
Hon. Anil C. Singh	Chief Judge Rowan Wilson	March 31, 2026
Akosua Garcia Yeboah	Former Governor Andrew M. Cuomo	March 31, 2025