



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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NEWS RELEASE

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Herkimer County Town Justice Should Be Removed for Multiple Acts of Misconduct

The New York State Commission on Judicial Conduct has determined that Thomas F. Rathbun, Jr., a Justice of the Salisbury Town Court, Herkimer County, should be removed from office for multiple acts of misconduct. The judge:

- Failed to complete mandatory Continuing Judicial Education credits in 2022, resulting in his cases being reassigned to another judge;
- Failed to file required monthly reports with the State Comptroller, resulting in his salary being stopped;
- Failed to adjudicate an eviction proceeding for 11 months;
- Displayed a statue featuring a Confederate flag on his desk which, when the door was open, was visible from the courtroom;
- Posted inappropriate political commentary on his public Facebook page, including several demeaning political memes, support of then-presidential candidate Mitt Romney, and apparent support for the Confederacy;¹ and
- Failed to cooperate with the Commission's investigation by not responding to its letters of inquiry.

¹ Images of Facebook posts are appended to the Formal Written Complaint.

In its removal determination, the Commission stated:

“...[Judge Rathbun’s] failure to comply with his mandatory judicial training requirements for 2022 and 2023, his display of the Confederate flag in his chambers, his inappropriate public Facebook posts, his failure to perform the duties of his office, including reporting and remitting funds to the State Comptroller, and his decision to ignore the Commission’s investigation and proceedings render him unfit for judicial office and warrant his removal.”

Judge Rathbun, who is not an attorney, has served as a Justice of the Salisbury Town Court since 2002. His current term expires on December 31, 2025.

Statement by Commission Administrator

Commission Administrator Robert H. Tembeckjian made the following statement.

“The wide range of misconduct committed by Judge Rathbun, plus his failure to respond to the Commission’s inquiries or answer the formal disciplinary charges against him, demonstrate a disregard for his ethical responsibilities and compel his removal from judicial office.”

The Commission Proceedings

Judge Rathbun was served with a Formal Written Complaint dated February 7, 2024, containing five charges. He did not file an Answer.

By motion dated April 5, 2024, the Administrator moved for summary determination. The judge did not submit a response. The motion was granted on May 2, 2024, determining that the factual allegations of the Complaint were sustained and that the judge’s misconduct was established.

Counsel to the Commission filed a brief arguing for the judge’s removal and waived oral argument unless the judge was to appear. The judge did not make a submission on the issue of sanction, respond to the administrator’s brief or appear for oral argument.

The Commission Determination

The Commission filed a determination dated August 5, 2024, in which all 11 members concurred: Joseph W. Belluck, Esq. (the Commission Chair), Taa Grays, Esq., (the Vice Chair), Judge Fernando M. Camacho, Brian C. Doyle, Esq., Judge John A. Falk, Judge Robert J. Miller, Nina M. Moore, Ph.D., Marvin Ray

Raskin, Esq., Graham B. Seiter, Esq.², Judge Anil C. Singh and Akosua Garcia Yeboah.

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. The Commission was notified on August 26, 2024, that Judge Rathbun had received the determination. 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.

If the judge requests review, the Court sets a schedule for the parties to file briefs and appear for oral argument. On review, the Court may accept or reject the Commission's findings of fact or conclusions of law, may accept the determined sanction, impose a different sanction including admonition or censure, or impose no sanction.

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

Statistics Relating to Prior Determinations

Since 1978, the Commission has issued 185 determinations of removal against judges in New York State. The Commission has issued 352 determinations of censure and 284 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. One request for review is currently pending.

² Mr. Seiter, who was a member of the Commission at the time of the vote in this matter, resigned from the Commission on July 16, 2024, upon his appointment as part-time Fulton City Court Judge.

Counsel

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

The Commission was represented by Deputy Administrator Cathleen S. Cenci, Senior Attorney Kathleen Klein and Senior Investigator Ryan Fitzpatrick.

Background Information on Judge Rathbun

First Took Office:	2002
Current Term Expires:	December 31, 2025

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	Governor Kathy Hochul	March 31, 2028
Taa Grays, Esq., Vice Chair	Senate President Pro Tem Andrea Stewart-Cousins	March 31, 2027
Hon. Fernando M. Camacho	Chief Judge Rowan Wilson	March 31, 2028
Stefano Cambareri ³	Assembly Minority Leader William A. Barclay	March 31, 2025
Brian C. Doyle, Esq.	Senate Minority Leader Robert G. Ort	March 31, 2028
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, Ph.D.	Governor Kathy Hochul	March 31, 2027
Marvin Ray Raskin, Esq.	Assembly Speaker Carl E. Heastie	March 31, 2026
Hon. Anil C. Singh	Chief Judge Rowan Wilson	March 31, 2026
Akosua Garcia Yeboah	Former Governor Andrew M. Cuomo	March 31, 2025

³ The vote in this matter was taken on June 13, 2024. Mr. Cambareri, whose term on the Commission commenced on August 14, 2024, did not participate in this matter.