STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

WALTER W. JONES,

DETERMINATION

a Justice of the Canandaigua Town Court,
Ontario County.

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THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Taa Grays, Esq., Vice Chair
Honorable Fernando M. Camacho
Stefano Cambareri, Esq.
Brian C. Doyle, Esq.
Honorable John A. Falk
Honorable David Fried[1]
Robin Chappelle Golston
Nina M. Moore, Ph.D.
Honorable Peter H. Moulton
Marvin Ray Raskin, Esq.

APPEARANCES:

Robert H. Tembeckjian (John J. Postel, Cassie M. Kocher and David Stromes Of Counsel) for the Commission

Charles D. Steinman, Esq. PLLC (by Charles D. Steinman) for respondent

[1] Judge Fried joined the Commission on March 3, 2026 and did not participate in this matter.

Respondent, Walter W. Jones, a Justice of the Canandaigua Town Court, Ontario County, was served with a Formal Written Complaint ("Complaint") dated April 3, 2025, containing two charges. Charge I alleged that on or about May 10, 2024, respondent repeatedly used a racial epithet during a conversation with court staff and an Assistant Public Defender in the parking lot of the Ontario County Jail. Charge II alleged that on or about May 15, 2024, respondent made unseemly, undignified and racially insensitive comments about the defendant after presiding over the arraignment in *People v S.D.* Respondent filed an Answer dated April 21, 2025.

By Order dated May 14, 2025, 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 August 21, 2025 in Rochester, New York. The referee filed a report dated December 4, 2025 which sustained the charges in the Complaint.

The parties submitted briefs to the Commission with respect to the referee's report and the issue of sanction. Commission counsel argued that the referee's findings and conclusions should be confirmed and respondent argued that the referee's findings and conclusions be confirmed in part and disaffirmed in part. Commission counsel recommended the sanction of removal. Respondent acknowledged that he engaged in misconduct and argued that a private letter of

caution, or, at worst, censure, was the appropriate sanction. The Commission heard oral argument on January 29, 2026 and thereafter considered the record of the proceedings and made the following findings of fact.

1. Respondent has been a Justice of the Canandaigua Town Court, Ontario County, since 1999. His current term expires on December 31, 2027. He is approximately 82 years old and was admitted to the practice of law in New York in 1973.

As to Charge I of the Formal Written Complaint

2. Respondent's judicial duties included presiding approximately twice a month over the Centralized Arraignment Part ("CAP") held at the Ontario County Jail. When respondent presided in CAP Court, his court clerk, Kristen Bartolotta, assisted him. The Ontario County Public Defender's Office, including Assistant Public Defenders Cali Anne Valenti and Patrick Conklin, represented qualified defendants at CAP Court.

3. On May 10, 2024, respondent presided over the evening session of CAP Court which was held at about 5:30 p.m. in the lobby of the Ontario County Jail building. Ms. Bartolotta was present and assisted respondent with arraignments. At that session of CAP Court, Ms. Valenti represented qualified defendants.

4. After respondent completed the CAP Court arraignments, he, together with Ms. Bartolotta and Ms. Valenti, left the jail building and walked to the adjacent public parking lot where they had parked their cars.

5. As they walked toward the parking lot, respondent told Ms. Bartolotta and Ms. Valenti that he wanted to show them a gift he had purchased for his wife. Additionally, knowing that Ms. Valenti was an avid reader based upon his prior conversations with her, respondent also told them that he wanted to give Ms. Valenti a few books.

6. When they reached respondent's vehicle, he opened the trunk to show them the gift for his wife and he gave Ms. Valenti a few mystery books set in the southern part of the United States. Ms. Valenti had not asked for the books. While Ms. Valenti testified that she was uncomfortable accepting the books because she wanted to maintain a professional distance between herself as an Assistant Public Defender and respondent as Justice of the Canandaigua Town Court, she accepted the books.

7. Respondent then told a story to Ms. Bartolotta and Ms. Valenti and throughout the story he referred to a Black man named Harry, who respondent's father had known, as "[n word] Harry."[2] Ms. Valenti testified that respondent said "[n word] Harry" approximately four times in telling the story.

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[2] Respondent used the epithet "nigger" which is referred to as "n word" in this determination.

8. According to the story respondent told, during the Depression, respondent's grandfather (his father's father) owned cotton fields in Savoy, Texas. Respondent's grandfather hired Black workers to weed his fields. Respondent's father, as a 14–15-year-old boy, also weeded the fields. According to respondent's story, when respondent's father worked more slowly than the Black workers, respondent's grandfather punished respondent's father by beating him.

9. According to respondent's story, one of the Black workers, named Harry, whom respondent referred to as "[n word] Harry" when telling his story, asked the other workers to slow their pace of work so respondent's father would work ahead of them, thus preventing respondent's father from being beaten.

10. According to respondent's story, respondent's father witnessed Harry taking a chicken from respondent's grandfather's chicken house and did not report it. According to respondent's story, respondent's father protected Harry just as Harry had protected respondent's father. According to the story, the two developed an unlikely friendship.

11. According to respondent's story, many years later, sometime in 1957, respondent and his now-adult father were visiting Savoy and as respondent's father was driving, his father saw Harry walking on the side of the road. Respondent testified that when his father saw Harry in 1957, his father was surprised and "exclaimed" raising his voice a little. As respondent described this moment when

he told the story to Ms. Valenti and Ms. Bartolotta, respondent's father said to respondent, "That's [n word] Harry, that's [n word] Harry."

12. Ms. Valenti described the volume of respondent's voice as "reasonable" when he began telling the story. She testified that respondent's volume increased near the end of his story as respondent "seemed to be really acting out the story with his words," and twice "yelled out" "[n word] Harry" in describing what respondent's father had said when he saw Harry.

13. Neither Ms. Valenti nor Ms. Bartolotta had asked respondent to tell this story, which was not relevant to any CAP Court proceeding that evening.

14. Ms. Valenti credibly testified that respondent, in narrating the story, which lasted approximately eight minutes, referred to Harry as "[n word] Harry" four times: twice in introducing the story and twice when respondent recounted his father recognizing Harry years later.

15. As Ms. Valenti listened to respondent's story, she was "very concerned" and "very surprised" by respondent's multiple references to "[n word] Harry." According to Ms. Valenti, Ontario County has a diverse population which added to her concern about respondent's use of the epithet since someone, such as one of her clients or a law enforcement officer, might hear respondent's use of the racial epithet. Ms. Valenti testified that she thought to herself, "How do I get out

of this conversation? And how quickly can I text my boss about this to see what to do?"

16. Ms. Bartolotta, who worked for respondent as a court clerk, testified that in telling the story respondent referred to Harry as "[n word] Harry" "two or three" times. Like Ms. Valenti, she was also "taken aback" and "concerned" by respondent's use of the racial epithet.

17. During the hearing before the referee, respondent claimed that he used the n word one time in telling the story.

18. While respondent told the story, people were walking between the parking lot where they had parked their cars and the jail building. Ms. Valenti and Ms. Bartolotta were particularly worried that a woman, who was seated in the driver's seat of a car parked one or two parking spaces away from respondent's vehicle, had overheard respondent.

19. Although Ms. Bartolotta, like respondent, recalled that respondent told the story in a "normal" volume, respondent's volume was loud enough to cause her to worry that the woman in the car parked one or two parking spaces away may have overheard and recorded respondent.[3]

[3] There is no evidence in the record that anyone other than Ms. Valenti and Ms. Bartolotta heard respondent tell the story.

20. After respondent finished telling his story, Ms. Bartolotta and Ms. Valenti walked together to their cars which were parked a short distance away. Ms. Valenti said to Ms. Bartolotta, "I think I need to go to my boss and just let her know [about respondent telling the story], so she can decide if anything needs to be done."

21. Upon entering her car, Ms. Valenti immediately sent a group text message to all attorneys in the Ontario County Public Defender's Office, including Ontario County Public Defender Leanne Lapp, as follows: "Oh my gosh Jones was just telling me and Kristen a very long story in the jail parking lot about his childhood that included the repeated use of the n word LOUDLY. Kristen and I wanted to crawl into a whole [sic] and never come out."

22. An hour later, Ms. Valenti texted Ontario County Public Defender Lapp as follows:

> Jones was telling us what books he likes to read, which then lead [sic] to him telling us a story about how his dad and grandpa had [B]lack people cutting cotton during the Jim Crowe [sic] era. That lead [sic] to a story about how his dad made friends with a [B]lack man who worked in the cotton fields. . .[H]e was . . . quoting things his dad would say. Kristen and I were humiliated. There were a handful of people in the parking lot coming and going, and Jones was way too loud. . .We kept trying to walk away, and he would just get louder and more animated. He thought it was a sweet story of how his dad befriended a [B]lack man in a time when no one else would. Which I mean isn't inherently a bad story to tell unless you tell it the way he did. . .then it's completely

inappropriate.

23. Ms. Valenti's text messages, sent immediately after respondent told the story, in which she used the descriptive words "LOUDLY", "way too loud" and "would just get louder" corroborated her testimony regarding the volume of respondent's voice as he told his story.

24. A few days later, Ms. Bartolotta told the Canandaigua Town Supervisor that respondent had used the n word in telling his story. It still bothered her and Ms. Bartolotta remained concerned that the woman in the car parked near respondent's vehicle had heard and recorded respondent on her cell phone.

25. Ms. Bartolotta and Ms. Valenti testified that, except when respondent told the story, they had not heard him use the n word before.

26. Respondent described his father as a "racist." In contrast to his father, respondent does not consider himself to be racist. He explained that his own views on race relations changed as he grew from "a kid" into adulthood and came to believe "[t]his whole business about treating each other differently is appalling."

27. During the hearing before the referee, respondent testified that when he told the story using the n word to Ms. Bartolotta and Ms. Valenti, "the lesson I was trying to get across was that with tolerance, dignity, and respect, we could overcome the differences between us, among us and become something else.

Something better." Neither Ms. Bartolotta nor Ms. Valenti had asked to be told that story or to be taught that lesson.

28. When he appeared before us, respondent argued that Ms. Bartolotta, who worked for him, and Ms. Valenti ". . . were not captive. They could have walked away anytime they wanted to or have objected." Ms. Valenti did not excuse herself or interrupt respondent's story to request that he stop using the slur. According to Ms. Valenti, she had "a very delicate professional relationship with Judge Jones", she appeared before him regularly and she feared upsetting him to the detriment of her clients.

29. During the hearing before the referee, respondent repeatedly denied that he, himself, used the n word in telling his story. He testified, "I was quoting my father" and "that's not my word. That's a quotation of what my father said." While before the referee, respondent would only answer questions about his use of the n word with the qualifier that he was quoting his father. Respondent testified that because he was quoting his father, his use of the racial epithet did not diminish public confidence in the judiciary.

30. Respondent argued to the referee that without referring to Harry as "[n word] Harry," Ms. Bartolotta and Ms. Valenti would not have understood his story's "lesson." Ms. Valenti's text message – in which she wrote that respondent's story "isn't inherently a bad story to tell unless you tell it the way

he did. . .then it's completely inappropriate" – indicated that she would have understood the story's message without respondent's use of the racial epithet.

31. When he appeared before us, respondent could not explain why he told the story to the court clerk and the Assistant Public Defender. Nor could he explain why he used the racial epithet in telling the story other than that "I guess I wanted authenticity and accuracy because that's what my dad said."[4]

32. Respondent told the story before the referee and the Commission without using the epithet.

33. When respondent appeared before us and was asked whether, after he used the n word in telling the story, he thought that maybe he should not have used that word, he responded, "Nope. Nope. I thought I was talking to two friends who might enjoy the story. . .."

As to Charge II of the Formal Written Complaint

34. Five days after using the racial epithet in telling the story to Ms. Bartolotta and Ms. Valenti, on May 15, 2024, at 7:41 am, respondent presided over the CAP Court arraignment of S.D., a Black woman, in *People v. D.* Court clerk Bartolotta assisted respondent at the arraignment. Assistant Public Defender

[4] During the hearing before the referee, respondent testified that his use of the n word was "part of the context of the story. And. . .to use a substitute word, 'Euphemism Harry,' 'N-word Harry'. . . it would have been out of keeping with the story as it happened."

Patrick Conklin represented Ms. D at her arraignment. Assistant Ontario County District Attorney ("ADA") Jenna Markwitz appeared by telephone.

35. Ms. D, who had no criminal record, was charged with Attempted Assault in the Second Degree, a Class E felony; the misdemeanors of Resisting Arrest, Criminal Mischief in the Fourth Degree, Obstructing Governmental Administration in the Second Degree and Criminal Tampering in the Third Degree, as well as three counts of Harassment in the Second Degree, a violation.

36. Ms. D's booking photograph showed that she had a significant injury to her right eye, which was swollen completely shut, that the right side of her face was swollen and she had a large swelling on her forehead. According to Mr. Conklin, at arraignment, Ms. D had a "a softball-sized swelling of her face."

37. With respondent present and while waiting for Ms. D to be brought into CAP Court from the jail for her arraignment, Ms. D's counsel stated, "That eye looks pretty nasty. It's gnarly" and respondent responded, "Mm-hmm." Mr. Conklin further stated that Ms. D's right eye was completely swollen shut. Prior to the arraignment, Ontario County Deputy Sheriff or Correction Officer Cummings stated that Ms. D had a "broken orbital socket."[5]

[5] In the transcript of the arraignment, he is identified as unknown male. At the hearing before the referee, Assistant Public Defender Conklin identified him as Ontario County Sheriff or Corrections Officer Cummings.

38. For CAP arraignments, respondent sat in the middle of the table used by judges for arraignments. At CAP arraignments, defendants stood directly in front of and only a few feet away from respondent.

39. At Ms. D's arraignment, Ms. Bartolotta, who was seated at the judge's table about 6-8 feet from respondent, observed Ms. D "had a significant injury to her eye."

40. Respondent testified that, while he was aware that Ms. D "had sustained an injury of some sort," he was unaware of its nature and severity because "she was turned in such a way that I did not have a good, clear view of the injury to her eye." When he appeared before us, respondent stated, "I could not see her injuries except there was apparently a bruise on one cheek. I had no real idea about the extent of her injuries . . .." The evidence supported the referee's finding that respondent's testimony in this regard was not credible.

41. At the outset of the arraignment, ADA Markwitz recommended that respondent set bail in the amount of $3,000 cash, $6,000 bond and $12,000 partially secured bond.

42. Mr. Conklin opposed ADA Markwitz's bail recommendation. He argued that, because Ms. D had no prior criminal history and was a self-employed home care worker, respondent should grant her pre-trial release with either an in-

person or a telephone reporting requirement, which would ensure her appearance in Canandaigua City Court.

43. When respondent indicated that he intended to accept ADA Markwitz's bail recommendation, Mr. Conklin urged him to fix bail in the lower amount of $1,000 cash, $2,000 bond and $4,000 partially secured bond given her lack of a criminal record and her financial situation which rendered her eligible to be represented by the Public Defender's Office.

44. Respondent denied Mr. Conklin's request and he set bail in the amount recommended by ADA Markwitz. Respondent scheduled a preliminary hearing in Canandaigua City Court two days later, on May 17, when the City Court could address Ms. D's request for pre-trial release or, alternatively, for a reduction in the amount of bail.

45. Ms. D made a plea for pre-trial release. She told respondent that she had been "jumped on" and was injured. She urged respondent to consider that her injured eye required her to return to the hospital for eye surgery. Ms. D also informed respondent that she lacked medication for her [redacted]. She stated that she had just gotten a job and could not afford to miss work while waiting 48 hours for Canandaigua City Court to review her bail situation.

46. Ms. D was very upset and exclaimed that she was charged and was

not being released because she was Black, stating, "This is a racist county. . . . I'm the wrong color to be here." She further stated, "Like I said, I'm in the wrong county. . . . It's a racist-ass county." She also stated, "And he, then he's [respondent] holding me because I'm African American. . .. He's [respondent's] going by what the People say, because I'm African American. I'm the wrong race. . . I know this is a racist-ass county."

47. After Ms. D left the courtroom, respondent stated on the record regarding Ms. D, "Naturally she played the race card."

48. Addressing Assistant Public Defender Conklin, respondent continued, "You did the best you could, Pat. . . . She was pretty well restrained so she couldn't attack you, but she would have if she hadn't been handcuffed. . . . Do they teach you to fight back at the Public Defender's Office?"

49. At the hearing before the referee, respondent testified, "Sure, I made the crack about "She played the race card." Dumb thing to say. Stupid thing to do. I shouldn't have done it. A mistake." Respondent further testified, "And I shouldn't have said it because it now creates an impression that is not true. . . . that I was biased in some way, which is not true." Later in the hearing before the referee, respondent testified regarding his "race card" remark, "I don't think it created the appearance of racial bias . . .."

50. Respondent admitted that he used the word "naturally" because

Ms. D "was obviously [B]lack, and she's played the race card." Based upon Ms. D's race, respondent "assumed" that she would play the race card. Respondent testified that he thought Ms. D "may have been hoping for some sort of advantage by making the accusation that she was being victimized."

51. Respondent testified that when he made the "race card" comment, he meant that Ms. D "believed that she was being treated badly because of the color of her skin" and "thought she was a victim." Respondent testified that he did not want Ms. D to think she was a victim. According to respondent, "it was clear to me that she considered herself to be a victim, and I felt badly for her."

52. During the hearing, respondent further testified that his "[d]o they teach you to fight back" remark was "silly" and "lighthearted."

53. In August 2021, respondent received a Letter of Dismissal and Caution from the Commission in connection with directing the court clerk to contact a complaining witness in a pending matter about a restitution amount. In this letter, respondent was cautioned to "observe high standards of conduct so that the integrity and independence of the judiciary will be preserved."

54. In March 2024, two months before the conduct which formed the basis of the instant charges against respondent, respondent received another Letter of Dismissal and Caution in connection with "administrative inefficiencies and adjudicative tardiness" concerning the management of the court's finances. In this

letter, respondent was cautioned, *inter alia*, to comply with Section 100.2(A) of the Rules which require judges to "act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.3(B)(4) and 100.4(A)(1) and (2) of the Rules Governing Judicial Conduct ("Rules") and should be disciplined for cause pursuant to Article VI, Section 22, subdivision (a) of the Constitution and Section 44, subdivision 1 of the Judiciary Law. Charges I and II of the Formal Written Complaint are sustained insofar as they are consistent with the above findings and conclusions and respondent's misconduct is established.

Judges must observe high standards of conduct "so that the integrity and independence of the judiciary will be preserved" and must "act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." (Rules, §§100.1 and 100.2(A)) Section 100.3(B)(4) of the Rules provides, "A judge in the performance of judicial duties shall not, by words or conduct, manifest bias or prejudice . . . based on . . . race . . .." The Rules further provide: "A judge shall conduct all of the judge's extra-judicial activities so that they do not: (1) cast reasonable doubt on the judge's capacity to act impartially as a judge; (2) detract from the dignity of judicial office." (Rules, §§100.4(A)(1) and (2)) Respondent violated the Rules when, in the span of a few days, he first used a

vile racial epithet multiple times in a story he told an Assistant Public Defender and a court clerk in the parking lot of the Ontario County Jail shortly after arraignments in the Ontario County Centralized Arraignment Part. Then, five days later, while on the bench, respondent made disparaging statements indicative of racial bias or the appearance of bias when he stated, *inter alia*, "Naturally she played the race card" after the arraignment of a Black woman.

It is well-settled that judges are held to a higher standard of conduct than the general public. "There is no question that judges are accountable for their conduct 'at all times', including in conversations off the bench. . . Because judges carry the esteemed office with them wherever they go, they must always consider how members of the public . . . will perceive their actions and statements." *Matter of Senzer*, 35 NY3d 216, 220 (2020) (citations omitted) "Standards of conduct on a plane much higher than for those of society as a whole, must be observed by judicial officers so that the integrity and independence of the judiciary will be preserved. A Judge must conduct his everyday affairs in a manner beyond reproach." *Matter of Kuehnel,* 49 NY2d 465, 469 (1980). "Members of the judiciary should be acutely aware that any action they take, whether on or off the bench, must be measured against exacting standards of scrutiny to the end that public perception of the integrity of the judiciary will be preserved." *Matter of Lonschein*, 50 NY2d 569, 572 (1980) (citation omitted).

In *Matter of Putorti,* 40 NY3d 359, 366, 368 (2023), when a judge created the appearance of racial bias by "repeatedly, and gratuitously, referring to the litigant's race", the Court of Appeals found removal was warranted stating, "[w]e stress that the 'appearance of such impropriety is no less to be condemned than is the impropriety itself' . . .." Similarly, in *Matter of Ayres*, the Court held, ". . . as a judge, his conduct had to both be and appear to be impartial. This is a particularly high standard . . .." *Matter of Ayres,* 30 NY3d 59, 66 (2017) (citations omitted) In *Matter of Agresta*, 64 NY2d 327, 330 (1985) which was decided approximately 40 years ago, the Court of Appeals stated, "it is improper for a judge to make remarks of a racist nature even when the remarks are made out of court . . .." (citations omitted)

When respondent chose to use an abhorrent racial epithet multiple times in a story he told to an Assistant Public Defender and a court clerk in the parking lot of the Ontario Jail after arraignments, respondent demonstrated racial bias or at least the appearance of racial bias. "Regardless of whether respondent's remarks were knowingly racist or simply ill-considered, the use of such language by a judicial officer serves to undermine public confidence in the integrity and impartiality of the judiciary." *Matter of Pennington*, 2006 Ann Rep of NY Commn on Jud Conduct at 224, 226.

Respondent claimed that he told the story to the Assistant Public Defender

and court clerk to teach them the lesson "that with tolerance, dignity, and respect, we could overcome the differences between us . . .." However, choosing to use a racial slur repeatedly was an odd way to foster "dignity and respect." When respondent appeared before us, he could not explain why he had used the epithet other than for "authenticity and accuracy." His use of the slur was completely inappropriate as was evidenced by the shocked reaction of both the Assistant Public Defender and the court clerk to respondent's use of the epithet and by their response in reporting his offensive statements.

Moreover, there was no reason for respondent to impart this story to teach a "lesson." The gratuitous story had nothing to do with the arraignments they had all just participated in and neither woman had asked to be taught a lesson by the judge. When he appeared before us, respondent argued that the Assistant Public Defender and court clerk could have objected to his use of the racial epithet or walked away. It is troubling that respondent appeared not to recognize the impact of his powerful position as a judge and the inappropriateness of using a racial slur when speaking to the court clerk who worked for him and the Assistant Public Defender who regularly represented clients before him. As described above, with judicial authority comes the obligation to act at all times in a manner to uphold the integrity and impartiality of the judiciary. Respondent failed to comply with that obligation.

In addition, respondent attempted to excuse his conduct by making the baseless claim that he had to use the epithet in order for the Assistant Public Defender and court clerk to understand the story. Respondent also minimized the number of times he used the slur when he testified at the hearing that he used the word one time. The evidence, including the testimony of Ms. Valenti and Ms. Bartolotta and Ms. Valenti's contemporaneous text message in which she wrote that respondent "repeated" the use of the slur, established that respondent used the epithet multiple times.

Just days after using the racial epithet, after the arraignment of a seriously injured Black woman who had no criminal record and who had stated, *inter alia*, that respondent was setting bail because she was Black, respondent remarked, "Naturally she played the race card." In addition, respondent inappropriately stated that if she had not been handcuffed, she would have attacked the Assistant Public Defender representing her. We find, as did the referee, that, "The phrase 'playing the race card' refers to 'false or exaggerated claims of [racial] bias . . . to be played for selfish advantage'." (Referee Report at 36; citation omitted) Invoking this derogatory phrase regarding Ms. D was further evidence of racial bias or at least the appearance of racial bias. Respondent's comments were also insensitive, undignified and inappropriate.

According to respondent, he "felt badly" that Ms. D considered herself a

victim and he did not want her to feel that way. This claim appears to be inconsistent with his derogatory statement, "Naturally she played the race card." Ms. D was seriously injured and may have been a victim. Yet, respondent's reaction was to assume that she was trying to use race to gain some sort of advantage. Furthermore, respondent's comments during and after the arraignment did not express any sympathy for the severely injured Ms. D which would have been expected if he actually had "felt badly" for her.

The evidence supported the referee's finding that respondent was not credible when he denied knowing the extent of Ms. D's injury. The serious injury to her eye was discussed in respondent's presence prior to her arraignment. Her booking photograph clearly depicted significant injury to her face with her eye swollen shut. Moreover, the court clerk who was seated next to respondent during the arraignment observed the extent of Ms. D's injuries.

The disparaging comments respondent made about Ms. D after presiding over her arraignment, coming shortly after he had used the racial slur multiple times, were additional evidence of respondent's overall mentality or perceived mentality regarding race. Respondent's statements taken together showed indicia of racial animus and insensitivity combined with an apparent lack of awareness of the impact and impropriety of his statements.

"[T]he purpose of judicial disciplinary proceedings is 'not punishment but

the imposition of sanctions where necessary to safeguard the Bench from unfit incumbents'." *Matter of Reeves*, 63 NY2d 105, 111 (1984) (citation omitted) In determining the appropriate sanction, we find that respondent's statements were not isolated or anomalous but were connected in temporal terms having taken place within days of each other and also connected in substance since both exhibited racial bias or at least the appearance of such bias. Respondent seemed oblivious to the impact of his statements. It was telling and disturbing that after he used the slur multiple times in telling the story to the court clerk and Assistant Public Defender, respondent did not think that perhaps he should have not used the slur.

Respondent also failed to accept responsibility for his conduct by refusing to acknowledge that he made the decision to use the epithet in telling the story and that his use of such an inflammatory slur undermined public confidence in the integrity and impartiality of the judiciary. Respondent could easily have told the story, as he did before the referee and the Commission, without the use of the repugnant slur. He insisted several times before the referee that he was only repeating what his father had said and he testified that, because he was quoting his father, he believed there was no impact on public confidence in the judiciary. Respondent's failure to accept responsibility for his conduct and to comprehend the negative impact of his comments is an aggravating factor in determining the

appropriate sanction. *See, Matter of Aldrich*, 58 NY2d 279, 283 (1983) (removal appropriate when judge "fails to recognize the inappropriateness of his actions or attitudes.")

Furthermore, respondent had received two prior Letters of Dismissal and Caution which is "a significant aggravating factor." *See, Matter of George*, 22 NY3d 323, 329 (2013). In both letters, respondent was cautioned to adhere to the Rules Governing Judicial Conduct. After receiving these two Letters of Dismissal and Caution, he should have been especially alert to his obligation to follow the Rules. *See*, *Matter of Parker*, 2021 Ann Rep of NY Commn on Jud Conduct at 250, 261 ("Given his long judicial tenure and the Commission's 2015 letter, respondent should have been particularly attentive to his obligations under the Rules and the law."). Respondent compounded his misconduct by making his improper statements shortly after his receipt of the March 2024 Letter of Dismissal and Caution.

The Court of Appeals has held,

> . . . in rare cases "no amount of [mitigation] will override inexcusable conduct" . . . sufficient to restore the public's trust in the judge's ability to faithfully execute his or her duties. . … "[A] cornerstone of our democracy" is the integrity of our judiciary . . ., and judges must be mindful that their actions "reflect, whether designedly or not, upon the prestige of the judiciary". . ..

Matter of Restaino, 10 NY3d 577, 590 (2008) (citations omitted). This is such a

case. We find that respondent irreparably damaged confidence that he can be and appear to be fair and impartial which is essential for every judge.

As Court of Appeals has held, "[w]e cannot view petitioner's actions and the appropriate sanction through a limited prism but must instead consider the full spectrum of [his] behavior and its impact on public perception of the judiciary . . .." *Matter of Astacio*, 32 NY3d 131, 137 (2018) (citations omitted) "[T]he perception of impartiality is as important as actual impartiality: Judges must conduct themselves 'in such a way that the public can perceive and continue to rely upon the impartiality of those who have been chosen to pass judgment on legal matters involving their lives, liberty and property . . ..'" *Matter of Duckman*, 92 NY2d 141, 153 (1998) (citations omitted) As the Court of Appeals held in *Matter of Schiff*, 83 NY2d 689, 693 (1994), a racist remark "even if isolated, 'casts doubt on [petitioner's] ability to fairly judge all cases before him', and seriously violated the governing rules related to his duty to uphold the integrity and impartiality of the judiciary and to avoid even the appearance of impropriety." Here, the public, particularly Black litigants, attorneys and others, cannot have confidence that respondent will be fair and impartial when they appear before him.

Moreover, respondent's misconduct was exacerbated by his failure to accept responsibility for his statements, his minimization of the misconduct and his failure

to understand the impact of his use of the racial slur, which "strongly suggests that, if he is allowed to continue on the bench, we may expect more of the same." *Matter of Bauer*, 3 NY3d 158, 165 (2004) In addition, respondent's two prior Letters of Dismissal and Caution, particularly the letter he received only two months before the instant conduct, and his lack of credibility regarding his awareness of the injuries Ms. D had sustained also aggravated his misconduct. Given the totality of the evidence, we find that respondent has forfeited the ability to preside as a judge with the confidence of the public in his integrity and impartiality.

By reason of the foregoing, the Commission determines that the appropriate disposition is removal.

Mr. Belluck, Ms. Grays, Judge Camacho, Mr. Cambareri, Mr. Doyle, Judge Falk, Ms. Golston, Ms. Moore, Judge Moulton and Mr. Raskin concur.

Judge Fried did not participate.

CERTIFICATION

It is certified that the foregoing is the determination of the State Commission on Judicial Conduct.

Dated: March 12, 2026

Celia A. Zahner, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct