

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

RICHARD F. OLCOTT,

a Justice of the Elizabethtown Town Court,
Essex County.

**AGREED
STATEMENT OF FACTS**

Subject to the approval of the Commission on Judicial Conduct

(“Commission”):

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission, and the Honorable Richard F. Olcott (“Respondent”), who is represented in this proceeding by Andrew J. Russell, Esq., that further proceedings are waived and that the Commission shall make its determination upon the following facts, which shall constitute the entire record in lieu of a hearing.

1. Respondent has been a Justice of the Elizabethtown Town Court, Essex County, since January 1, 2020. Respondent’s term expires December 31, 2023. Respondent is not an attorney.

2. Respondent was served with a Formal Written Complaint dated January 9, 2023. He filed an Answer dated February 2, 2023.

As to Charge I

3. In January 2022, Respondent dismissed a traffic ticket that had been issued to his son, Joshua Olcott, notwithstanding that the matter was assigned to Respondent's co-judge, and notwithstanding that he was prohibited by Section 14 of the Judiciary Law from taking any part in proceedings in which his son was a party.

As to the Specifications to Charge I

4. At all times relevant to the matters herein, Peter Deming served as Respondent's co-judge in the Elizabethtown Town Court.

5. Section 14 of the Judiciary Law states in part as follows:

A judge shall not sit as such in, or take any part in the decision of, an action, claim, matter, motion or proceeding to which he is a party, or in which he has been attorney or counsel, or in which he is interested, or if he is related by consanguinity or affinity to any party to the controversy within the sixth degree. The degree shall be ascertained by ascending from the judge to the common ancestor, descending to the party, counting a degree for each person in both lines, including the judge and party, and excluding the common ancestor.

6. Joshua Olcott is Respondent's adult son and is within the first degree of relationship to him, as measured pursuant to Section 14 of the Judiciary Law.

7. On January 10, 2022, Joshua Olcott received a traffic ticket for operating an Unregistered Motor Vehicle. The ticket was returnable on February

10, 2022, in the Elizabethtown Town Court. A copy of Joshua Olcott's Uniform Traffic Ticket is annexed as Exhibit 1.

8. Joshua Olcott's ticket was returnable on February 10, 2022, before Respondent's co-judge, Peter Deming, who was scheduled to preside that day. Respondent's next scheduled court date was January 20, 2022.

9. On January 12, 2022, *i.e.* two days after receiving the ticket, Joshua Olcott registered his vehicle with the New York State Department of Motor Vehicles.

10. Between January 10, 2022, and January 20, 2022, Respondent and Joshua Olcott communicated about Joshua's ticket and how to handle it. Joshua gave his Uniform Traffic Ticket to Respondent.

11. On January 20, 2022, *i.e.* Respondent's next scheduled court date, Respondent asked Essex County First Assistant District Attorney Michael Langey about resolving Joshua Olcott's ticket. Joshua was not present. Respondent did not disclose his relationship with Joshua to Mr. Langey, who was unaware that the two were related. Respondent told Mr. Langey that Joshua had registered his vehicle. Although Respondent did not document this claim, Mr. Langey relied upon his representation, which was accurate, that the vehicle had since been properly registered.

12. On January 20, 2022, Mr. Langey filled out a Memorandum of Plea Agreement, in which he wrote that Joshua Olcott's traffic ticket was dismissed "in furtherance of justice CPL 170.40" on the grounds of "Registration now valid." Mr. Langey and Respondent signed the Memorandum of Plea Agreement, and Respondent dismissed his son Joshua's ticket. At the time of the dismissal, Joshua had not signed the Memorandum of Plea Agreement. After the fact, Respondent called Joshua, told him that his ticket had been dismissed, and asked him to come to the court to sign the Memorandum. Joshua did so. A copy of the Memorandum of Plea Agreement is annexed as Exhibit 2.

13. Respondent failed to mechanically record the *Olcott* proceeding, as required by Section 30.1 of the Rules of the Chief Judge (22 NYCRR §30.1) and Administrative Order 245/08.

14. By reason of the foregoing, Respondent 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, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules of the Chief Administrator of the Courts Governing Judicial Conduct ("Rules"); failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the

law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules, allowed a family relationship to influence the judge's judicial conduct, in violation of Section 100.2(B) of the Rules, and lent the prestige of judicial office to advance the private interest of his son, in violation of Section 100.2(C) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that he failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, initiated, permitted or considered *ex parte* communications, or considered other communications made to the judge outside the presence of the parties concerning a pending proceeding, in violation of Section 100.3(B)(6) of the Rules, and failed to disqualify himself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to because the judge knows that a person within the sixth degree of relationship to him is a party to the proceeding, in violation of Section 100.3(E)(1)(d)(i) of the Rules.

As to Charge II

15. From January 1, 2020, when he assumed judicial office, through March 2022, Respondent did not mechanically record any Vehicle and Traffic proceedings, notwithstanding the requirements of Section 30.1 of the Rules of the Chief Judge (22 NYCRR §30.1) and Administrative Order 245/08, which went into

effect on June 16, 2008, and provides that every town and village justice must mechanically record all proceedings in the court.

16. By reason of the foregoing, Respondent 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, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that he failed to maintain professional competence in judicial administration, in violation of Section 100.3(C)(1) of the Rules.

Additional Factors

17. Respondent has been contrite and cooperative with the Commission throughout this inquiry.

18. *Regarding the ticket to Joshua Olcott.* Respondent believed at the time that because his son had acted promptly to register his vehicle after being ticketed, disposition of the matter was ministerial and consistent with the way

similar tickets were disposed when motorists promptly registered their vehicles. However, he now recognizes that he should not have handled his son's traffic ticket under any circumstances, notwithstanding the prosecutor's consent to its dismissal, because it created an appearance of favoritism and undermined public confidence in the integrity and independence of the judiciary as a whole.

Respondent also recognizes that it was wrong for him not to advise ADA Langey that the recipient of the ticket was his son.

19. *Regarding the failure to record certain proceedings.* Respondent avers, and the Administrator has no evidence to the contrary, that from January 1, 2020, through March 2022, it was his general practice to mechanically record criminal and small claims proceedings, and that he mistakenly believed it was not required that he record Vehicle and Traffic Law matters. Respondent avers that, since April 2022, he has endeavored to mechanically record all proceedings, including Vehicle and Traffic matters.

IT IS FURTHER STIPULATED AND AGREED that Respondent withdraws from his Answer all denials or defenses inconsistent with this Agreed Statement of Facts.

IT IS FURTHER STIPULATED AND AGREED that the parties to this Agreed Statement of Facts respectfully recommend to the Commission that the

appropriate sanction is public Censure based upon the judicial misconduct set forth above.

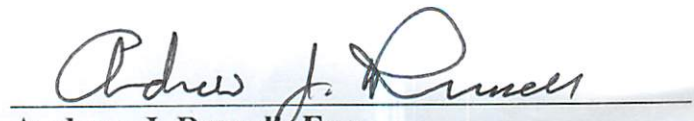
IT IS FURTHER STIPULATED AND AGREED that if the Commission accepts this Agreed Statement of Facts, the parties waive oral argument and waive further submissions to the Commission as to the issues of misconduct and sanction, and that the Commission shall thereupon impose a public Censure without further submission of the parties, based solely upon this Agreed Statement. If the Commission rejects this Agreed Statement of Facts, the matter shall proceed to a hearing and the statements made herein shall not be used by the Commission, Respondent or the Administrator and Counsel to the Commission.

Dated: 4/3/2023



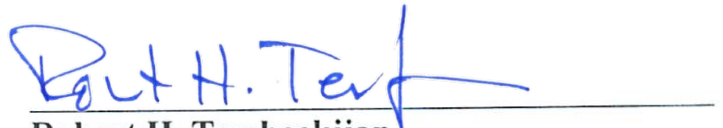
Honorable Richard F. Olcott
Respondent

Dated: 4/3/2023



Andrew J. Russell, Esq.
Attorney for Respondent

Dated: April 10, 2023



Robert H. Tembeckjian
Administrator & Counsel to the Commission
(**Cathleen S. Cenci and S. Peter Pedrotty, Of Counsel**)

New York State - Department of Motor Vehicles
UNIFORM TRAFFIC TICKET

3B87F0NCJG

POLICE AGENCY

NEW YORK STATE POLICE

To be completed by Police Officer and given to Motorist

Local Police Code

Last Name (Defendant)

OLCOTT

First Name

JOSHUA

MI

R

Number and Street
502 FOX RUN ROAD

Apt. No.

Photo Lic. Shown

City
ELIZABETHTOWN

State
NY

Zip Code
12932

Owner Oper

Plate Color
D

Client ID Number
916442041

Sex
M

Date Expires
08/11/2027

Lic. State
NY

Date of Birth
08/11/1977

Veh. Type
1

Year
2020

Make
JEEP

Color
GY

Plate Number
GXY9859

Reg. State
NY

Registration Expires
10/30/2021

THE PERSON DESCRIBED ABOVE IS CHARGED AS FOLLOWS

Time
2:51 PM

Date of Offense
01/10/2022

IN VIOLATION OF
NYS V AND T LAW

Section Sub Section

4011A

Tr Inf Misd Felony

MFH MFH Zone

Description of Violation
UNREGISTERED MOTOR VEHICLE (REG EXP 10/30/21)

US DOT#

CDL Veh Bus Har Mat

CDL Veh Bus Har Mat

Place of Occurrence
COURT STREET

Hwy. No
9N

Loc Code
1621

City Name
ELIZABETHTOWN, VILLAGE OF - 162

County
ESSEX

Hwy. Type
2

MI/CDL/2RI
11502

AFFIRMED UNDER PENALTY OF PERJURY

Date Affirmed
01/10/2022

Off Assign
B 3 31

(Officer's Signature)

Officer's Last Name
BONILLA

First Name
P

MI
L

Radar Officer's Signature

THIS MATTER IS SCHEDULED TO BE HANDLED ON THE APPEARANCE DATE BELOW

ELIZABETHTOWN TOWN COURT

Address
COURT ST., PO BOX 216

City
ELIZABETHTOWN

State
NY

Zip
12932

RETURN BY MAIL BEFORE OR IN PERSON ON:

Date
02/10/2022

Time
1:30 PM

MUST APPEAR IN PERSON ON:

A PLEA OF GUILTY TO THIS CHARGE IS EQUIVALENT TO A CONVICTION AFTER TRIAL. IF YOU ARE CONVICTED, NOT ONLY WILL YOU BE LIABLE TO A PENALTY, BUT IN ADDITION YOUR LICENSE TO DRIVE A MOTOR VEHICLE OR MOTORCYCLE, AND YOUR CERTIFICATE OF REGISTRATION, IF ANY, ARE SUBJECT TO SUSPENSION AND REVOCATION AS PRESCRIBED BY LAW.

Conviction may subject you to a mandatory surcharge and/or Driver Responsibility Assessment as prescribed by law.

Your failure to respond may result in a warrant for your arrest or suspension of your driver's license and/or a default judgement against you.

TO PLEAD BY MAIL
(NOT TO BE USED FOR MISDEMEANORS OR FELONIES)

- If you are pleading "GUILTY" by mail, place an "X" through SECTION B, then complete and sign SECTION A.

- If you are pleading "NOT GUILTY" by mail, place an "X" through SECTION A, then complete and sign SECTION B.

- Mail this form to the Court noted on the front of this ticket by First Class Mail or by Registered or Certified Mail. Return Receipt Requested.

- DO NOT use this form for misdemeanors or for a third or subsequent speeding violation in an 18 month period. Instead, you must appear in person in the court on the front of this ticket.

- If the Court denies your plea, you will be notified by mail to appear noted on the front of this ticket.

- You may be eligible for a payment plan. For more information, visit the court noted on the front of this ticket.

SECTION A - PLEA OF GUILTY

To the Court listed on the other side of this ticket:

I, _____, residing at _____ have been charged with the violation as specified on the other side of this ticket. I acknowledge receipt of the warning printed on the other side of this ticket, and I waive arraignment in open court and the aid of an Attorney. I plead GUILTY to the offense as charged and request that this charge be disposed of and a fine or penalty fixed by the court.

Additionally, make the following statement of explanation (optional):

All statements are made under penalty of perjury:

Date: _____ Signed: _____

SECTION B - PLEA OF NOT GUILTY

NOTICE: YOU ARE ENTITLED TO RECEIVE A SUPPORTING DEPOSITION FURTHER EXPLAINING THE CHARGES PROVIDED YOU REQUEST SUCH SUPPORTING DEPOSITION WITHIN THIRTY (30) DAYS FROM THE DATE YOU ARE DIRECTED TO RESPOND TO THE COURT NOTED ON THE OTHER SIDE OF THIS APPEARANCE TICKET. DO YOU REQUEST A SUPPORTING DEPOSITION?

Yes No

SUPPORTING DEPOSITION PROVIDED WHEN THIS TICKET WAS ISSUED?

NO SPEEDING (Gen 101)
GENERAL (Gen 101A)

Signature _____ Date _____

Address _____

City _____ State _____ Zip Code _____

NOTE: Mail this NOT GUILTY Plea within 48 hours. The court will notify you by First Class Mail of your appearance date.

APPLICANTS UNDER 18 YEARS OF AGE
MUST SUBMIT NAME AND ADDRESS OF PARENT OR GUARDIAN BELOW.

Name of Parent or Guardian _____

Address _____

City _____ State _____ Zip Code _____

FAILURE TO ANSWER THIS TICKET WILL RESULT IN THE SUSPENSION OF YOUR LICENSE AND A DEFAULT JUDGEMENT AGAINST YOU.

UT-50 (6/21)



3B87F0NCJG

Trooper/Officer _____

Memorandum of
Plea Agreement

-against-

Joshua Olcott Defendant

Original Charge(s)

- A. Expired Registration 401-1A Reduced to Dismiss in furtherance of Justice CPL 170.40
- B. _____ Reduced to _____
- C. _____ Reduced to _____
- D. _____ Reduced to _____

Reasons for Plea Agreement:

Registration now valid

- No promise made to sentence, in the Court's discretion
- Fine Per Court \$ _____ S/C \$ _____ (Fine amount will be set by and come directly from the Court)
- Clear Up Any License Suspensions/Revocations
- Defensive Driving Course (Proof of Completion to Court & DA within 60 days of Plea)
- _____ Hours Community Service (Proof of Completion to Court & DA within 60 days of Plea)

Motor Vehicle Accident Yes No

By signing this agreement, you are certifying that the information above is accurate and true to the best of your knowledge. Knowingly signing this plea offer with false or misleading information will render this agreement null and void.

The above constitutes the entire plea agreement between the People and the Defendant as to the disposition of the above original charge(s), and the Defendant by signing below, affirms that he/she consents thereto with the full appreciation of his/ her rights, including the right to counsel and to a trial, and being fully aware of the terms of this agreement and hereby waives the aforementioned rights, as well as the right to appeal the above disposition and any right to a restitution hearing.

THIS AGREEMENT IS SUBJECT TO THE APPROVAL OF THE COURT.

[Signature] For
KRISTY L. SPRAGUE
District Attorney

Joshua R. Olcott
Defendant

Attorney for the Defendant

Dated: JAN 20, 2022

Approved: [Signature]
Village/Town Justice