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Robert F. Julian

Stephanie A. Palmer

Richard Pertz, Of Counsel

December 17, 2024

VIA FEDERAL EXPRESS

Clerk's Office
State of New York
Court of Appeals
20 Eagle Street
Albany, New York 12207-1095

RE: Matter of Hon. Erin P. Gall
JCR-2024-00007

Dear Clerk:

Enclosed please find the following documents regarding the above-referenced matter:

1. Original and a copy of a Notice of Motion Pursuant to Part 530 Rules for Review of Determinations of the State Commission on Judicial Conduct Rule 530.8 Requesting the Permission of the Court for Withdrawal of the Pending Request for Review

2. Affirmation of Robert F. Julian, Esq.;

3. Affidavit of Erin P. Gall with attachment;

4. Check in the sum of $45.00, fee for filing the Motion.

RECEIVED
DEC 18 2024
NYS COMMISSION ON
JUDICIAL CONDUCT
ALBANY

Office Hours by Appointment only
5760 Commons Park, Suite 300, East Syracuse, NY 13057
Fayetteville, NY 13066

Also enclosed is an Affidavit of Service of the Motion, Affirmation of Robert F. Julian, Esq., and Affidavit of Erin P. Gall, with attachment upon Robert H. Tembeckjian, Esq., via Federal Express.

Respectfully,

Robert F. Julian /S

Robert F. Julian, Esq.

Cc: Robert H. Tembeckjian
Administrator & Counsel
NYS Commission on Judicial Conduct
Corning Tower, Suite 2301
Empire State Plaza
Albany, NY 12223

COURT OF APPEALS of the
STATE OF NEW YORK

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

ERIN P. GALL,

A Justice of the Supreme Court,
Fifth Judicial District, Oneida County

HONORABLE ERIN P. GALL,

Petitioner,

-against-

STATE OF NEW YORK,
COMMISSION ON JUDICIAL CONDUCT,

Respondent.

NOTICE OF MOTION
PURSUANT TO PART 530
RULES FOR REVIEW OF
DETERMINATIONS OF THE
STATE COMMMISSION ON
JUDICIAL CONDUCT RULE 530.8
REQUESTING THE PERMISSION
OF THE COURT FOR
WITHDRAWAL OF THE
PENDING REQUEST FOR
REVIEW

PAPERS PRESENTED: Affirmation of Robert F. Julian, Affidavit of Erin Gall with letter of resignation

RELIEF REQUESTED: Order granting Withdrawal of the Petitioner's Request for Review of the Determination in this matter or in the alternative granting Petitioner's request to submit without oral argument

MOTION RETURNABLE: December 30, 2024 at a time to be established by the Court.

Dated: December 17, 2024

Robert F. Julian, Esq.
ROBERT F. JULIAN, P.C.
Attorneys for the Petitioner
2037 Genesee Street
Utica, New York 13501
315-797-5610

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Respondent.

AFFIRMATION OF
ROBERT F. JULIAN

Robert F. Julian affirms under penalty of perjury as follows:

1. I am the attorney for Justice Erin Gall.

2. I spoke with Administrator and Counsel Robert Tembeckjian on Thursday, December 12, 2024, requesting that the Commission stipulate that pursuant to Section 530.10 of the Rules for Review of Determinations of the State of Commission on Judicial Conduct to the withdrawal of Justice Gall's request for review and advising him of Justice Gall's intent to resign.

3. Mr. Tembeckjian advised me that he had been instructed by the Commission not to so stipulate.

WHEREFORE on behalf of Justice Gall we move to the Court requesting:

a) That the Court grant withdrawal of the review or in the alternative, grant Petitioner's request to submit without oral argument.

b) Permit argument by submission.

Dated: December 17, 2024

Robert F. Julian, Esq.
ROBERT F. JULIAN, P.C.
Attorneys for Petitioner
2037 Genesee St.
Utica, New York 13501
315-797-5610

COURT OF APPEALS of the
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In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
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STATE OF NEW YORK,
COMMISSION ON JUDICIAL CONDUCT,

Respondent.

AFFIDAVIT OF
ERIN P. GALL

State of New York)

County of Oneida)

Erin P. Gall, being duly sworn, deposes and says:

1. On July 17, 2024, I was served with the decision of the Judicial Commission recommending removal.

2. On July 22, 2024, I received a notice of suspension.

3. On August 16, 2024, I submitted a request to the Court of Appeals for review of the Commission's decision to preserve my rights.

4. On August 19, 2024, the Court of Appeals issued a decision/order setting forth a briefing schedule. My attorney submitted a brief outlining what I believe to be meritorious

arguments. We received Commission counsel's response and submitted our final reply on October 22, 2024.

5. Throughout the months of September, October, and November, I updated my resume, reviewed job opportunities, applied to over 30 jobs and went on several interviews. I have been a Supreme Court Justice for 13 years and have cherished every moment in that role. The decision to no longer pursue review and abandon hope of remaining on the bench has been extremely difficult. I have experienced a range of emotions over the last 3 ½ months, wavering between fighting for my job and what is in the best interests of my family.

6. Immediately after the issuance of the Commission's decision, my story was carried by not only local but national news and social media. The attention incited numerous physical threats upon my family, requiring 24-hour law enforcement protection. In particular, my two sons received numerous death threats. The fear has been immeasurable and terrifying. I do not believe that I can move forward with arguing this appeal for fear that my family will be put in danger once again. I have two children in college and their colleges have been made public, putting them in serious harm. The decision to abandon my appeal has been one of the most difficult decisions I've had to make but I must put the safety of my family first.

7. I am enclosing my letter dated December 15, 2024, resigning as a Justice of the New York State Supreme Court.

8. There is no prejudice to the Commission should you grant my request for withdrawal because I am no longer opposing the Commission's recommendation for removal. I also agree to never seek judicial office in the future. I have resigned from my position and have no intention to remain on the bench even if I were to succeed before the Court of Appeals.

9. If the Court grants my motion to withdraw and upholds the recommendation of the Commission, I would ask that there be no specific findings other than removal to help lessen any potential harm to my family due to social media and national news exposure. I certainly do not think it fair to characterize my reactions as racially motivated and to stigmatize me with that finding based on the facts in the case.

10. In the alternative, if the Court denies my motion to withdraw, I ask that the Court take this matter on submission. Arguments by both sides have been set forth exhaustively in the pleadings. Oral argument will not serve any additional purpose other than additional trauma to myself and my family.

WHEREFORE, Petitioner is respectfully requesting an Order to Withdraw the Request for Review in this matter or in the alternative, granting Petitioner's request to submit without oral argument and for such other relief as to the Court may seem just and proper.

Erin P. Gall

Erin P. Gall

Sworn to before me this 17th day of December, 2024

Notary Public

ROSE M. GRIMALDI
Notary Public, State of New York
Reg. No. 01GR6030881
Qualified in Oneida County
My Commission Expires 09/20/2025

Erin P. Gall
[redacted]

December 15, 2024

Honorable Joseph A. Zayas
Chief Administrative Judge of the New York State Unified Court System
Office of Court Administration
25 Beaver Street
New York, New York 10004

[redacted]@nycourts.gov
sent via email and certified mail

Dear Justice Zayas:

Please accept this as my formal resignation from my position as Supreme Court Justice in the Fifth Judicial District, effective at the close of business on January 1, 2025. I have accepted a position that commences on January 2, 2025. I am sincerely grateful for the 26 years that I have spent in the court system both as a law clerk and Supreme Court Justice. It has been a pleasure working with the court employees, fellow judges and members of the bar and public. I will truly miss serving as a judge but am looking forward to a bright future.

Please let me know if there is anything else I need to do or anyone else that requires notice of my resignation.

Again, I appreciate the assistance that I have received from the leadership of the court system.

Sincerely,

Erin P. Gall

Erin P. Gall

cc: Hon. James Murphy via email: [redacted]@nycourts.gov
Hon. Deborah Karalunas via email: [redacted]@nycourts.gov