

# CENTER for JUDICIAL ACCOUNTABILITY, INC.

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## FAX COVER SHEET

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DATE: 6/26/98 TIME: 11:35am FAX #: 516-843-4880

TO: Sandra Paddi, Newsday  
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RE: Judicial Elections 3

FROM: ELENA RUTH SASSOWER, Coordinator

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MESSAGE: How's this for fast action?  
Enclosed is a terrific piece  
"No Justice for Judges"  
about the "screening" process  
in Suffolk

It appeared in The Long Island Top Horn  
April-May '94  
"Sarah Dugdale" is reachable through  
Joel Kupperman, Esq. 516-633-8747 (keeper #)

CENTER for JUDICIAL ACCOUNTABILITY, INC. is a national, non-partisan, non-profit citizens' organization documenting how judges break the law and get away with it.

# No Justice for Judges

By Sarah DuGoode

It seems odd that we Americans, who pride ourselves on being truly independent, are so willing to abdicate our most basic right, (the vote), to a political system controlled by an ever shrinking inner circle of men with questionable motives: political bosses.

A perfect example is the system by which we elect the members of our judiciary. Judicial candidates for the family, district, county, state supreme and the surrogate courts are supposed to be selected based on a set of criteria including knowledge of the law, legal training, temperament and other such qualifications. The Suffolk County Bar Association has a committee which screens potential judicial candidates and issues a rating of either qualified or unqualified. That process sounds reasonable until you explore the facts behind this fiction.

The SCBA judicial review committee is comprised of 12 lawyers, some of whom, no doubt, have political aspirations. If a candidate's name is proposed for consideration by one of the major party political bosses, it is likely that candidate will receive a "qualified" rating. If a candidate is attempting a primary challenge without one of the political bosses' blessing, it is highly unlikely that candidate will be found qualified by the review committee.

Consider the most recent case of three sitting judges who decided to take on Suffolk County Republican Party chairman, Howard DeMartini's handpicked candidates in a primary during the 1992 elections.

District Court Judges Rockwell Colaneri and Louis Ohlig were to be denied the nominations for a seat on the County Court, while Family Court Justice Joseph Klein was told he would not be given the nod for a District Court judgeship. Mr. DeMartini had other designs on the three open seats which these gentlemen were hoping to move up into on the judicial ladder.

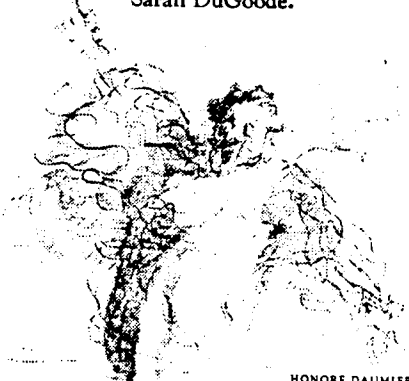
Mr. DeMartini had worked out a very cozy cross-endorsement deal with his Democratic Party boss counterpart Dominic Barenello. The backroom deal consisted of cross-endorsements for three Republican judges and three Democratic judges, effectively eliminating any real choice for the people on Election Day.

One might make the argument that if all the six judicial candidates selected by the party bosses were the best ones for the job there was no harm done. However, some of the bosses' picks were based solely on their political connections with little regard towards judicial qualifications. In the balance, when it became

We all rise when they enter the courtroom, but judges get no respect in the back rooms where political bosses make deals. The best judges seem most likely to get chewed up and spat out by the political machines.

Why does this go on?

Justice isn't blind, voters are, says Sarah DuGoode.



HONORE DAUMIER

clear that the three disenfranchised judges would not go away quietly like good political soldiers, the bosses saw fit to try and impugn their judicial credibility.

In the case of Justice Ohlig, the Bar Association screening committee found him "unqualified" to serve in the county court although he'd been found to be qualified on three previous occasions, one of which was for the state supreme court. For no apparent reason Ohlig, with many years on the bench, was found unqualified. Curiously enough, the committee found former Babylon Supervisor Arthur Pitts qualified despite the fact that Mr. Pitts hadn't practiced law in five years and had almost no criminal law training. In fact, Mr. Pitts was initially found unqualified by this same august committee just two days preceding his qualified rating. Upon review of his "qualifications" and testimony from four state supreme court justices who appeared before the committee on his behalf, the SCBA reversed its ruling and found Mr. Pitts qualified. At the time Judge Ohlig charged that "undue political influence" had been placed on certain members of the committee to change the ruling.

Although this account was widely publicized back then, the end result was that the six party-backed candidates won handily. The challengers were able to run on the Conservative line but, lacking a major party endorsement, stood little chance of winning. Voters were faced with the handpicked judges of Mr.

DeMartini and Mr. Barenello, judges who now owe their comfortable \$90,000 plus a-year jobs to the political bosses and a political system that some feel encourages lying, cheating and chicanery in the pursuit of controlling the outcome of public elections.

It would seem that such mischief might have made the party bosses lay low for a while, fearing some public backlash to these dealings but such was not the case. Not long after this coup Mr. DeMartini struck again in the form of dish-ing out a district court judgeship to one Robert Oliver. Mr. Oliver's link to the Republican Party first came to light during his reign as the Town of Islip's Ethics Committee chairman several years ago. He was tapped to fill out the term of another judge who was given a county court judgeship. After serving a short time as an incumbent county court judge, Mr. Oliver, as planned by the bosses, won his first full term in last year's election.

At the time a controversy was brewing over whether or not the Supervisor of that town, Frank Jones, had paid to have his personal income tax returns prepared by the accounting firm that had received a lucrative contract from the town for auditing services. Charges raised during the Supervisor's race that year would not go away and forced Mr. Jones to turn to the ethics board for a ruling on his alleged misconduct. Within days the chairman of the ethics board, Mr. Oliver, issued a letter stating that Mr. Jones had been formally cleared of any wrong doing in connection with his personal tax return preparation. At the time, Mr. Jones maintained that he did pay for the service but at first refused to provide evidence to that fact and later claimed that his wife had mistakenly thrown out the cancelled check that would have proven he paid for tax preparation services.

Mr. Oliver based his findings on the "fact" that he was informed by a member of the Supervisor's staff that Mr. Jones had paid for the service. Based on that "fact" Mr. Oliver did not question the matter further and gave Mr. Jones the much publicly touted letter of absolution just weeks before the election. Mr. Oliver also failed to examine the issue of residency regarding the town attorney at the time, Robert Cimino. Political opponents of Mr. Jones had pointed out for years that Mr. Cimino did not reside within the Town of Islip as required by municipal law. Mr. Cimino's address was listed in the phone directory as a residence in the posh community of Old Field.

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# NO JUSTICE FOR JUDGES!



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It therefore stood to reason that after Mr. Jones won reelection by a very large margin, one of his first acts was that of handpicking a new town attorney and in his view, the perfect man for the job was Mr. Oliver. The previous town attorney, Mr. Robert Cimino, was given the County Attorney's job with the Gaffney administration, once again a deal endorsed by the political junta.

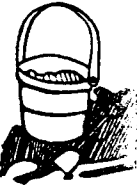
Was Mr. Oliver given this post for being a loyal worker at the time or because he is truly qualified to serve on the bench? One wonders whether Judge Oliver would be as circumspect on the value of hard evidence as was Mr. Oliver, ethics board chairman. If a defendant in his court should ask for a favorable ruling based on second hand statements in the absence of hard fact or corroborating evidence, will Judge Oliver say he'll allow it because he did when he was an ethics board chairman? It does cause one to wonder.

The judicial system in this state was supposed to be designed to keep politics out of the way of justice, yet there is overwhelming evidence to substantiate just the opposite argument. No doubt there are many judges currently sitting on the bench who are eminently qualified, but there is an increasing number who may not be. Candidates who are only there as a result of political patronage and backroom deals appear to be outpacing the other segment of the judiciary. This is not just limited to the good-old boy network, there are some examples of women who have attained such prized political plums.

It was widely reported during the 1991 campaign for state supreme court justice that A. Gail Prudenti, daughter of late Republican czar Anthony Prudenti, was given the nomination as a result of a deal made by her father just before his death. Ms. Prudenti, who is married to the current County Attorney Robert Cimino, had no judicial experience and was just out of law school a short time, yet she was anointed as highly qualified to serve on the bench in state supreme court by the SCBA screening committee. While applauding the fact that women are finally being nominated for the bench and acknowledging Ms. Prudenti as the first woman from Suffolk County to attain that position, the nagging question which remains unanswered is how great a role did politics play in her nomination when measured against her qualifications? Now there is a movement afoot to make Ms. Prudenti a Surrogate Court Judge. Surrogate is considered by many as the Holy Grail of judgeships. It bestows power, prestige and a substantial amount of taxpayer's money on the fortunate few who reign in those robes.

In another example, Nicolette Pach, who had been an assistant town attorney in Huntington, also picked up a seat on the bench in 1992 as part of the cross-endorsement deal between the party bosses.

Can it change, should it change, will it change? That will depend, we must presume, on the voters. It is the voters who must begin to pay closer attention to the candidates who are being given positions on the ballot for the judicial or any other elective office. The voters must also make an effort to learn who is placing these candidates on the ballots and for what purpose. If not, then we shall have only ourselves to blame for the government we are saddled with. Manipulation of the process by which public candidates for any office in government are chosen should raise eyebrows among the voters. Handing a judgeship to an attorney, just because he or she played ball with the big boys, doesn't allow for judges to be in a league of their own, especially when it's the political bosses who own the franchise.



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