

Sent by email August 4, 2018 at 9:59am to Judge Burress with copy to others including Thomas Kizer:

Dear Judge Burress,

This matter came to our attention following Judge Reader's decision to recuse himself after entering various orders granting the relief requested in your petition. Chief Judge Cavanaugh correctly observed that the circumstances strongly suggested that Judge Reader knew he should have recused himself prior to granting the petition. You may recall that much of the JTC complaint against Judge Brennan related to her alleged failure to recuse herself on various cases.

Chief Judge Cavanaugh demonstrated courage and integrity in vacating all orders that had been entered in the case. We agreed with Chief Judge Cavanaugh that a visiting judge from outside Livingston County should be assigned to hear the case based on the unusual circumstances of this case including intense lobbying by legislators. We conducted a blind draw from judges in adjacent counties. A case of this nature must be heard by an impartial judge not subject to pressure. From time to time SCAO has been asked by Chief Judges to appoint a visiting judge to handle certain types of cases that necessarily involve the personal interests of the bench as a whole without necessarily disqualifying each member of the bench. This is done to preserve the fullness of a fair and impartial tribunal, not just the appearance.

It is true that the initial order incorrectly characterized the assignment as based on disqualification. That this was in error is clear from the fact that none of the other judges in Livingston had been disqualified. That error was corrected.

I appreciate your concern for speed. However, if you have evidence that supports criminal charges, the Attorney General, State Police and the Livingston County Prosecutor are available. We are aware that the State Police have executed search warrants so I suspect law enforcement is already investigating.

Accordingly, I must decline your invitation to reconsider the appointment of Judge Mauer.

Cordially,  
Milton Mack  
State Court Administrator