

Probate Judge letter on Kathryn George

November 12, 2008

Posted on [November 12, 2008](#) by [david](#)

This is a fast post. I've been telling you that there is more to come and to pay attention to what's been going on in Macomb County. What follows is the complete text of a letter from Probate Judge Pam O'Sullivan. She's been beleaguered by the ineptitude of fellow judge, Kathryn George, newly reelected last week. An interim chief judge, Kenneth Sanborn, was assigned by the Supreme Court to keep a lid on there. The lid is off and what follows is a tale that beggars description. Supreme Court Administrator Carl Gromek is shown in his true colors.

The letter went to all the justices and my understanding is that a copy went to *The Detroit News*. That was last week and the *News* has been sitting on it. What's the deal? Not news?

Here's the letter:

November 3, 2008

Chief Justice Clifford W. Taylor.

Michigan Supreme Court

Hall of Justice

925 W. Ottawa Street

P.O. Box 30052

Lansing, MI 48909

Dear Chief Justice Taylor:

The time has come to set the record straight concerning the situation within the Probate Court of Macomb County.

While I was pleased to serve as the Chief Judge of the Court (starting in 2000 and continuing through 2007) I understand the validity in passing the experience and responsibility to other, newer judges. I have, after all, been elected as a Judge of Macomb Probate since 1994. My concern has always been the orderly functioning of this Court. In particular, the current disorder has come about largely through the inaction of the Michigan Supreme Court and the State Court Administrator's Office.

During my years as Chief Judge, I have had many occasions to work with and seek help from the State Court Administrative Office in reviewing and revising our Court's practices and procedures. As Chief Judge, it was my responsibility to see that we did our work acting in the public interest and welfare. For example, in 2001, I learned of several issues regarding the Probate Court's prior practices that concerned me, including the prior Judge's use of "referees" in a "quasi judicial" capacity without statutory authority. I requested a review of these practices by the State Court Administrator (then John D. Ferry) and received a report containing recommendations on February 13, 2002. We implemented each recommendation.

In 2002 I suspected possible misappropriation of County funds by the then-court administrator, Leonard Reinowski, and Probate Judge James F. Nowicki. I contacted State Court Administrator's Office and Macomb County Corporate Counsel and asked for investigation and review. The Michigan Supreme Court audited the finances and the State Court Administrator's Office reviewed the court's practice of handling "petty cash". As a result of the investigation, Administrator Leonard Reinowski was fired (he was later allowed to retire) and Judge Nowicki retired. Further, we implemented every recommendation of the State Court Administrator's Office and the Macomb County Finance Department.

In 2003, I heard allegations of mishandling of court guardianship and conservatorship cases by a Macomb County agency assigned by the court to act as guardian and/or conservator of wards (Macomb County Department of Senior Services). I requested an investigation by the State Court Administrator's Office, Macomb County Corporation Counsel, the Michigan State Police, and the Macomb County Prosecutor's Office. As a result of this investigation, the Agency was removed from every case and a Macomb

County Department of Senior Services employee and another involved person were convicted of felony charges. The Court implemented new practices and procedures to provide a more strict oversight.

On September 5, 2003, I summarized the progress made by the Macomb County Probate Court in addressing the court's compliance with statutes and court rules. This progress report was provided to then-Chief Justice Maura Corrigan and was received without contradiction. Subsequent to these investigations I again requested an audit to verify that the court's practices and procedures were consistent with statutory and court rule requirements.

In June 2004, John Ferry announced he was stepping down and in January of 2005 Carl Gromek was appointed by the Michigan Supreme Court to serve as State Court Administrator.

On May 20th, 2005, I again summarized the progress made by the Macomb County Probate Court in addressing the court's compliance with statutes and court rules. This progress report was provided to Chief Justice Clifford Taylor and was received without contradiction. That same year the State Court Administrator's Office retained The Whall Group to complete an extensive audit of the court's practices and procedures. Upon completion of this audit, the court prepared an action plan to address every recommendation. The court's action plan was prepared with input by both Judge George and myself as well as staff members. It was approved by the State Court Administrator's Office. Every recommendation was then addressed and implemented by the court with the exception of implementing a Kent county volunteer model GAL program (which was developed over 17 years) and the construction of a new court building (I had several meetings with the Macomb County Board of Commissioners to formally request their consideration in constructing a new court building).

In spite of all this progress, there were problems in the court. In particular, beginning in January, 2003 when Judge Kathryn George took office, she was-in my assessment-not able to do the job. She referred to the job as "part-time" and asked when she had to be here. As Chief Judge, I tried to find ways to improve her performance. I continued to request the assistance of the State Court Administrator's Office in addressing these issues-and others-within the court. On numerous occasions I had conversations with, sent correspondence to, and relayed faxes to the State Court Administrator's Office in an

effort to seek its assistance in addressing continuing problems regarding Judge George's failure or refusal to comply with the Court's practices, policies, and procedures. Without State Court Administrator's Office support, the situation simply did not improve.

In September, 2003, I sent a letter to Chief Justice Corrigan indicating that I was no longer requesting the Chief Judge appointment. Subsequently, Chief Justice Corrigan called to ask why I was withdrawing my request to be Chief Judge. I outlined in great detail the problems with Judge George. Chief Justice Corrigan requested time to look into the matter. She called back indicating that she was aware of the situation and asked that I reconsider accepting the Chief Judge appointment with her assurance that something be done about the problem. I agreed to do whatever she would request of me. Shortly after I received a call from Ms. Green asking how soon I could be prepared for the assignment of Judge George to Wayne County. Ultimately Judge George was assigned to Genesee County. Judge George remained in Genesee County for approximately six (6) months while Visiting Judges (including retired Judge Sanborn) were assigned to Macomb County to fill her absence. The Supreme Court reimbursed Macomb County over \$30,000.00 for the compensation for the Visiting Judges. I was reappointed to serve as Chief Judge for 2004-2005. When Judge George returned from Genesee County, the situation grew worse. Once again, I contacted the State Court Administrator's Office for help in addressing the continuing problems with Judge George. In particular:

- The State Court Administrator's Office was advised of concerns regarding Judge George's attendance as evidenced in the Judicial Absence Reports (which were filed annually). These reports showed excessive absences, yet the State Court Administrator's Office took no action.
- I contacted the State Court Administrator's Office regarding Judge George's excessive adjournments. I informed the State Court Administrator's Office that Judge George insisted on adjourning all of her cases when I would cover for her and would continue to adjourn her cases unless I brought in a visiting judge to cover. This made it difficult to provide coverage because she would not let me handle her cases.

The State Court Administrator's Office took no action.

- The State Court Administrator's Office was contacted on numerous occasions regarding Judge George's refusal to appoint guardians ad litem from the Court's list and the excessive GAL appointments being made by Judge George on her files.

The State Court Administrator's Office took no action.

- I expressed on numerous occasions concerns regarding Judge George's appointment of ADDMS/Alan Polack on files and what appeared to be a mishandling of these files by ADDMS/Alan Polack.

The State Court Administrator's Office took no action.

It was clear to me that the State Court Administrator's Office was no longer going to provide assistance or support for the Macomb County Probate Court especially in addressing problems arising out of Judge George's actions. Still, I tried one more time. In January of 2006, I met with Mr. Gromek, Regional Court Administrator Ms. Deborah Green, Judge George and Macomb County Court Administrator Mr. Donald J. Housey. I had hoped the meeting would provide an opportunity to discuss the continuing problems of Judge George's performance and receive assistance from the State Court Administrator's Office.

What happened next was outside my expectations. At the meeting, Mr. Gromek yelled at me that "This is bullshit and you should be ashamed of yourself. If I hear any more of this, I'm going to remove you as Chief Judge. Am I clear?" He was very clear. It was very clear to me that the State Court Administrator did not want to hear of any more problems or my court's concerns. It was disheartening to conclude that he would be of no assistance. That was our last meeting. I did not hear again from the Court's regional administrator for almost two years until December of 2007 when Ms. Green called to tell me that Judge George had been appointed as Chief Judge of Probate in Macomb County effective January, 2008.

That doesn't mean that I didn't continue to alert the State Court Administrator's Office of problems, issues and concerns. I did so through Barry Joseph-who had become our contact person and who consistently assured us that "the matter will be discussed with Deb Green".

In early 2008, there was yet another Whall Group audit performed on the Macomb County Probate Court. The findings of the audit released in May of 2008 reported serious irregularities in Judge George's conduct, including those I had raised to the State Court Administrator's Office almost two years earlier. The report also said I should have provided better oversight as chief judge. How much more oversight could I have provided?

The result is we now have an Acting Chief Judge in Judge Kenneth Sanborn. This series of actions has cost taxpayers in excess of \$150,000 and keeps growing at \$390 per day for Judge Sanborn's per diem. He's been quoted as saying Judge George and I just didn't get along and so we needed someone to referee us. This is not true. He's also told several people, including me, that "she (Judge George) is not able to do the work". As evidence, he has assigned every one of Judge George's Wills and Estate cases to me (approximately 85 percent of the court's work) and reduced Judge George's workload to mental adjudications and developmentally disabled guardianships. He has since agreed to conduct the Monday hearings himself. Meanwhile he has assured the Michigan Supreme Court that all is going much better under his supervision.

The problems persist and we are no closer today to resolution what we were in 2006 when I appealed to State Court Administrator, Carl Gromek. So, why didn't I report Judge Kathryn George to the Judicial Tenure Commission, that body in the state where alleged unsatisfactory judicial performance or bad judicial conduct is to be investigated and evaluated?

First, despite my conviction that Judge George's performance has been unsatisfactory and at odds with court rules, practice and procedure, I was hesitant to put the mark of a potential judicial censure, suspension or removal on her record; this is no light matter for any colleague.

Second, at that juncture there were extraordinary demands on my time: my husband was dying.

Third, given the climate in the State Court Administrator Office in Lansing I was sure that my complaint would be dismissed out of hand.

I've often worked with people in situations that are not cordial. And somehow-if we were committed to the job-we finished the work. I'm no frail reed and I can take the heat that may come out of this. What's important to remember is that when I've seen improper behavior I've tried to correct it. There is not much I could have done to correct the situation with Judge George if the State Court Administrator's Office and the Michigan Supreme Court chose to do nothing.

My focus and efforts are and have always been for the citizens of Macomb County who have elected me. I am committed to doing whatever I can to provide them with the justice they deserve even if I am the only one willing to do it.

All documentation referenced in this statement has been provided to the State Court Administrator's Office, Justices of the Michigan Supreme Court, Acting Chief Judge Sanborn and Judge Kathryn George.

Very truly yours,

PAMELA GILBERT O'SULLIVAN

Macomb County Probate Judge