

Leroy E. Leubner, Jr.
43 Mary St.
Auburn, N.Y. 13021-4854
315-255-2070

8/10/2000

Lawyer; Simon Moody
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Auburn, N.Y. 13021
315-253-4050

Judge Peter Corning
Family Court and Supreme Court
Cayuga County

Dates of incidents; 11/6/96 to present

Background Information;

Michelle Davis and I were married on January 15, 1982. Three children were born of this union; Melissa (12/20/83), Daniel (6/4/86) and Kimberly (12/31/89). We were legally seperated June 1992 (after she began a new relationship) and our divorce was finalized October, 1994. She was awarded physical custody of our three children, my interest in our lakeside home, and \$740.00 in monthly child support. In return, I was ordered to assume \$130.00 in monthly home equity payments, but was awarded joint custody of our children, liberal visitation and the right to claim two of them for income tax purposes.

In March 1995 I purchased a home down the street from the one I had shared for approximately one year with my girlfriend and her young daughter. All three of us moved in shortly after, and have lived here since. It should also be noted that this home was in the same school district as my children's.

This obviously infuriated my ex-wife, as she would often say "You should have no life without me", "You don't need a house" and "This is my family, that is yours". To this end, she began harrassing me personally and through Family Court. First, she tried to raise my support payments and garnish my wages without cause. When this was unsuccessful, she began to manipulate my children against me and restrict visitation. The proceedings of 3/20/96 illustrate this situation.

In my petition for this hearing I had requested an order of protection against Michelle, who had married the man with whom she was involved with at the time of our seperation. Stating that the level of harrassment was not sufficient for such an order, Judge Corning noted Michelle's obvious anger towards me. He went on to explain to her how it affected the children (causing the visitation difficulties) and told her it was in the best interests of the children to have as normal a relationship as possible with both parents.

On 4/12/96 we were back in court regarding child support. During these proceedings Michelle became very argumentative with Judge Corning, which prompted a lengthy lecture from him. He informed her that I had every right under the laws of contract to expect the divorce decree to stand, and without an extraordinary change of circumstances there would be no changes. Her anger and spite towards me in these proceedings must be noted; they are the basis for everything that happens afterwards.

On 11/6/96 we were again in front of Judge Corning (the third time in eight months) on my petition for visitation. Since the last appearance of 4/12/96 the visitation between myself and my older daughter Melissa and my autistic son Daniel had virtually ended. However, from the time Michelle received my petition (10/10) until the court date of 11/6 I was allowed regular visitation of all my children on a regular basis. Despite this, Judge Corning refused to enforce my right of visitation and order that my children visit (although Michelle's lawyer admitted that Daniel would generally visit if Melissa did). Instead of enforcing Domestic Relations Law regarding the rights of the non-custodial parent to visitation, Corning related a story of forced visitation he was party to as a "young lawyer" and how it deeply affected him, vowing never to force visitation. This personal opinion was recently restated candidly by Judge Corning in our local newspaper of 6/4/00 (see enclosed).

Taking into account his previous dealings with Michelle and her obvious anger towards me, his actions in this proceeding not only constitute a breach of duty and a denial of my First Amendment rights, they legitimize her use and abuse of my children as weapons against me. They also empowered her to continue her attempts to totally alienate my children from me.

Over the approximately next two years the situation worsened, with my older two children having very little contact with me. Knowing that Judge Corning would continue to refuse to enforce my lawful visitation rights, I began research to find a new avenue to address the situation. I did this research myself because it is common knowledge that no lawyer in this county would be willing to oppose or appeal a Judge Corning ruling for fear of being "blacklisted". I noted significant case law regarding mandated counseling and mediation as court-recognized methods of resolving visitation disputes. Knowing that Domestic Relations Law closely guarded the right of visitation of the non-custodial parent (to the extent that interference with visitation by the custodial parent would question that parent's fitness) and believing that an objective third party would easily note Michelle's manipulation of Melissa and Daniel, I again petitioned Family Court.

On 8/18/98 we were once again in front of Judge Corning. I requested mandated counseling and/or mediation, and my girlfriend Sherryl pleaded for some form of outside investigation into the situation. Judge Corning noted that it was "very abnormal" for Melissa to harbor such animosity towards me but, instead of scheduling a hearing (as required by law) and conducting an investigation into the underlying reasons for the situation (which he had been closely involved in for over two years), he dismissed my petition, stating "I'm not going to enforce visitation".

Judge Corning was bound by his oath of office to uphold the laws of New York State. His arbitrary refusal to do so (by enforcing my visitation rights) constitute official misconduct (Penal Law 195). Also, he not only violated my constitutional right to associate with my son and oldest daughter, he denied their right to associate with me. Finally, he denied my twelve-year old autistic son's right of counsel, as there was no one present at that hearing legally able to speak for him. Instead, without regard for Domestic Relations Law nor Daniel's welfare, he refused to intervene and allowed the "abnormal" situation to continue.

After my failed attempt of 8/18/98 to rectify the situation between myself and my children, things became worse. Daniel visited four times in the fall of 1998 and once in May 1999. Melissa still refused to visit, and Kimberly visited as regularly as allowed (I was denied any contact between December 1998 and February 1999). Meanwhile, Daniel's medical condition worsened, and he was becoming increasingly difficult to handle. In May 1999, with Michelle's consent, I made an appointment with a specialist for Daniel. However, when she heard that he was a "neuro-psychologist" Michelle abruptly refused to co-operate. When the school district and Child Protective Services refused to intervene, I was forced to cancel the appointment. Instead, I accompanied Michelle, her husband and Daniel to an appointment with a doctor of her choice in July 1999. At this time Michelle admitted that she had taken Daniel off his medication several months earlier. The doctor prescribed new daily medication that, after a rocky, three-week acclimation period, greatly improved Daniel's behavior and speech. I had become hopeful for his future.

On September 4, 1999 an early-morning fire destroyed Michelle's house and killed Daniel in his sleep. After an eighteen day investigation, Michelle was arrested, and eventually indicted on one charge of Murder 1, three counts of Murder 2, and one count of Arson 2.

Barron's Law Dictionary (Fourth Edition) defines criminal negligence as "recklessness or carelessness resulting in injury or death, as imports a thoughtless disregard of consequences or a heedless indifference to the safety and rights of others". Judge Corning held no regard for the rights or well-being of Daniel. He was reckless and careless in his duties as Family Court Judge. His disregard of the consequences of his inaction allowed Michelle to retain custody of my children, as a truly interested party would have clearly noted her inability to effectively cope with Daniel's disability. In short, if Judge Corning had properly done his job Daniel would still be alive. Therefore, I hold that he is criminally negligent in Daniel's death.

After the fire I petitioned for custody of my daughters. Judge Corning assigned a law guardian (finally) and, after receiving her report, awarded custody of Melissa to Robert Davis (her step-father, who has no legal standing), custody of Kimberly to me, visitation of Kimberly to Melissa and Mr. Davis, and stated that " the subject minor children may visit with Michelle Davis at the place of incarceration".

On 11/3/99 I was petitioned by Mr. Davis to Family Court. Using a false instrument by Davis alleging that I violated the order of 10/20/99, Judge Corning threatened to incarcerate me for six months. In a hearing held the same day Judge Corning mandated that Kimberly (a victim as well as a prime witness in the case against her mother) visit her mother at the County Jail (although her psychiatrist would later state that she should have had no contact after the arrest).

Upon her mother's release from jail on electronic home-bound detention, Kimberly was subjected to immense pressure from her mother, step-father and sister to alienate herself from me. Also, her mother fashioned an alibi for her actions of 9/4/99, and pressured Kimberly into changing her testimony to support it.

This situation came to light during the hearing of 2/25/00, where Michelle and Mr. Davis requested extended visitation of Kimberly. Instead of addressing the serious charge of witness tampering, however, Judge Corning brushed it aside. After hearing testimony stating that extended visitation would not be in Kimberly's best interest, Judge Corning adjourned the hearing. On 3/30/00, without further hearing, I received a court order in the mail extending the visitation.

Per the order of 10/20/99 transportation of Kimberly to and from visits was to be provided by Mr. Davis. However, on 4/14/00 Michelle drove to my house (although supposedly on home-bound detention) to pick Kimberly up. I filed a complaint with the Auburn Police Department and, on 4/18/00, filed a violation petition against Michelle and Robert Davis. Instead of a hearing date, I received an amended order on 5/1/00 allowing Michelle to drive to my house twice a week to pick Kimberly up and drop her off. This order also mandated that I remain in my house at these times, effectively placing me on "home-bound detention".

Throughout my Family Court history Judge Corning denied my constitutional parental rights without just cause, allowing Michelle Davis to alienate my children from me and, eventually, murder my son in his sleep. After this murder Judge Corning abused his discretionary powers in an effort to portray me in an unflattering light, while he allowed Michelle Davis unreasonable liberty and privilege. Inappropriate in it's own right, his conduct in Family Court becomes highly questionable when one considers that he also controlled Michelle Davis's criminal court proceedings at the same time. In this obvious conflict of interest, he conducted closed-door evidenciary suppression hearings and pressured the D.A. into accepting a plea of Manslaughter 1. Once accepted by the prosecutor, Judge Corning and the defense attorney immediately violated its' terms by asserting an "alternative sentencing" based on "Jenna's Law" in which they would claim that Daniel raped his mother the night she murdered him. When the D.A. resisted this effort, Judge Corning reluctantly scheduled a hearing (as required by law) into the matter. I supported this hearing, which would subject her alibi to public cross-examination. However, one week prior to its' being held, Judge Corning suddenly cancelled it and moved directly to sentencing.

On 6/8/00, with television cameras allowed in the courtroom for the first time in Cayuga County history, Judge Corning again violated the terms of the plea bargain by allowing the defense to read into the record without cross-examination testimony supporting Michelle Davis's rape story. Judge Corning then publicly stated that he accepted this testimony as fact, stated that I "was not a factor in the child's upbringing" and "had never been part of the child's life". After stating these obvious lies (he knew them to be false due to his close association with our prior Family Court history) he sentenced her to six years in prison (one year over the minimum). He also refused to address my request for restitution (her rights to the lakeside property) that I had included in the pre-sentence report, as mandated by law.

In short, Judge Corning was determined that this matter would never be brought to trial because a court of law would expose his culpability in the Family Court aspects of the case. In an effort to insure this he threatened to suppress Michelle's confession, prompting the D.A. into accepting the plea bargain. He then placed the entire blame for this crime on my dead son and myself, portraying Michelle Davis as the victim and keeping himself clear of any responsibility.

I hold that Judge Corning obstructed justice in order to obscure his criminally negligent acts in Family Court. His involvement in the matter of "The People vs. Michelle Davis" is a clear and blatant conflict of interest, and a violation of the Judicial Code of Conduct. I would therefore ask that "The People vs. Michelle Davis" be returned to the Court of Appeals, where this miscarriage of justice may be reversed and the whole truth behind my son's murder be revealed. I would further ask that Judge Corning be removed from the bench immediately (without the option of voluntary retirement) and an investigation be held into these matters.

Finally, I would request that all criminal matters regarding Judge Corning be referred to the Attorney General, as I believe a Special Prosecutor may be necessary to fully investigate his conduct in this and several other past criminal proceedings.

In conclusion, it must be noted that Judge Corning continues to commit acts of injustice against myself and my family. On 6/26/00 Robert Davis again petitioned for extended visitation of Kimberly. Disregarding his lack of standing, his history of inappropriate conduct with Kimberly, and detailed psychiatric and law guardian reports advising against it, Judge Corning granted his request. On 7/25/00 I received the "temporary" order allowing Mr. Davis extended visitation, in which he may take Kimberly (against my wishes) to visit her mother at Bedford Hills Correctional Facility. I still await the scheduling of the promised hearing into this matter.

Enclosed please find the court minutes from all the above-mentioned proceedings, as well as appropriate court orders and the police report of 4/14/00. Also enclosed are the majority of the articles published in our local newspaper regarding this case. Please take the time to read them; they portray the totality of Judge Cornings' involvement in the defense of Michelle Davis.

Awaiting your reply

Leroy E. Leubner,



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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STAFF ATTORNEY

CONFIDENTIAL

August 15, 2000

Mr. Leroy E. Leubner, Jr.
43 Mary Street
Auburn, New York 13021-4854

Dear Mr. Leubner:

This is to acknowledge receipt by the State Commission on Judicial Conduct of your complaint dated August 10, 2000.

Your complaint will be presented to the Commission, which will decide whether or not to inquire into it. We will be in touch with you after the Commission has had the opportunity to review the matter.

For your information, we have enclosed some background material about the Commission, its jurisdiction and its limitations.

Very truly yours,

John J. Postel
Chief Attorney

JJP:lp

Enclosure

HON. EUGENE W. SALINGER, CHAIR
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December 21, 2000

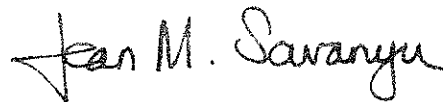
Mr. Leroy E. Leubner, Jr.
43 Mary Street
Auburn, New York 13021-4854

Dear Mr. Leubner:

The State Commission on Judicial Conduct has reviewed your letter of complaint dated August 10, 2000. The Commission has asked me to advise you that it has dismissed the complaint.

Upon careful consideration, the Commission concluded that there was no indication of judicial misconduct to justify judicial discipline. The Commission is not a court of law and does not have appellate authority to review the merits of matters within a judge's discretion, such as the rulings or the decision in a particular case. Judges by law have broad discretion to make rulings and decisions, and the law precludes the Commission from interfering in that discretion.

Very truly yours,



Jean M. Savanyu

JMS:ld