



NEW JERSEY SENATE

SENATE CHAMBERS

P.O. Box 099

TRENTON, NEW JERSEY 08625-0099

July 5, 2019

The Advisory Committee on Judicial Conduct
Richard J. Hughes Justice Complex
PO Box 037
Trenton, NJ 08625-0037

To The Members of the Advisory Committee on Judicial Conduct,

As state senators representing Middlesex County, we are requesting an investigation into the judicial conduct of Superior Court Judge Marcia Silva and her disturbing ruling in a case where she unequivocally stated that a twelve year old rape victim suffered no injuries beyond losing her virginity at an age when the girl had no capacity to consent to sexual acts. We unanimously believe that a detailed investigation must result in Judge Silva's removal from the bench.

Below is the most unacceptable section of Judge Silva's ruling:

"... The victim claimed that the [j]uvenile pushed her, grabbed her hands, removed her clothing and then penetrated her without her actual consent. ... However, beyond losing her virginity, the State did not claim that the victim suffered any further injuries, either physical, mental or emotional..."

The State of New Jersey's Code of Judicial Conduct, Canon 1, states that, "A judge...shall uphold and should promote the independence, integrity, and impartiality of the judiciary."

According to the rules covering judicial conduct, Judge Silva's actions, along with the international attention they have received, have undeniably weakened the integrity of the New Jersey court system.

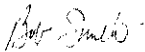
The judge's ruling also appears to violate Cannon 3 of the Code of Judicial Conduct that, "A judge shall perform the duties of judicial office impartiality and diligently."

In fact, the Appellate Court has already determined that this judge has failed to maintain professional competence:

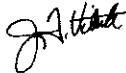
"...It was not the judge's role to essentially try the matter or substitute her judgment for that of the prosecutor...The judge, ... discarded in its entirety each and every reason afforded by the State. In the process of doing so, errors of law occurred, ... The judge not only failed to apply the abuse of discretion standard, she mistakenly applied her judgment in doing so, ...It may be... that waiver to adult court "is the single most serious act that the juvenile court can perform. ...the decision does not mean the court may usurp the prosecutorial function. It was the family court's role to determine if the prosecutor's decision was an abuse of discretion, not whether, in her opinion, after assessing legislative history, independently assessing the credibility ..., and assessing how much or little harm was inflicted on the victim, the offense warranted being addressed in adult court.
- SUPERIOR COURT OF NEW JERSEY, APPELLATE DIVISION, DOCKET NO. A-0533-18T4, Decided June 17, 2019

We appreciate your prompt review of this matter.

Sincerely,



Bob Smith
State Senator



Joseph Vitale
State Senator



Linda Greenstein
State Senator



Patrick Diegnan
State Senator