

[1]).¹

Petitioner served as Family Court Judge from January 1, 1985 until he resigned on April 5, 2012. The catalyst for his resignation was the allegation that, in 1972, when petitioner was 25 years old, he had engaged in sexual misconduct involving a five-year-old girl. While the exact events are subject to dispute, petitioner has admitted to sexual contact with the child, which he has described as indefensible.

The complaint consisted of a single charge, alleging that petitioner should be disciplined for violating sections 100.1 and 100.2 (A) of the Rules Governing Judicial Conduct (22 NYCRR 100.1, 100.2 [A]). The Commission sustained the charge and ordered petitioner's removal, finding that his admissions, by themselves, without consideration of the complainant's testimony, provided a sufficient basis for the determination. Two Commission members dissented in part on the ground that petitioner removed himself from his judgeship by resigning, and that post-resignation removal proceedings "served no purpose" in this case.

We measure the necessity for removal "with due regard to the fact that Judges must be held to a higher standard of

¹ Judiciary Law § 47 provides the Commission and this Court with continued jurisdiction over a judge who resigns from office to prevent the judge from circumventing removal and then seeking judicial office in the future (see Matter of Backal, 87 NY2d 1,7 [1995]).

conduct than the public at large" (Matter of Going, 97 NY2d 121, 127 [2001]). Because "relatively slight improprieties subject the judiciary as a whole to public criticism and rebuke," it is essential that we consider "the effect of the Judge's conduct on and off the Bench upon public confidence in his [or her] character and judicial temperament" (Matter of Aldrich v State Commn. on Jud. Conduct, 58 NY2d 279, 283 [1983]).

Upon our independent review of the record, we conclude that petitioner engaged in misconduct warranting removal from office by committing an act of moral turpitude involving a child. We agree with the Commission that petitioner's admissions, by themselves, are sufficient to warrant the finding of judicial misconduct. The admitted conduct undermined the integrity and impartiality of the judiciary and therefore rendered petitioner unfit for judicial office.

It is troubling that the petition is based solely on conduct that occurred 40 years ago -- 13 years before petitioner was elevated to the bench. Nevertheless, the misconduct alleged is grave by any standard. Further, the significant danger of fading memories is tempered somewhat under the circumstances of this particular case, where petitioner admits that conduct of this nature in fact occurred.

Petitioner's remaining arguments are without merit.

Accordingly, the determined sanction of removal should be accepted without costs, and petitioner should be removed from

the office of Judge of the Family Court, Onondaga County.

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Determined sanction accepted, without costs, and Bryan R. Hedges removed from the office of Judge of the Family Court, Onondaga County. Opinion Per Curiam. Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott and Rivera concur.

Decided April 25, 2013