

Williams v Board of Elections of the State of N.Y.

2025 NY Slip Op 34875(U)

December 15, 2025

Supreme Court, New York County

Docket Number: Index No. 164002/2025

Judge: Jeffrey H. Pearlman

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SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. JEFFREY H. PEARLMAN PART 44M

Justice

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INDEX NO. 164002/2025

MICHAEL WILLIAMS, JOSE RAMIREZ-GAROFALO, AIXA TORRES, MELISSA CARTY,

MOTION DATE 11/26/2025

Petitioner,

MOTION SEQ. NO. 005

- v -

BOARD OF ELECTIONS OF THE STATE OF NEW YORK, KRISTEN ZEBROWSKI STAVISKY, RAYMOND J. RILEY, PETER S. KOSINSKI, HENRY T. BERGER, ANTHONY J. CASALE, ESSMA BAGNUOLA, KATHY HOCHUL, ANDREA STEWART-COUSINS, CARL E. HEASTIE, LETITIA JAMES,

DECISION + ORDER ON MOTION

Respondent.

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The following e-filed documents, listed by NYSCEF document number (Motion 005) 65, 66, 67, 68, 69, 70, 71, 72, 73, 74

were read on this motion to/for REFER TO ANOTHER JUDGE

On November 26, 2025, Respondents Peter S. Kosinski, in his official capacity as Co-Chair and Commissioner of the Board of Elections of the State of New York ("BOE"), Anthony J. Casale, in his official capacity as a Commissioner of the BOE, and Raymond J. Riley, III, in his official capacity as Co-Executive Director of the BOE (collectively, "Respondents"), filed an Order to Show Cause requesting that this case be referred to another judge, pursuant to section 100.3 of the Rules Governing Judicial Conduct and Judiciary Law §§ 14 and 17. NYSCEF Doc. No. 65. Under 22 NYCRR § 100.3, a "judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities" and "shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." Under 22 NYCRR §§ 100.3 (E)(1)(a)(i), (b), "a judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned" including where "the judge has a personal bias or

prejudice concerning a party” and where “the judge knows that: (i) the judge served as a lawyer in the matter in controversy; or (ii) a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter.” Under Judiciary Law § 14, “[a] judge shall not sit as such in, or take any part in the decision of, an action, claim, matter, motion or proceeding to which he is a party, or in which he has been attorney or counsel, or in which he is interested.” Under Judiciary Law § 17, “[a] judge or surrogate or former judge or surrogate shall not act as attorney or counsellor in any action, claim, matter, motion or proceeding, which has been before him in his official character.” At the same time, “a “judge has an affirmative duty not to recuse himself but to preside over a case.” *Loreto v. Wells Fargo Bank, N.A.*, 107 N.Y.S.3d 810 (Sup. Ct. Monroe Cnty. Sep. 27, 2016).

The New York State Advisory Committee on Judicial Ethics Opinion 11-125 states that “the presiding judge is ordinarily in the best position to assess whether his/her impartiality might reasonably be questioned when an attorney whom the judge knows socially, with whom the judge is acquainted, or whom the judge considers a friend appears before him/her,” but provides guidance as to how judges should navigate different relationships with those who may appear before them in a case. The Committee delineates three types of relationships, acquaintances, close social relationships, and close personal relationships, along with ethical obligations that come with each relationship. *Id.* A person is an acquaintance when “interactions outside court result from happenstance or some coincidental circumstance such as being members of the same profession, religion, civic or professional organization, etc.” or when “situations that initially may appear to be personal or close but are in fact instances of ordinary social hospitality.” *Id.* When an acquaintance appears in front of a judge, “neither disqualification nor disclosure is required.” *Id.* A close social relationship, which must be disclosed “even if the judge believes

he/she can be fair and impartial” include more intimate social connections that do not rise to closer levels of friendship. *Id.* The Committee provides the following example: “an attorney worked for several years in the judge’s law firm while the attorney attended high school and college; worked for one year after graduating law school at a firm where the judge was a partner; subsequently maintained his/her own law practice in office space shared with the same law firm for two years; and for the last several years has maintained a personal relationship with the judge, during which time the judge’s children were members of the attorney’s wedding party; the judge, the attorney, and their spouses have dined together once a year; and the judge’s children cared for the attorney’s children, the judge and the attorney have a close social relationship.” *Id.* Finally, a close personal relationship, which compels recusal, is “is one where the judge and the attorney share intimate aspects of their personal lives” such as regular socialization or vacations, celebrating birthdays or holidays together, and confiding in one another. *Id.*

Judicial Ethics Opinion 08-133 states that a judge may preside over a case in which a former client is a party, so long as more than two years have passed since the representation ended, the judge was not involved in the case being litigated before them, and the judge “believes that he/she can be impartial, but only after disclosing the former attorney-client relationship, and in the absence of a meritorious objection.” Judicial Ethics Opinion 01-71 provides factors for evaluating the merits of an objection, “the amount of time elapsed since the last representation, the nature and duration of the representation, the nature of the instant proceeding, and whether there are any special circumstances creating a likely appearance of impropriety.”

At a hearing on November 7, 2025, in accordance with the ethics rules described above, the undersigned disclosed a series of professional connections that the undersigned had with

Respondents during his thirty-year career in Albany, as well as one close social relationship.

These disclosures were made specifically for the purpose of making clear that the undersigned had not represented any party in the last two years and that no relationship between a party and the undersigned would interfere with the impartial adjudication of this action. Respondents later filed this recusal motion.¹

Addressing the substance of the motion, the undersigned is not compelled to recuse on either statutory or discretionary grounds. Recusal is mandatory where a judge has worked on case or controversy at issue or where “a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter.” Judiciary Law §§ 14, 17; 22 NYCRR §§ 100.3(E)(1)(b). Here, neither standard is met. The undersigned never advised Respondent Governor Hochul, nor any other party on any issue being litigated in this case and the two-year period demanding recusal has passed, including several cases in which a decade or multiple decades has elapsed. It is also important to note that while Respondents assert that Respondent Governor Hochul appointed the undersigned as Director of the Authorities Budget Office, this is not the case. The undersigned was serving in that capacity in 2021 when former Governor Cuomo resigned. The undersigned was asked to take leave from that position to serve as Special Counsel in Respondent Governor Hochul’s gubernatorial transition; in 2022, the undersigned merely returned to the Authorities Budget Office in an acting capacity until departing the agency to become a judge. Respondent Governor Hochul never officially appointed the undersigned to the Director position.

¹ While Respondents counsel indicated that a motion for recusal would be made expeditiously given the time-sensitive nature of this matter, this motion was filed on November 26, 2025, at 4:34 pm, less than an hour before close of business on the evening before the Thanksgiving holiday. This prevented the motion from being processed until Monday, December 1, 2025, nearly a month after the first hearing in this matter.

Additionally, that the undersigned worked in the Executive Chamber at the time of the passage of the bill at issue cannot be reasonably construed as serving with an attorney who worked on the matter at issue under NYCRR §§ 100.3(E)(1)(b) for three reasons. First, the passage of the New York John R. Lewis Voting Rights Act is not at issue in this case, a particular application of the law is. Second, it is a mistake to assert that because an attorney has engaged with a law in any capacity, that, should the attorney become a judge, they should never be able to adjudicate a claim involving said law. *See Keefe v. Third Nat'l Bank*, 177 N.Y. 305, 312 (1904). Third, the notion that serving as counsel in the Executive Chamber should bar a judge from *all* issues that were worked on during their service would have far-reaching implications. As stated on the record, hundreds of bills cross a governor's desk each year, the vast majority of which may never have been seen by a given member of that governor's legal team. While there are, of course, occasions where recusal is appropriate, to treat Executive Chamber employment as a bar to adjudication due to mere association is untenably sweeping. Further, the undersigned, while previously connected to several Respondents, these relationships have no bearing on the undersigned's approach to this matter, satisfying the requirements of 22 NYCRR §§ 100.3.

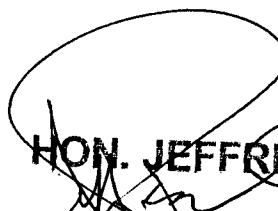
Discretionary recusal is also unnecessary. While a close personal relationship demands recusal according to Judicial Ethics Opinion 11-125, no relationship between the undersigned and any party in this case rises to that level, as explained on the record in the November 7, 2025 and December 11, 2025 hearings.

It is also important to make note of the fact that Article III, § 5 of the New York State Constitution requires the judiciary to decide matters related to redistricting expediently. *See Harkenrider v. Hochul*, 38 N.Y.3d 494 (2022). In addition to the undersigned's belief that

recusal is unnecessary on the merits, the Court’s affirmative duty to preside over the case, its constitutional obligation to hear this case expeditiously, and the undersigned’s role as election judge for New York County collectively lead the Court to believe that when balancing its various responsibilities, holding this case is the proper course of action. *Loreto v. Wells Fargo Bank, N.A.*, 107 N.Y.S.3d 810 (Sup. Ct. Monroe Cnty. Sep. 27, 2016)

Based on the reasoning above, it is hereby **ORDERED** that Respondent’s motion is denied.

12/15/2025
DATE


HON. JEFFREY H. PEARLMAN

JEFFREY H. PEARLMAN, J.S.C. **J.S.C.**

CHECK ONE:	<input type="checkbox"/>	CASE DISPOSED	<input checked="" type="checkbox"/>	DENIED	<input checked="" type="checkbox"/>	NON-FINAL DISPOSITION		
APPLICATION:	<input type="checkbox"/>	GRANTED				GRANTED IN PART	<input type="checkbox"/>	OTHER
CHECK IF APPROPRIATE:	<input type="checkbox"/>	SETTLE ORDER				SUBMIT ORDER		
	<input type="checkbox"/>	INCLUDES TRANSFER/REASSIGN			<input type="checkbox"/>	FIDUCIARY APPOINTMENT	<input type="checkbox"/>	REFERENCE