



PARENTS FOR MEGAN'S LAW AND THE CRIME VICTIMS CENTER

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August 9, 2010

New York State Commission on Judicial Conduct
61 Broadway
New York, NY 10006

Honorable Commission Members,

I am the Executive Director of Parents for Megan's Law and the Crime Victims Center (PFML/CVC) of Stony Brook, New York. We are a crime victim advocacy organization advocating for IK and her children, age 7, age 5 and IK age 3, in the case of Dennis DeMille II versus IK in Family Court of the State of New York, County of Suffolk: Part 2 which concerns the application by Dennis DeMille II to modify visitation seeking overnight visits with the children.

I am filing this complaint to respectfully request an investigation into the irreprehensible manner in which this case was handled by Judge Andrew G. Tarantino and further investigation into the bias that he appears to exude on cases involving sexual abuse allegations or sex offenders.

In the specific case cited, Judge Andrew G. Tarantino, Jr. exhibits a blatant disregard for the facts and improper demeanor and consistently fails to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Along with IK a PFML/CVC crime victim advocate witnessed his highly inappropriate comments during these judicial proceedings and has reported that his behavior in the courtroom was arrogant, sarcastic, dismissive, insensitive and abhorrent. It is well known amongst law guardians and County Attorneys in the Cohalan Court Complex that Judge Tarantino's behavior and bias on sex abuse cases has escalated to the outrageous. Judge Tarantino is often characterized as the Cohalan Court Complex "Champion for Sex Offender Rights" and "Abusive" to witnesses who present evidence or testimony that impedes his ability to justify his seemingly predetermined positions.

Dennis DeMille II is a registered Level 2 sex offender having pled guilty to possessing child pornography (19 images of girls aged 10-13) and sexually victimizing a child less than 17 years of age. Detective Frank Giardina, of the Suffolk County Police Computer

Crimes Unit, testified that Dennis DeMille II confessed to possessing child pornography on discs.

- Judge Tarantino ordered Computer Crimes Detective Giardina to produce the child pornography images. During a discussion on the record, Judge Tarantino with **callous disregard joked**, "I could have Officer Newell do little stick pictures and we'll label them. You can do an artist's rendition" (Attachment A 01/12/2010, page 21). Judge Tarantino's lack of sensitivity toward child victims is clearly demonstrated by his finding **humor in the subject of child pornography** and in dehumanizing and relegating victims to being represented as "**stick pictures**". No reasonable person, especially a judge, would find humor in the sexual victimization of children, unless they were trying to excuse the inexcusable, those who possess child pornography or profit from the sexual victimization of children.
- Following Detective Giardina's testimony, Judge Tarantino on the same issue, stated "**it sounds like we're studying Constitutional Law 101 where we have to determine whether or not a picture is pornography or artwork and I may have to refresh my notes from law school to determine, after I look at these pictures whether or not they are, in fact, pieces of art or pornography**" (Attachment A 01/12/2010, page 40). Although a determination had already been made in criminal court that the images were child pornography and Judge Tarantino's statements are highly inappropriate, one would ask why the Judge insisted on viewing this child pornography if he **NEVER** commented or ruled whether the child pornography was in his opinion, "pornography or artwork".

The following was also offered to Judge Tarantino for consideration, "Mirroring the words of Judge Freundlich, in his 2008 neglect decision, which is N.Y. Misc. LEXIS 705, child pornography is so vial and abhorrent to the fabric of our society, it's not afforded any First Amendment protection. Anyone having such items in their possession would be a risk to any child" (Attachment D, page 62).

Dennis DeMille II was ordered to engage in parenting classes, sex offender treatment, complete a mental health evaluation and follow all recommendations and a domestic violence program. Judge Tarantino initially expressed that there would be no visitation until Mr. DeMille engaged in these programs and there were positive reports to that effect. Despite Mr. DeMille's failure to make substantial progress in the mandated programs, Judge Tarantino ordered therapeutic visitation with the children which transitioned to supervised visitation with Mr. DeMille's parents.

- Judge Tarantino refused to allow or consider the testimony of an expert witness on the recidivism rate amongst sex offenders stating, "for all I know, he (Dennis DeMille II) can be the **one golden person** in all the years of recidivism that may be excelling" (Attachment A 01-29-2010 Page 63). Judge Tarantino's refusal to consider expert testimony on the recidivism rates of sex offenders precluded him from possessing or having on the record information crucial to his assessing the heightened risk of overnight visitation and potential risk increased unsupervised access would place the

DeMille children in. By his decision is he proclaiming that Dennis DeMille II is the one **"golden person"** among registered sex offenders he referred to on the record?

- Despite the lack of consent by Child Protective Services, the attorney for the children and the Probation Officer supervising Dennis DeMille II, Judge Tarantino approved Mr. DeMille's parents as the supervisors for his contact with the children - after directly questioning the paternal grandparents, with no formal hearing called. The agency remains deeply concerned that **Judge Tarantino disregarded statements the paternal grandparents made to the CPS worker; blaming the child Mr. DeMille had sexually victimized as having pursued him.** Those who sexually victimize children often justify their crimes by blaming the victim. Mr. DeMille's parents are clearly not appropriate to supervise minors in the presence of a sex offender if it is their belief that their son was somehow "pursued" sexually by a child. Judge Tarantino demonstrates a bias and his decision is clearly not in the best interest of the children.
- When Mr. DeMille II sought only a regular visitation schedule, Judge Tarantino acted as his **"Champion"** and despite the absence of any language requesting overnight visitation, Judge Tarantino determined, on his own, that Dennis DeMille II was seeking overnight visitation at his parents' home. In fact, Mr. DeMille II specifically cites Judge Tarantino as encouraging him to file the petition (Attachment B, page 2).
- The social worker for the Children's Law Bureau testified that she had interviewed the children many times and that _____ reported being alone with the father in his bedroom and that the children reported going ice skating and visiting Santa with Mr. DeMille and the paternal grandparents – a violation of Mr. DeMille's Probation. Clearly Mr. DeMille's parents are not providing adequate supervision if they are placing the children at risk and facilitating the violation of his conditions of probation. **Judge Tarantino minimizes Mr. DeMille's probation violations and attempts to advocate for him.** The Judge asks the Probation Officer if he ordered Mr. DeMille to take his children to locations probation had restricted him from, if that order would stand. Probation stated that Mr. DeMille would be in violation. Not being happy with the Probation Officer's answer, Judge Tarantino sought a contrary determination from Mr. DeMille's attorney (Attachment A, 01/12/2010 page 62). Judge Tarantino appears to be seeking to bolster his pre-conceived position.

Judge Tarantino joked **about sex offender treatment** on the record. The Court asked the witness "How do you then treat sexual addicts?" The Witness replied, "With relapse prevention. The Court replied, **"A little electronic device, the keyboards – no. I'm sorry."** (Attachment A – 01/29/2010, page 71). Clearly Judge Tarantino's humor directed at sex offender treatment appears to be indicative of a **prejudgment, sympathy, lack of confidence in the necessity for, or the efficacy of, such treatment and/or bias** as to how he views sex offenders who are in treatment. A judge cannot claim humor as a defense to such conduct and must be held accountable to explain his position on this and other inappropriate statements he has made.

Judge Tarantino granted overnight visits citing the desire of the children; citing that the child's attorney's own expert witness (Constance Augustyn) stated that Dennis DeMille is not a sexual predator; and stated that "**Critical** to the court's decision is the testimony of the father's sex offender therapist (Constance Augustyn). In her opinion, the father is not a predator (Attachment C 04/29/2010, page 6.) **This is significant as Ms. Augustyn NEVER testified that Dennis DeMille II was not a sexual predator**, in fact stating that she could not rule out that Dennis DeMille II was a sexual predator, but that she felt he was definitely a sex addict. Ms. Augustyn further testified that her office has made recommendations concerning visitation for sex offenders, but could not say they have ever recommended overnight visitation. **Again, Judge Tarantino exhibits personal bias by citing facts that are not in evidence.**

During the course of the trial, Judge Tarantino appears to be engaging in inappropriate interactions with the attorney for Dennis DeMille II, Richard Stettine, Esq., **that call into question his impartiality.** Examples include but are not limited to the following:

*The Court: Than that one, Mr. Stettine, I would presume you have an objection to that being introduced as part of this packet, because the detective himself did not retrieve it?

Mr. Stettine: Correct

The Court: How did I know you would do that?

Mr. Stettine: Because you are a good judge.

The Court: I've had you in here too many times, I can read you.

The Court: We haven't got to cross by Mr. Stettine.

Mr. Stettine: You just skipped me over because you knew I had no questions.

The Court: I was letting you go last.

Mr. Stettine: I don't have any questions.

The Court: Mr. Stettine, I'm ordering you to ask questions.

Mr. Stettine: Do you really want to go home?

The Witness: I would like to.

Mr. Stettine: No further questions.

***Attachment A 01/12/2010 Page 78.**

The Court: Ms. Cottone, thank you for your time.

The Court: You can both argue. When you're ready, let me know and I'll do my ruling.

Mr. Stettine: I thought you wanted to hear my objection.

The Court: I very often can rule without hearing. Sustained.

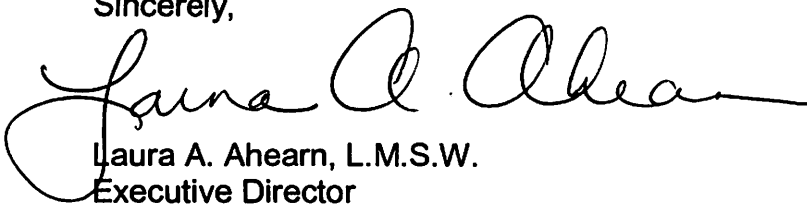
***Attachment A 01/22/2010 Page 85.**

Judge Tarantino's interactive style with Mr. Stettine was dissimilar with that of the other attorneys in this case.

The facts of this case are straightforward. Dennis DeMille II is a two time convicted and registered sex offender. He is convicted of possessing child pornography and having hands on sexually victimizing a child under the age of 17. Child pornography possessed by Mr. DeMille included prepubescent females. There is no testimony stating that Mr. DeMille is definitely not a sexual predator as Judge Tarantino mistakenly states was testified to by DeMille's therapist – testimony which he reports was critical to his decision. There is expert testimony that states that Mr. DeMille is a sexual addict. Serious questions of the adequacy of the current supervised visitation were raised which would call in to question why any reasonable person would consider expanding said visitation to include overnight visits. There is no testimony on the record that indicates overnight visitation is in the best interests of the children, and certainly none that would justify placing the children at increased risk of victimization. Judge Tarantino has exhibited a bias and a blatant disregard for the facts.

On behalf of _____ and in order to protect her three children who have been placed at increased risk, I respectfully and urgently request you investigate the conduct of Judge Tarantino in this case and do everything in your power to insure that the safety and best interests of these children and future children brought before the Court are protected.

Sincerely,



Laura A. Ahearn, L.M.S.W.
Executive Director