

Disqualification of Judges Charged with or Convicted of DWI Offenses or Domestic Violence Offenses

Directive #7-99
Issued by:

June 17, 1999
Chief Justice Deborah T. Poritz

This sets out and combines into one directive the provisions of three memoranda that I previously issued on behalf of the Supreme Court on this subject -- my May 19, 1997 memo regarding DWI disqualifications and my January 15, 1998 and February 2, 1998 memoranda regarding domestic violence disqualifications. This directive is not intended to make any substantive changes to the procedures set forth in those earlier memoranda; it essentially restates those procedures as established by the Court.

Driving While Intoxicated (DWI) Disqualifications (see Editor=s Note below)

Several years ago, the Supreme Court adopted an administrative policy in respect of judges who have been charged with or convicted of driving while intoxicated (DWI) or related offenses. The policy applies to all judges sitting in Municipal Court and Superior Court, including temporary assignments. Although the policy was disseminated informally through the Assignment Judges, the Court believes that the subject matter is important enough to warrant a written statement to all judges.

Judges charged with or convicted of DWI offenses shall not hear any DWI cases while the charges are pending and, if convicted, during the period of any driver=s license suspension. If, at the time the charges are brought, the judge has reserved decision in any DWI case, that case shall be transferred by the Assignment Judge to another judge.

The matter shall be determined on the papers unless the defendant objects. If the defendant interposes an objection, a mistrial shall be declared and the case will be retried before the judge to whom the matter was transferred.

The Court has further determined that a judge who has been disqualified from hearing DWI matters under this policy shall not thereafter hear such cases without the prior approval of the Supreme Court on the application of the judge. Supreme Court approval of an application to resume hearing DWI cases will not preclude a judge from exercising his or her power of recusal in any particular DWI case or in any category of such cases.

Domestic Violence Disqualifications (see Editor=s Note below)

At its January 5, 1998 Administrative Conference, the Supreme Court adopted a policy for assigning cases to judges involved in domestic violence matters. The policy applies to all judges who have been charged with or convicted of domestic violence or related offenses as well as judges who are complainants in a domestic violence matter, sitting in Municipal Court and Superior Court, including temporary assignments.

Judges charged with or convicted of domestic violence offenses and judges who are complainants in domestic violence matters shall not hear any domestic violence cases while the charges are pending and, if convicted, during the period any sentence is served. If, at the time the charges are brought, the judge has reserved decision in any domestic violence case, that case shall be transferred by the Assignment Judge to another judge. The matter shall be determined on the papers unless the defendant

objects. If the defendant interposes an objection, a mistrial shall be declared and the case will be retried before the judge to whom the matter was transferred.

The Court has further determined that a judge who has been disqualified from hearing domestic violence matters under this policy shall not thereafter hear such cases without the prior approval of the Supreme Court on the application of the judge. Supreme Court approval of an application to resume hearing domestic violence cases will not preclude a judge from exercising his or her power or recusal in any particular domestic violence case or in any category of such cases.

This supplements [the preceding paragraphs] regarding the assignment of cases to judges involved in domestic violence matters, and is intended to clarify the Supreme Court's policy on this statement. A judge against whom a temporary or permanent order of restraint has been issued shall not hear any domestic violence matters during the pendency of such an order. Furthermore, a judge disqualified under this policy may not automatically resume hearing domestic violence matters if a temporary order of restraint is vacated, or if the matter in which the judge is involved is concluded. Once disqualified under this policy, a judge must obtain the approval of the Supreme Court prior to hearing any domestic violence cases.

EDITOR'S NOTE

The text of the first section of this directive was originally issued as a May 19, 1997 memorandum to all judges (ADisqualification of Judges Charged with or Convicted of DWI Offenses®). [Originally stated as footnote 1 in this directive]

The first three paragraphs of the domestic violence disqualifications section of the directive were originally issued as a January 15, 1998 memorandum to all judges (ADisqualification of Judges Charged with or Convicted of Domestic Violence Offenses®); the fourth paragraph was originally issued as a February 2, 1998 memorandum to all judges (ADisqualification of Judges Charged with or Convicted of Domestic Violence Offenses -- Clarification of Supreme Court Policy®). [Originally stated as footnote 2 in this directive] No other changes have been made to this directive.