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**STATEMENT FROM THE EXECUTIVE BOARD OF THE ASSOCIATION OF CRIMINAL  
DEFENSE LAWYERS OF NEW JERSEY**

In media reports that surfaced last week, Superior Court Judges James Troiano and Marcia Silva became the subjects of immense scrutiny and scathing criticism from public officials and advocacy groups regarding decisions they rendered in connection with two unrelated sexual assault cases filed against two juvenile defendants in family court. In both cases, the judges denied the county prosecutors' motions to prosecute the sixteen (16) year old defendants in adult court rather than in juvenile court. In both cases, the New Jersey Superior Court's Appellate Division reversed the trial judges' decisions thereby allowing the State to prosecute the defendants in adult court.

The ACDL supports the independence of the judiciary. The ACDL believes the call by certain legislators to oust these judges based upon their **decisions** poses a real and significant threat to the independence of the judiciary. The ACDL also wishes to be clear that we do not support or countenance any reported statements contained in the judges' decisions that can be viewed as minimizing the seriousness of the alleged criminal conduct.

On July 5, 2019, NJ.com reported certain legislators issued statements calling for the removal of Judges Troiano and Silva based on certain comments made by each judge in rendering their respective decisions. The particular statements made by Judges Troiano and Silva and criticized by the legislators were contained in the Appellate Division's opinions. While the appellate court's opinions are public documents, it bears noting here that Judge Troiano's and Judge Silva's full opinions have been sealed and are not public documents which is the normal protocol for all juvenile criminal matters. For example, Judge Troiano's oral opinion, rendered from the bench over the course of more than two hours, is contained in a sealed sixty-five (65) page transcript and Judge Silva's decision is contained in a thirty-seven (37) page written opinion. It also noteworthy that the judges here were not deciding whether to dismiss the case, determine guilt or the appropriate sentence to impose if the defendants were to be convicted. Rather, the statements criticized by the legislators were made in the context of deciding whether the 16 year old boys should be prosecuted in juvenile court or as adults in the law division.

The ACDL is deeply concerned by the public statements issued by certain legislators seeking the immediate removal of these judges as a result of their decisions. One legislator went on to state it was "not nearly enough" that the appellate division reversed the judges' decisions and, without taking into account the overall history of both judges, concluded "Judge Troiano and Judge Silva should never again be given the privilege of presiding over a New Jersey Court."

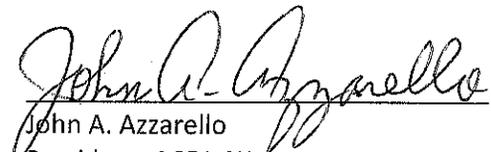
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While the ACDL supports the free and frank discussion of judicial opinions including disagreement with and criticism of judges' decisions, the ACDL strongly supports the independence of the judiciary. The ACDL firmly believes that judicial independence, much like the appellate review process, is one of the lynchpins of our criminal justice system. All New Jersey residents including public officials as well as advocacy groups must be free to disagree with, criticize judges and even condemn judges' decisions. The First Amendment is a testament to this right. So too must judges be free to apply the law to the facts as they find them without fear of retribution. This is especially true when they are threatened with removal from the bench by members of a co-equal branch of the government.

To be clear, the ACDL takes no position on whether the decisions rendered by Judges Troiano and Silva were correct. We should acknowledge the fact that our judicial system worked as it was intended in these two cases. Specifically, the county prosecutors' offices disagreed with the decisions rendered by Judges Troiano and Silva. Unlike the legislators, the prosecutors did not call for the removal of the judges. They appealed the trial judges' decisions to the Appellate Division where a panel of judges reversed the decisions handed down by the judges, thereby permitting the State to prosecute both juveniles in adult court. If counsel for the juveniles disagree with the appellate court's decisions, they can appeal to the Supreme Court but should not call for the immediate removal of the appellate judges. If the Supreme Court agrees with the appellate judges, then both juveniles will be prosecuted in adult court. If the Supreme Court reverses the appellate decision, then the juveniles will be prosecuted in juvenile court. Either way, the decision would be final and our constitutional procedures and protections for both the victim and the accused will have been upheld.

Sincerely,

  
John A. Azzarello  
President, ACDL-NJ