

California Legislature

June 9, 2016

Anthony P. Capozzi, Esq.
Chairperson, California Commission on Judicial Performance
455 Golden Gate Avenue, Suite 14400
San Francisco, CA 94102

Dear Mr. Capozzi,

We, the undersigned Members of the Legislature, urge you to investigate and take action against Judge Aaron Persky because of his misconduct in the recent Santa Clara Superior Court case of *People of the State of California v. Brock Turner* that shows bias and undermines public faith in the judicial system.

Judge Persky appears to have engaged in prejudicial misconduct. To show prejudicial misconduct, it must be shown that the judge – whether acting in good faith or not – engages in conduct that adversely would affect the esteem in which the judiciary is held by members of the public who become aware of the circumstances of the conduct. (*Adams v. Commission of Judicial Performance* (1995) 10Cal.4th 886.) Although Turner could have been sentenced to many years in state prison, and was required by law to be sentenced to a prison term (except under extraordinary circumstances), the court granted him probation and a mere six month jail term. This preferential treatment is perceived by the public to be based upon the fact that Turner is an upper middle class, white student-athlete who was privileged enough to earn both admission and an athletic scholarship to a highly selective university, just as Judge Persky did himself.

Judge Persky's ruling could also be considered "improper misconduct" so that an objective observer aware of the circumstances would deem it to adversely affect the reputation of the judiciary. Judge Persky's bias, whether intentional or inadvertent, affects the esteem of the judiciary in the eyes of the public, which undermines public confidence in the integrity and the independence of the judicial system. Judicial rulings like Judge Persky's damage our justice system in at least two ways: 1) They discourage the reporting of these devastating crimes by reinforcing the fear that justice will not be served; and 2) They demonstrate that there are two systems of justice: one for people of privilege such as elite athletes, and one for everyone else. Because a judge should act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, we urge the Commission to take action against Judge Persky.

Sincerely,



SUSAN TALAMANTES EGMAN
Assemblymember, 13th District
Chair, CA LGBT Caucus



CRISTINA GARCIA
Assemblymember, 58th District
Vice Chair, CA Legislative Women's Caucus

Senator Bob Wieckowski
Senate District 10

Robert A. Wieckowski

Senator Jim Baell
Senate District 15

Jim Baell

Assemblymember Autumn R. Burke
Assembly District 62

Autumn R. Burke

Assemblymember Cheryl R. Brown
Assembly District 47

Cheryl Brown

Assemblymember Nora Campos
Assembly District 27

Nora Campos

Assemblymember Patty Lopez
Assembly District 39

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Assemblymember Susan A. Bonilla
Assembly District 14

Susan A. Bonilla

Assemblymember Miguel Santiago
Assembly District 53

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Assemblymember Mike A. Gipson
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Assembly District 79

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Assembly District 43

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