

## STATEMENT OF THE NEW JERSEY OFFICE OF THE PUBLIC DEFENDER

The recent attacks on Judges Troiano and Silva are misplaced. Vilifying or seeking the removal of judges who make unpopular or even erroneous decisions threatens the independence of the judiciary. Judges are simply lawyers entrusted with the responsibility of deciding difficult cases. Litigants sometimes feel that their decisions are incorrect or unfair. That is why we have appellate courts.

Attacking these two judges misses three critical points. First, we want judges in future cases to make these potentially life-altering decisions on the merits. If judges fear public humiliation or retribution, particularly in cases involving allegations of sexual assault, they will be less likely to decide cases on the facts and the law. Clearly, each case should be evaluated objectively and not out of fear of the public reaction to a given ruling. This should be the goal in every case that comes before the courts.

Second, the law properly recognizes that juvenile offenders should normally be treated differently than adults. Indeed, developments in psychology and cognitive neuroscience, which demonstrate fundamental differences between juvenile and adult brains, have led the United States Supreme Court to conclude that “children are constitutionally different from adults” and “less deserving of the most severe punishments.”

Third, it must be pointed out that these judges were not deciding whether the accused juveniles – who, under our system, are presumed innocent - should be prosecuted at all; rather, they were simply deciding whether, notwithstanding their ages, they should be subjected to the penalties normally reserved for adult offenders. Even if the two cases had remained in juvenile court, the accused offenders would have been exposed to lengthy terms of incarceration (up to four years with no assurance of parole) and the lifetime restrictions imposed by Megan’s Law. In other words, they would have been held fully accountable for their actions.

In the end, judges must be insulated from the type of public scorn and personal threats to which these two judges have subjected. Judicial independence is a key component of the due process to which all citizens of New Jersey are entitled.

NEW JERSEY PUBLIC DEFENDER  
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