



NEW YORK STATE SENATOR

George M. Borrello

Senator George Borrello Urges Governor Hochul to Refrain from Re-Issuing Rule 2.13

GEORGE M. BORRELLO November 29, 2023

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Request comes in wake of Appellate Division reversal of lower court ruling in *Borrello et. al. v. Hochul*

ALBANY – In the wake of the Appellate Division's dismissal of a lower court ruling in favor of the plaintiffs in *Borrello et. al. v. Hochul*, Senator George Borrello has penned a letter to Governor Hochul requesting that her administration refrain from reissuing Rule 2.13, "Isolation and Quarantine Procedures."

Sen. Borrello cited the constitutional concerns surrounding the rule that were referenced by State Supreme Court Judge Ronald Ploetz in his original ruling on the case. His July 2022 decision was in favor of the petitioners, Senator Borrello, Congressman Mike Lawler, Assemblyman Chris Tague and the citizens group, Uniting NYS.

“In dismissing our challenge on the basis of ‘standing’, the Appellate Division conveniently sidestepped the important questions in this case about the constitutional separation of powers. Judge Ploetz thoroughly reviewed that issue and ultimately agreed with us, citing the fact that the State Legislature had already spoken on the issue of isolation and quarantine orders when they enacted Public Health Law 2120 in 1953,” said Sen. Borrello.

“Judge Ploetz underscored the fact that Rule 2.13 actually conflicts with PHL 2120, effectively creating its own broad policy rather than simply outlining the technical details of existing statute, which would have been within the scope of their regulatory role,” Sen. Borrello said.

“The fact that the Appellate Division chose to take a pass rather than address the core issue of the case doesn’t erase the fact that the Hochul administration violated the separation of powers in promulgating this regulation,” said Sen. Borrello. “The sole judicial judgment on that issue agreed with us.”

Senator Borrello reiterated the intent of the plaintiffs to appeal the decision to the Court of Appeals.

“The administration’s win ‘on paper’ is an empty one without a judgement on the merits of the case. Nonetheless, for us to let this stand unchallenged would pave the way for future abuses of power and loss of freedoms New Yorkers deserve and expect,” said Sen. Borrello. “The Hochul administration can end this now by removing their support for this heinous regulation. Barring that, we are hopeful that the Court of Appeals will agree that there are

profound issues at stake and agree to review this case.”

The letter sent to Governor Hochul is attached.

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