



NEW YORK STATE SENATOR

Anthony H. Palumbo

Senator Palumbo & Colleagues Introduce Legislation to Close Loopholes that Allowed Conviction of Harvey Weinstein to be Overturned

ANTHONY H. PALUMBO May 21, 2024



New York State Senator Anthony Palumbo (R,C-New Suffolk), Senator Steve Rhoads, Senator Patricia Canzoneri-Fitzpatrick and members of the Senate Republican Conference today introduced legislation aimed at fixing the glaring loopholes that resulted in the shocking decision by the Court of Appeals to overturn the conviction of serial sexual assaulter Harvey Weinstein.

On April 25th, the New York State Court of Appeals overturned the conviction of serial sexual assaulter Harvey Weinstein in a 4-3 decision after Chief Justice Wilson set a policy, shortly after his confirmation, that would allow him to replace Judges Shirley Troutman and Caitlin Halligan - who recused themselves - with Betsy Barros and Christine Clark, who sided with Wilson in the outrageous decision.

This sickening outcome is the direct result of the Senate Democrats' misguided rejection of Justice LaSalle in favor of the extremely radical Rowan Wilson, in an effort to politicize the Court after their gerrymandered district maps were struck down. While their political manipulation got the result they wanted in the redistricting case, the collateral damage is a Court that overturned the conviction of serial sexual assaulter and rapist Harvey Weinstein.

"We were all appalled when the New York State Court of Appeals overturned the rape and sexual assault convictions of Harvey Weinstein. While the verdict was a shock, it was no surprise for people who have followed Judge Rowan Wilson's career closely. There were numerous warnings from women's groups and advocates that decisions like this one would likely follow if Wilson was confirmed as the Chief Judge of the Court of Appeals. Now the legislature must act to close pro-criminal loopholes to protect victims, and the rule of law in New York State. Codifying the Molineux Rule and preventing the cherry picking of judicial replacements are important safeguards against a radical court intent on legislating from the bench," **Senator Anthony Palumbo, Ranking Member of the Senate Judiciary and Codes Committee said.**

During Judge Rowan Wilson's Senate confirmation hearing, Senator Palumbo specifically asked Judge Wilson about his prior decisions, including the dismissal of a rape conviction in March of 2023 by creating a new legal standard that he invented. Senator Palumbo reiterated his concerns for victims during the Judiciary hearings and urged his

colleagues to reject the nomination of Wilson.

“Despite the clear indication that Judge Wilson could be dangerous to women and New Yorkers, the Senate Democrats voted along party lines to confirm him. Now we are dealing with the consequences of their decision and are scrambling to protect New Yorkers from radical decisions emanating from the state’s highest court,” **concluded Senator Palumbo.**

“Make no mistake. The Harvey Weinstein case is a symptom of a much larger problem. Not satisfied with one party rule in Albany passing laws that make our families and communities less safe, Democrats turned their focus on the State’s highest court, to try to game the system to preserve their own political power. Rejecting a reasonable, qualified, common-sense jurist to put a radical progressive as chief judge was bound to have consequences, and now we’re seeing them. It is time for the Legislature to step in to correct not only this immediate misinterpretation of the law, but to regulate the Court of Appeals recusal process and to make the selection of judicial replacements on certain cases consistent, open and transparent,” **said Senator Steven Rhoads.**

“After the Senate majority scuddled the nomination of a judge who they did not consider progressive enough, the National Organization for Women - NYC, along with other advocates, warned us of the risks posed to survivors of sexual assault that could come from the majority’s preferred, progressive nominee. Chief Judge Wilson had penned the decision to overturn a rape conviction, in an opinion that similarly shows a fundamental misunderstanding of the challenging process women often go through to hold perpetrators of sexual violence accountable,” **said Senator Patricia Canzoneri-Fitzpatrick**

“Republicans are standing here because the Court of Appeals has been stacked with political henchmen of the Governor and Senate Democrats who have no issue letting monsters back into our communities. The Court of Appeals is no longer a figure for justice, it

has become a poster child of a kangaroo court. We will not sit back and continue to watch criminals be set free by a court that no longer abides by the State Constitution,” **said Senate Republican Leader Rob Ortt.**

In an effort to fix the egregious missteps by the hyper-politicized Court of Appeals, Senate Republicans introduced two bills that would:

- Prevent the Chief Justice of the Court of Appeals from cherry picking replacement judges when a judge recuses themselves from the case by requiring replacement judges to be chosen on a rotating basis in order of seniority (S.9601, Senator Rhoads)
- Allow evidence of similar crimes in prior sexual offense cases to be admitted, codifying the “Molineux Rule” that permits relevant evidence that can help prove the defendant’s motive and intent (S.9445, Senator Palumbo)

“Once again, New York Democrats created a problem that we need to fix. They weaponized the courts in order to preserve their own political self-interests, and this is the result – serial sexual assaulters are allowed to walk free. These bills need to be addressed before the conclusion of the legislative session,” **concluded Senator Ortt**