

State of New York
Commission on Judicial Conduct

In the Matter of the Proceeding Pursuant to Section 44,
subdivision 4, of the Judiciary Law in Relation to

Determination

RONALD V. BAILEY,

a Justice of the Chesterfield Town
Court, Essex County.

BEFORE: Mrs. Gene Robb, Chairwoman
Honorable Fritz W. Alexander, II
David Bromberg
Honorable Richard J. Cardamone
Dolores DelBello
Michael M. Kirsch
Victor A. Kovner
Honorable Isaac Rubin
Honorable Felice K. Shea
Carroll L. Wainwright, Jr.

Respondent, Ronald V. Bailey, a justice of the Town Court of Chesterfield, Essex County, was served with a Formal Written Complaint dated October 12, 1979, setting forth four charges relating to the improper assertion of influence in traffic cases. Respondent filed an answer dated November 30, 1979.

By notice dated December 20, 1979, the administrator of the Commission moved for summary determination pursuant to Section 7000.6(c) of the Commission's rules (22 NYCRR 7000.6[c]). Respondent did not oppose the motion. By determination and order dated January 30, 1980, the Commission granted the motion, found respondent's misconduct established with respect to all four charges in the

Formal Written Complaint, and set a date for oral argument on the issue of an appropriate sanction. The administrator submitted a memorandum in lieu of oral argument. Respondent waived oral argument and did not submit a memorandum.

The Commission considered the record in this proceeding on February 27, 1980, and upon that record makes the following findings of fact.

1. Charge I: On December 15, 1975, respondent sent a letter to Justice Andre Bergeron of the Town Court of Lewis, seeking special consideration on behalf of the defendant in People v. Everett Ammerman, a case then pending before Judge Bergeron.

2. Charge II: On December 27, 1976, respondent sent a letter to Justice James Corkland of the Town Court of Lake George, seeking special consideration on behalf of the defendant in People v. Joseph Kilburn, a case then pending before Judge Corkland.

3. Charge III: On June 1, 1977, respondent, or someone at his request, communicated with Justice James Brookman of the Town Court of Glen, seeking special consideration on behalf of the defendant in People v. Darlene A. LaMountain, a case then pending before Judge Brookman.

4. Charge IV: On November 24, 1976, respondent sent a letter to Justice John Carusone of the Town Court of Queensbury, seeking special consideration on behalf of the defendant in People v. Peter J. Douglas, a case then pending before Judge Carusone.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 33.1, 33.2, 33.3(a)(1) and 33.3(a)(4) of the Rules Governing Judicial Conduct and Canons 1, 2 and 3A of the Code of Judicial Conduct. Charges I through IV of the Formal Written Complaint are sustained, and respondent's misconduct is established.

It is improper for a judge to seek to persuade another judge, on the basis of personal or other special influence, to alter or dismiss a traffic ticket. A judge who accedes to such a request is guilty of favoritism, as is the judge who made the request. By making ex parte requests of other judges for favorable dispositions for defendants in traffic cases, respondent violated the Rules enumerated above, which read in part as follows:

Every judge...shall himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. [Section 33.1]

A judge shall respect and comply with the law and shall conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. [Section 33.2(a)]

No judge shall allow his family, social or other relationships to influence his judicial conduct or judgment. [Section 33.2(b)]

No judge...shall convey or permit others to convey the impression that they are in a special position to influence him.... [Section 33.2(c)]

A judge shall be faithful to the law and maintain professional competence in it.... [Section 33.3(a)(1)]

A judge shall...except as authorized by law, neither initiate nor consider ex parte or other communications concerning a pending or impending proceedings.... [Section 33.3(a)(4)]

In one of his letters to another judge, respondent also indicated his willingness to accommodate a request for consideration similar to the one he himself was making. Such an offer of reciprocity only compounds respondent's misconduct.

Courts in this and other states, as well as the Commission, have found that favoritism is serious judicial misconduct and that ticket-fixing is a form of favoritism.

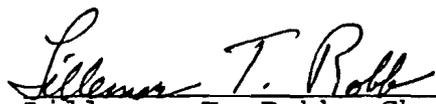
In Matter of Byrne, 420 NYS2d 70 (Ct. on the Judiciary 1979), the court declared that a "judicial officer who accords or requests special treatment or favoritism to a defendant in his court or another judge's court is guilty of malum in se misconduct constituting cause for discipline." In that case, ticket-fixing was equated with favoritism, which the court stated was "wrong and has always been wrong." Id. at 71-72.

By reason of the foregoing, the Commission determines by vote of 6 to 4 that the appropriate sanction is censure. Mrs. Robb, Judge Cardamone, Judge Rubin and Judge Shea dissent only with respect to sanction and vote that the appropriate sanction is admonition.

CERTIFICATION

It is certified that the foregoing is the determination of the State Commission on Judicial Conduct, containing the findings

of fact and conclusions of law required by Section 44, subdivision
7, of the Judiciary Law.


Lillemor T. Robb, Chairwoman
New York State Commission on
Judicial Conduct

Dated: May 20, 1980
Albany, New York