

**State of New York**  
**Commission on Judicial Conduct**

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

MONROE B. BISHOP,

**Determination**

a Justice of the Hinsdale Town Court,  
Cattaraugus County.

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THE COMMISSION:

Henry T. Berger, Esq., Chair  
Jeremy Ann Brown, C.A.S.A.C.  
Stephen R. Coffey, Esq.  
Lawrence S. Goldman, Esq.  
Christina Hernandez, M.S.W.  
Honorable Daniel W. Joy  
Honorable Daniel F. Luciano  
Honorable Frederick M. Marshall  
Alan J. Pope, Esq.  
Honorable Terry Jane Ruderman  
Honorable Eugene W. Salisbury

APPEARANCES:

Gerald Stern for the Commission

Williams & Associates (By Mark S. Williams) for Respondent

The respondent, Monroe B. Bishop, a justice of the Hinsdale Town Court, Cattaraugus County, was served with a Formal Written Complaint dated September 29, 1999, alleging two charges of misconduct. Respondent filed an answer dated October 22, 1999.

On November 29, 1999, the administrator of the Commission, respondent and respondent's counsel entered into an Agreed Statement of Facts pursuant to Judiciary Law § 44(5), stipulating that the Commission make its determination based on the agreed upon facts, jointly recommending that respondent be admonished and waiving further submissions and oral argument.

On December 16, 1999, the Commission approved the agreed statement and made the following determination.

As to Charge I of the Formal Written Complaint:

1. Respondent has been a justice of the Hinsdale Town Court since 1995.
2. In September 1997, respondent presided over People v Diana E. Dutton, in which the defendant was charged with Speeding. The defendant is respondent's niece.
3. Ms. Dutton pleaded guilty to a reduced charge on September 17, 1997.

With the consent of the prosecution, respondent imposed a \$35 fine and a \$15 surcharge.

As to Charge II of the Formal Written Complaint:

4. On October 19, 1995, respondent issued an information subpoena requiring Douglas Finnerty, a judgment debtor, to respond to written questions in connection with a small claims default judgment granted to Mark Welles on February 17, 1995.

5. On February 1, 1996, respondent issued a criminal summons, ordering Mr. Finnerty to appear in court on a charge of “False Swearing On Information Subpoena,” even though no such charge exists and no accusatory instrument had been filed in the court. Respondent made up the charge in order to get Mr. Finnerty into court for having failed to make payments on the small claims judgment.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated the Rules Governing Judicial Conduct, 22 NYCRR 100.1, 100.2(A), 100.3(B)(1) and 100.3(E)(1)(d)(i). Charges I and II of the Formal Written Complaint are sustained, and respondent’s misconduct is established.

A judge’s disqualification is mandatory when a party is within the sixth degree of relationship to the judge or the judge’s spouse. (Rules Governing Judicial Conduct, 22 NYCRR 100.3[E][1][d][i]). Thus, respondent should not have presided over and disposed of a case in which his niece was the defendant. “The handling by a judge of a case to which a family member is a party creates an appearance of impropriety as well as a very obvious potential for abuse, and threatens to undermine the public’s confidence in the impartiality of the judiciary.” (Matter of Wait, 67 NY2d 15, at 18).

It was also improper for respondent to use a criminal summons to secure the presence in court of a defendant in a small claims case. Respondent’s fabrication of a

charge upon which to base the criminal summons was egregious. (See, Matter of Hamel, 88 NY2d 317, 318-19).

In mitigation, we note that respondent has been cooperative in this proceeding and has conceded that his conduct was improper. (See, Matter of Cunningham, 1995 Ann Report of NY Commn on Jud Conduct, at 109, 110).

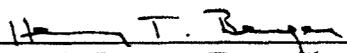
By reason of the foregoing, the Commission determines that the appropriate sanction is admonition.

All concur.

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.

Dated: January 10, 2000

  
Henry T. Berger, Esq., Chair  
New York State  
Commission on Judicial Conduct