

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

MORGAN BLOODGOOD,

a Justice of the Town Court of Malta,
Saratoga County.

Determination

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

APPEARANCES:

Gerald Stern (Stephen F. Downs, Of Counsel)
for the Commission

William F. McDermott for Respondent

The respondent, Morgan Bloodgood, a justice of the Town Court of Malta, Saratoga County, was served with a Formal Written Complaint dated September 11, 1979, alleging that respondent intentionally directed an ethnic religious slur at a defendant in a pending case. Respondent filed an answer dated October 4, 1979.

By order dated January 9, 1980, the Commission designated the Honorable H. Hawthorne Harris as referee to hear and report proposed findings of fact and conclusions of law. The hearing was

conducted on March 10 and 11, 1980, and the report of the referee was filed on June 26, 1980.

By motion dated August 19, 1980, the administrator of the Commission moved (i) to confirm in part and to disaffirm in part the referee's report, (ii) for a determination that respondent's misconduct is established and (iii) that oral argument be scheduled as to appropriate sanction. Respondent cross-moved on September 5, 1980, to dismiss the Formal Written Complaint.

The Commission heard oral argument on the motions on October 30, 1980, and thereafter found respondent's misconduct established.

Oral argument on sanction was heard on April 22, 1981, having been adjourned to that date due to the hospitalization of respondent's counsel.

Now upon consideration of the record of this proceeding, the Commission makes the following findings of fact.

1. On February 13, 1979, David Rosenblum, a resident of Pennsylvania, was issued a traffic summons for speeding, returnable on February 21, 1979, in respondent's court. Mr. Rosenblum failed to respond to the summons on its return date.

2. On March 27, 1979, Mr. Rosenblum entered a plea of guilty by completing and signing the appropriate portions of the traffic summons and mailing it to respondent with a personal check for \$15, in payment of the appropriate fine as stated on the summons. Respondent received the plea and check at his court on March 29, 1980.

3. On March 30, 1979, respondent sent the record of the conviction to the Department of Motor Vehicles, deposited the \$15 check in his official court account and transmitted \$15 in payment of the fine to the Department of Audit and Control.

4. On April 10, 1979, respondent received from the bank handling his court account a notice that Mr. Rosenblum's check had been returned, unpaid, by reason of an order by Mr. Rosenblum to stop payment.

5. On April 11, 1979, respondent personally typed a letter on official court stationery to Mr. Rosenblum, acknowledging the stopped payment. Respondent's letter was sarcastic in tone and concluded with the words "So long Kikie". Respondent mailed the letter the following day.

6. Respondent did not know Mr. Rosenblum prior to the incident herein. Respondent "assumed" Mr. Rosenblum is Jewish. Respondent, knowing the term "kike" is an ethnic religious slur used to characterize Jewish people, invoked it to shock, irritate and provoke Mr. Rosenblum into replacing the \$15 stopped check.

7. Respondent did not notify the motor vehicle departments of either New York or Pennsylvania about the return of Mr. Rosenblum's check. Respondent did not file the appropriate scofflaw notices against Mr. Rosenblum, nor did he take any other appropriate action on Mr. Rosenblum's license to drive an automobile.

8. On April 14, 1979, Mr. Rosenblum received respondent's letter and was angered and irritated by it. He telephoned respondent, said he would send another check for \$15, and expressed his anger to respondent.

9. On April 16, 1979, Mr. Rosenblum sent a money order to respondent, to make up for the \$15 check on which payment had been stopped. On May 24, 1979, respondent sent a letter to Mr. Rosenblum, apologizing for the "poor choice of words" in his letter of April 11, 1979.

By reason of the foregoing, respondent violated Sections 33.1, 33.2 and 33.3(a)(3) of the Rules Governing Judicial Conduct and Canons 1, 2 and 3A of the Code of Judicial Conduct. The charge in the Formal Written Complaint is sustained, and respondent's misconduct is established.

Ethnic or religious slurs, offensive to decorum and decency under ordinary circumstances, are particularly intolerable when spoken or written by a judge. When a judge demonstrates prejudice by deliberately using the term "kikie", public confidence in the integrity of the courts is diminished, and the administration of justice is seriously compromised.

Respondent's use of the offensive term was neither accidental nor spontaneous. Respondent called Mr. Rosenblum "kikie" in a letter which he himself typed on court stationery one day and did not mail until the next. Although there was time for respondent to reconsider his action and not mail the letter, he chose to send it.

By his conduct, respondent has demeaned the high office he holds and has demonstrated a remarkable insensitivity to his obligation to conduct himself in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

The Commission notes that, prior to this incident, respondent had been disciplined four times for other matters. He had been admonished for misconduct twice by the Appellate Division, Third Department, once by the Temporary State Commission on Judicial Conduct, and censured once by the Court on the Judiciary.

Standing alone, respondent's conduct in the instant case warrants severe discipline. In the context of his extensive record of prior discipline, the Commission concludes that respondent lacks the requisite fitness to serve as a judge.

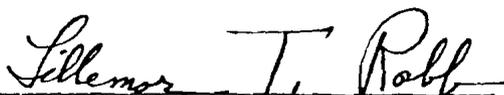
By reason of the foregoing, the Commission determines that the appropriate sanction is removal from office.

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: June 11, 1981


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