

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

SHARON C. CANFIELD,

a Justice of the Harford Town Court,
Cortland County.

THE COMMISSION:

Henry T. Berger, Esq., Chair
Honorable Frances A. Ciardullo
Stephen R. Coffey, Esq.
Raoul Lionel Felder, Esq.
Lawrence S. Goldman, Esq.
Christina Hernandez, M.S.W.
Honorable Daniel F. Luciano
Mary Holt Moore
Honorable Karen K. Peters
Alan J. Pope, Esq.
Honorable Terry Jane Ruderman

APPEARANCES:

Robert H. Tembeckjian (Leena D. Mankad, Of Counsel) for the
Commission

David C. Alexander for Respondent

The respondent, Sharon C. Canfield, a justice of the Harford Town Court,
Cortland County was served with a Superseding Formal Written Complaint dated March

6, 2003, containing two charges. Respondent filed an answer dated May 14, 2003.

On September 5, 2003, the Administrator of the Commission, respondent's counsel and respondent entered into an Agreed Statement of Facts, agreeing that the Commission make its determination based upon the agreed facts, jointly recommending that respondent be admonished and waiving further submissions and oral argument.

On September 18, 2003, the Commission approved the Agreed Statement of Facts and made the following determination.

1. Respondent has been a justice of the Harford Town Court, Cortland County since 1996. Respondent is not an attorney. Respondent has attended all required judicial training courses and has received all appropriate certifications from the Office of Court Administration.

As to Charge I of the Formal Written Complaint:

2. On or about October 10, 2001, respondent read a prepared statement disqualifying herself from *Allen v. Brown*, a summary proceeding for the eviction of a single mother, and publicly disparaging the petitioner-landlord's attorney, William J. Pomeroy, as a consequence of her personal animosity toward Mr. Pomeroy arising from his having represented respondent's ex-husband in divorce and custody litigation against her. Respondent stated in open court:

I am well acquainted with the manner in which Mr. Pomeroy postures himself in such cases involving females in marital or family situations and I find it distasteful.

3. Respondent did not thereafter take action to transfer the case to another court until October 28, 2001, notwithstanding that she had been contacted by Mr. Pomeroy on or about October 23, 2001, concerning her delay in transferring the case.

4. Respondent has disqualified herself from all subsequent actions involving Mr. Pomeroy.

As to Charge II of the Formal Written Complaint:

5. On or about October 24, 2001, respondent presided over *People v. Raymond R. Kohout*, in which the defendant had been charged with Menacing, Second Degree, following a domestic incident with his wife. After discussions with the defendant's attorney and the assistant district attorney, respondent issued a limited Temporary Order of Protection directing the defendant to refrain from certain harassing conduct toward his wife. Respondent then disqualified herself from the case.

6. On or about October 25, 2001, respondent engaged in an *ex parte* discussion with the alleged victim in *People v. Raymond R. Kohout* and issued, *sua sponte*, an amended Temporary Order of Protection directing that the defendant "stay away" from the alleged victim and her children, notwithstanding that:

- (a) respondent had no discussion with the defendant's counsel about the *ex parte* communication or the amended order;
- (b) respondent did not contact the Cortland County District Attorney's office about the *ex parte* discussion prior to issuing the amended order;

(c) the alleged victim had not requested an amended Order of Protection; and

(d) respondent had previously disqualified herself from the case.

7. Respondent had no further involvement in the case, which was subsequently transferred to another court.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.3(B)(3), 100.3(B)(6) and 100.3(C)(1) of the Rules Governing Judicial Conduct and engaged in misconduct that was prejudicial to the administration of justice pursuant to Article 6, Section 22a of the New York State Constitution and Section 44(1) of the Judiciary Law. Charges I and II of the Superseding Formal Written Complaint are sustained insofar as they are consistent with the above findings and conclusions, and respondent's misconduct is established.

It was improper for respondent to issue an amended Order of Protection in a case after disqualifying herself from the matter and after engaging in an *ex parte* communication with the alleged victim. Such conduct violates well-established ethical standards prohibiting a judge from permitting or considering *ex parte* communications (Rules Governing Judicial Conduct §100.3[B][6]).

In another matter, respondent compromised the independence and impartiality of the judiciary by using her judicial office as a forum to express her personal animosity toward an attorney which stemmed from her own matrimonial proceedings.

Respondent's personal views about the attorney were obviously biased and in any event had no place in her courtroom. Moreover, her public, derogatory comments, criticizing the attorney's conduct toward women in family-related proceedings, concerned a highly sensitive subject and thus were particularly hurtful. By making such comments, respondent violated her duty as a judge to be an exemplar of dignity, courtesy and neutrality. Further, her delay in transferring the attorney's case after disqualifying herself, even after being reminded to do so by the attorney, conveyed the appearance that her bias affected her discharge of her responsibilities as a judge.

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

Mr. Berger, Judge Ciardullo, Mr. Coffey, Mr. Felder, Mr. Goldman, Ms. Hernandez, Judge Peters, Mr. Pope and Judge Ruderman concur.

Judge Luciano and Ms. Moore were not present.

CERTIFICATION

It is certified that the foregoing is the determination of the State
Commission on Judicial Conduct.

Dated: September 19, 2003

Henry T. Berger

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