

STATE OF NEW YORK  
STATE COMMISSION ON JUDICIAL CONDUCT

----- X  
:   
In the Matter :   
:   
- of - : DETERMINATION  
:   
Edmund V. Caplicki, Jr., :   
:   
A Justice of the Town of :   
LaGrange, County of Dutchess. :   
----- X

STATE COMMISSION ON JUDICIAL  
CONDUCT

Members:

MRS. GENE ROBB, Chairwoman  
DAVID BROMBERG, ESQ.  
DOLORES DEL BELLO  
HON. LOUIS M. GREENBLOTT  
MICHAEL M. KIRSCH, ESQ.  
VICTOR A. KOVNER, ESQ.  
WILLIAM V. MAGGIPINTO, ESQ.  
HON. ANN T. MIKOLL  
CARROLL L. WAINWRIGHT, JR., ESQ.

GERALD STERN, ESQ., Administrator  
State Commission on Judicial Conduct  
801 Second Avenue  
New York, New York 10017

TABLE OF CONTENTS

	<u>Page</u>
PRELIMINARY STATEMENT. . . . .	1
JUSTICE CAPLICKI'S REQUESTS FOR FAVORABLE DISPOSITIONS ON TRAFFIC CASES . . . . .	1
JUSTICE CAPLICKI'S WAIVER OF A SCHEDULED HEARING BEFORE THE COMMISSION . . . . .	3
CONCLUSION . . . . .	4
DETERMINATION . . . . .	5

DETERMINATION OF THE  
STATE COMMISSION ON JUDICIAL CONDUCT  
IN THE MATTER OF LA GRANGE  
TOWN JUSTICE EDMUND V. CAPLICKI, JR.

PRELIMINARY STATEMENT

This Determination of the State Commission on Judicial Conduct (hereinafter the "Commission") is submitted in accordance with Article VI, Section 22k, of the Constitution of the State of New York, and Article 2-A of the Judiciary Law, for transmittal by the Chief Judge of the Court of Appeals to the Honorable Edmund V. Caplicki, Jr.

Edmund V. Caplicki, Jr., is a justice of the Town Court of La Grange in Dutchess County. He is an attorney. He first took office in January 1975. His current term of office expires on December 31, 1979.

Pursuant to Section 43, subdivision 2, of the Judiciary Law, the present investigation of Judge Caplicki commenced on May 25, 1977. In the course of its investigation, the Commission discovered seven instances in which Judge Caplicki made ex parte requests for other judges for favorable dispositions for defendants in traffic cases, as follows.

JUDGE CAPLICKI'S REQUESTS FOR FAVORABLE DISPOSITIONS  
FOR DEFENDANTS IN SEVEN TRAFFIC CASES

On or about October 15, 1974, Judge Caplicki sent a letter, in which he identifies himself as a judge, to the Town Court of Claverack, requesting favorable treatment for the defendant, who was charged with speeding, in People v. Walter T. Blank, a case then pending in the Town Court of Claverack.

On or about November 13, 1974, Judge Caplicki sent a letter, in which he identifies himself as a judge, to Judge Richard A. Folmsbee of the Town Court of Princetown, on behalf of the defendant, who was charged with speeding, in People v. Paul H. Wilbur, a case then pending before Judge Folmsbee. Judge Caplicki referred in his letter to a prior telephone conversation he had held with Judge Folmsbee regarding the Wilbur case, and he enclosed a check for \$25.00 in payment of the fine to be levied by Judge Folmsbee on the defendant for the reduced charge of driving with unsafe tires.

On or about April 30, 1975, Judge Caplicki sent a letter, in which he identifies himself as a judge, to Judge William J. Bulger of the Town Court of Wappinger, requesting favorable treatment for the defendant, who was charged with speeding, in People v. Frank DeMarco, a case then pending before Judge Bulger. Judge Caplicki referred in his letter to a prior telephone conversation he had held with Judge Bulger regarding the DeMarco case, and he enclosed a check for \$15.00 in payment of the fine to be levied by Judge Bulger on the defendant for the reduced charge of failing to keep right.

On or about July 28, 1975, Judge Caplicki communicated with Judge Horace C. Sawyer of the Town Court of Goshen on behalf of the defendant, who was charged with speeding, in People v. Phillip A. Bellino, Jr., a case then pending before Judge Sawyer.

On or about February 9, 1976, Judge Caplicki sent a letter on official court stationery to Judge Joseph L. Thomson

of the Town Court of Cornwall, on behalf of the defendant, who was charged with speeding, in People v. Daniel Schulman, a case then pending before Judge Thomson. Judge Caplicki referred in his letter to a prior telephone conversation he had held with Judge Thomson regarding the Schulman case, and he enclosed a check for \$10.00 in payment of a fine to be imposed by Judge Thomson on the defendant for the reduced charge of failing to obey a posted highway sign.

On or about March 12, 1976, Judge Caplicki sent a letter on official court stationery to one Mrs. Johnson of the Town Court of Clarkstown, requesting favorable treatment for the defendant, who was charged with speeding, in People v. John B. Juliano, a case then pending in the Town Court of Clarkstown. In his letter Judge Caplicki referred to a prior telephone conversation with Mrs. Johnson regarding the Juliano case.

On or about March 29, 1976, Judge Caplicki sent a letter on official court stationery to Judge Thomas Byrne of the Town Court of Newburgh, on behalf of the defendant, who was charged with speeding, in People v. Christine C. Ansorge, a case then pending before Judge Byrne. Judge Caplicki referred in his letter to a prior telephone conversation he had held with Judge Byrne regarding the Ansorge case, and he enclosed a check for \$10.00 in payment of the fine to be levied by Judge Byrne on the defendant for the reduced charge of driving with a bald tire.

JUSTICE CAPLICKI'S WAIVER OF A SCHEDULED  
HEARING BEFORE THE COMMISSION

The Commission sent Judge Caplicki letters dated

July 12, 1977, and August 9, 1977, asking him to comment on his requests for favorable treatment in the Blank, DeMarco, Bellino, Schulman, Juliano and Ansorge cases. In letters dated July 26, 1977, and August 23, 1977, Judge Caplicki acknowledged making the requests in these cases.

Pursuant to Section 43, subdivision 5, of the Judiciary Law, the Commission determined that cause existed to conduct a hearing with respect to the judge's apparent conduct in the cases noted above and in the Wilbur case. On November 29, 1977, Judge Caplicki was served with a Notice of Hearing and a Formal Written Complaint detailing the factual allegations in the seven cases noted above. In an Answer dated December 7, 1977, Judge Caplicki admitted all the factual allegations while denying upon information and belief that the conduct was improper. In an accompanying letter of the same date, the judge waived his right to the scheduled hearing.

#### CONCLUSION

By making ex parte requests of other judges for favorable dispositions for the defendants in traffic cases, Judge Caplicki was in violation of Sections 33.1, 33.2, 33.3(a)(1) and 33.3(a)(4) of the Rules Governing Judicial Conduct of the Administrative Board of the Judicial Conference, and Canons 1, 2, and 3A of the Code of Judicial Conduct, 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)]

#### DETERMINATION

By reason of the foregoing, in accordance with Article VI, Section 22k, of the Constitution of the State of New York, and Section 43, subdivision 7, of the Judiciary Law, the State Commission on Judicial Conduct has determined that Judge Caplicki should be publicly censured.

Respectfully submitted,

State Commission on Judicial  
Conduct

Dated: February 16, 1978  
New York, New York

#### APPEARANCES:

Edmund V. Caplicki, *Pro Se*

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