

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

DALE P. CHRISTIE,

a Justice of the Schuyler Town Court, Herkimer
County.

THE COMMISSION:

Henry T. Berger, Esq., Chair
Honorable Frederick M. Marshall, Vice Chair
Honorable Frances A. Ciardullo
Stephen R. Coffey, Esq.
Lawrence S. Goldman, Esq.
Christina Hernandez, M.S.W.
Honorable Daniel F. Luciano
Honorable Karen K. Peters
Alan J. Pope, Esq.
Honorable Terry Jane Ruderman

APPEARANCES:

Gerald Stern (Cathleen S. Cenci, Of Counsel) for the Commission
George F. Aney for Respondent

The respondent, Dale P. Christie, a justice of the Schuyler Town Court,
Herkimer County, was served with a Formal Written Complaint dated February 13, 2001,
containing one charge.

On June 13, 2001, 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 upon the agreed facts, jointly recommending that respondent be admonished and waiving further submissions and oral argument.

On June 18, 2001, the Commission approved the agreed statement and made the following determination.

1. Respondent has been a justice of the Schuyler Town Court since 1989. He is not a lawyer. He has attended and successfully completed all required training sessions for judges sponsored by the Office of Court Administration.

2. In People v. Carmen J. Giovannone, in which the defendant was charged with Speed In Work Zone, respondent failed to adhere to the law and failed to accord the defendant full opportunity to be heard, in that:

(a) on or about July 27, 2000, respondent sent the defendant a notice, which indicated that the defendant had been convicted of a reduced Speeding charge and that respondent had imposed sentence, based solely on respondent's receipt of a plea offer from the prosecution, and notwithstanding that the defendant had not had a trial or entered a plea of guilty;

(b) on or about July 27, 2000, respondent imposed a fine of \$150 upon

the defendant for a conviction under Section 1180(f) of the Vehicle and Traffic Law, notwithstanding that (i) the maximum fine for that offense was \$100 pursuant to Section 1180(h)(3)(i) of the Vehicle and Traffic Law, and (ii) the defendant had not had a trial or entered a plea of guilty; and

(c) after the defendant agreed to plead guilty to a reduced Speeding charge and the defendant's attorney objected to the excessive fine, respondent failed to correct the fine or to respond to two letters from the defendant's attorney regarding the excessive fine.

3. As a matter of practice, respondent regularly imposed fines for convictions under the Vehicle and Traffic Law which were based not on the charges for which the defendants were convicted, but on the charges for which the defendants had been ticketed originally, and therefore he often exceeded the legally permissible maximum fines.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.3(B)(1), and 100.3(B)(6) of the Rules Governing Judicial Conduct. Charge I of the Formal Written Complaint is sustained insofar as it is consistent with the above facts, and respondent's misconduct is established.

By convicting a defendant of a reduced Speeding charge based solely upon receipt of a plea offer from the prosecution, without a trial or guilty plea, respondent violated fundamental statutory procedures and denied the defendant the right to be heard (Section 100.3[B][6] of the Rules Governing Judicial Conduct). It is the responsibility of every judge, lawyer or non-lawyer, to maintain professional competence in the law, and as a judge for over 10 years, respondent should be familiar with basic procedural due process. *See* Matter of Pemrick, 2000 Ann Report of NY Commn on Jud Conduct 141; Matter of Meacham, 1994 Ann Report of NY Commn on Jud Conduct 87.

In addition, respondent imposed a fine that exceeded the maximum permitted by the Vehicle and Traffic Law. While the minimum fine for Speeding In a Work Zone is twice the amount as a fine for a regular speeding conviction, the maximum fine of \$100 is the same for both (*see* Veh and Traf Law §1180[f], [h]). By failing to correct the excessive fine when the defendant's attorney brought it to his attention, respondent elevated legal error to judicial misconduct. *See* Matter of Barker, 1999 Ann Report of NY Commn on Jud Conduct 77.

Respondent's regular practice of imposing fines for convictions under the Vehicle and Traffic Law based on the original charge, rather than the charge for which the defendants had been convicted, was also contrary to law and often resulted in fines exceeding the legal maximum. By such conduct, respondent failed to "respect and comply with the law" and to "be faithful to the law," as required by Sections 100.2(A)

and 100.3(B)(1) of the Rules.

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

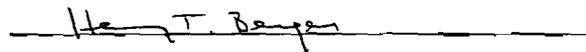
Mr. Berger, Judge Ciardullo, Mr. Coffey, Mr. Goldman, Ms. Hernandez, Judge Luciano, Judge Peters and Judge Ruderman concur.

Judge Marshall and Mr. Pope were not present.

CERTIFICATION

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

Dated: November 19, 2001

A handwritten signature in cursive script, appearing to read "Henry T. Berger", is written over a solid horizontal line.

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