

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

FRIEDA B. COBLE,

a Justice of the Earlville
Village Court, Madison County.

THE COMMISSION:

Henry T. Berger, Esq., Chair
Jeremy Ann Brown
Stephen R. Coffey, Esq.
Mary Ann Crotty
Lawrence S. Goldman, Esq.
Honorable Daniel F. Luciano
Honorable Frederick M. Marshall
Honorable Juanita Bing Newton
Alan J. Pope, Esq.
Honorable Eugene W. Salisbury
Honorable William C. Thompson

APPEARANCES:

Gerald Stern (John J. Postel, Of Counsel)
for the Commission

Honorable Frieda B. Coble, pro se

The respondent, Frieda B. Coble, a justice of the Earlville Village Court, Madison County, was served with a Formal Written Complaint dated February 19, 1997, alleging that she failed to remit court funds to the state comptroller and failed to cooperate in the Commission's investigation. Respondent filed an answer dated April 24, 1997.

By Order dated April 29, 1997, the Commission designated Samuel B. Vavonese, Esq., as referee to hear and report proposed

findings of fact and conclusions of law. A hearing was held on June 13, 1997, and the referee filed his report with the Commission on September 22, 1997.

By motion dated November 5, 1997, the administrator of the Commission moved to confirm the referee's report and for a determination that respondent be removed from office. Respondent filed a letter in response on November 18, 1997. The administrator filed a reply on December 2, 1997, which included a stipulation between the parties that certain documents be added to the record. Oral argument was waived.

On December 11, 1997, the Commission considered the record of the proceeding and made the following findings of fact.

As to Charge I of the Formal Written Complaint:

1. Respondent has been a justice of the Earlville Village Court during the time herein noted.

2. Between August 1995 and May 16, 1997, respondent failed to remit any court funds to the state comptroller, as required by UJCA 2021(1), Village Law § 4-410(1)(b) and Vehicle and Traffic Law § 1803(8), even though she collected \$5,990 in fines, fees and surcharges during this period.

3. Respondent failed to remit any funds for 22 months even though:

a) the state comptroller requested on October 13, 1995, November 15, 1995, December 15, 1995, and February 15, 1996, that she do so;

b) Commission staff inquired about the matter on February 22, 1996, March 13, 1996, April 2, 1996, and April 17, 1996;

c) she was ordered on October 1, 1996, to give testimony in connection with the Commission investigation; and,

d) formal charges were filed on February 19, 1997.

As to Charge II of the Formal Written Complaint:

4. Respondent failed to cooperate with the Commission in that she:

a) failed to respond to letters from Commission staff on February 22, 1996, March 13, 1996, and April 2, 1996, concerning her failure to remit court funds; and,

b) failed to appear for the purpose of giving testimony during the course of the Commission's investigation, as directed by letter dated October 1, 1996.

Supplemental finding:

5. Respondent remitted a total of \$1,205, representing court receipts for May, June and July 1997, on September 4, 1997, notwithstanding that the law requires that court funds be remitted by the tenth day of the month following collection. The May

receipts were remitted 86 days late; the June receipts were 56 days late, and the July receipts were remitted 25 days late.

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) and 100.3(C)(1) and its predecessor Section 100.3(b)(1) [renumbered eff. Jan. 1, 1996], and Canons 1, 2A and 3B(1) of the Code of Judicial Conduct. Charges I and II of the Formal Written Complaint are sustained, and respondent's misconduct is established.

Respondent retained court funds for 22 months rather than turning them over to the state as required by law, accumulating \$5,990 by the end of the period. Numerous letters from the state comptroller and Commission staff and formal charges by the Commission failed to prompt her to undertake these administrative responsibilities until shortly before the hearing.

Her later reports, which she offered in her own defense, indicate that delays persist in meeting statutory deadlines.

Such disdain for statutory recordkeeping requirements and the administrative responsibilities of judicial office constitutes serious misconduct, even if the money can be accounted for and is on deposit. (See, Matter of Ranke, 1992 Ann Report of NY Commn on Jud Conduct, at 64, 65). Such misconduct generally warrants admonition or censure. (Matter of Miller, 1997 Ann Report of NY Commn on Jud Conduct, at 114, 115; see, e.g., Matter of Ranke,

supra; Matter of Goebel, 1990 Ann Report of NY Commn on Jud Conduct, at 101).

However, respondent's failure to cooperate in the Commission's investigation demonstrates contumacious disregard of the duties of her office and warrants removal. (See, Matter of Carney, 1997 Ann Report of NY Commn on Jud Conduct, at 78, 79; Matter of Driscoll, 1997 Ann Report of NY Commn on Jud Conduct, at 89, 90; Matter of Miller, supra).

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

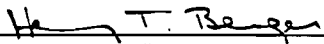
Mr. Berger, Ms. Brown, Mr. Coffey, Mr. Goldman, Judge Luciano, Judge Marshall, Judge Newton and Judge Thompson concur.

Ms. Crotty, Mr. Pope and Judge Salisbury were not present.

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: February 5, 1998



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