

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

PATRICIA COOLEY,

Determination

a Justice of the Village Court of
Alexandria Bay, Jefferson County.

BEFORE: Mrs. Gene Robb, Chairwoman
Honorable Fritz W. Alexander, II
Dolores DelBello
Michael M. Kirsch, Esq.
William V. Maggipinto, Esq.
Honorable Isaac Rubin
Honorable Felice K. Shea
Carroll L. Wainwright, Jr., Esq.

APPEARANCES:

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

Patricia Cooley, Respondent Pro Se

The respondent, Patricia Cooley, a justice of the Village Court of Alexandria Bay, Jefferson County, was served with a Formal Written Complaint dated February 13, 1980, alleging (i) that she failed to report and remit to the State Comptroller in a timely manner monies received in her judicial capacity from January 1979 to January 1980, (ii) that she failed to make entries in her docket or cash books from April 1979 to December 1979 and (iii) that she failed to respond to inquiries by the Office of Court Administration and by this Commission with respect thereto. Respondent did not file an answer.

By motion dated April 30, 1980, the administrator of the Commission moved for summary determination, pursuant to Section 7000.6(c) of the Commission's rules (22 NYCRR 7000.6[c]). Respondent did not respond to the motion. By determination and order dated June 23, 1980, the Commission granted the motion, found respondent's misconduct established and set a date for oral argument on the issue of an appropriate sanction. The administrator submitted a memorandum in lieu of oral argument. By telephone respondent waived both oral argument and a memorandum.

The Commission considered the record of this proceeding in executive session on July 24, 1980, and upon that record makes the following findings of fact.

1. From January 1979 to January 1980, respondent failed to report or remit to the State Comptroller monies she received in her judicial capacity within the time required by law, in that she:

- (a) reported and remitted in April 1979 monies she collected in January and February 1979;
- (b) reported and remitted in June 1979 monies she had collected in March and April 1979;
- (c) reported and remitted in January 1980 monies collected from June through December 1979.

2. From April 1979 to December 1979, respondent failed to make complete entries in her docket or cash books although she disposed of at least 300 motor vehicle cars in that period.

3. Respondent failed to answer two letters from the director of administration, Fourth Judicial Department, dated June 27, 1979, and November 16, 1979, inquiring into her failure to report and remit monies to the State Comptroller.

4. Respondent failed to cooperate with a duly authorized investigation by this Commission with respect to her failure to make docket and cash book entries and her failure to report and remit monies in a timely manner to the State Comptroller, in that (i) she failed to respond to three written inquiries dated October 9, 1979, October 24, 1979, and November 1, 1979, sent by the Commission's senior attorney pursuant to Section 42, subdivision 3, of the Judiciary Law, and (ii) she failed on two occasions to appear to testify before a member of the Commission on December 18, 1979, and January 8, 1980, although she had been duly requested to appear pursuant to Section 44, subdivision 3, of the Judiciary Law in letters dated November 26, 1979, and December 26, 1979.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Section 4-410 of the Village Law, Sections 107, 2019, 2019-a, 2020 and 2021 of the Uniform Justice Court Act, Section 30.9 of the Uniform Justice Court Rules, Sections 33.1, 33.2(a) and 33.3(b)(1) of the Rules Governing Judicial Conduct and Canons 1, 2A and 3B(1) of the Code of Judicial Conduct. Charges I through III of the Formal Written Complaint are sustained, and respondent's misconduct is established.

The applicable reporting laws and rules cited above require a town or village court justice (i) to maintain proper docket books of matters on the court's calendar, (ii) to maintain a cashbook and

(iii) to report and remit to the State Comptroller all collected monies on or before the tenth day of the month following collection. Failure to do so constitutes misconduct and may result in removal of the judge from office. See Bartlett v. Flynn, 50 AD2d 401 (4th Dept. 1976), app. dismissed 39 NY2d 946 (1976).

In the instant case, by consistently filing late reports and by not maintaining a cashbook, respondent has evinced a tardiness and carelessness inconsistent with her position of trust and responsibility as a judicial officer.

Respondent's record keeping deficiencies are exacerbated by her failure to cooperate with an inquiry by the Office of Court Administration and a duly authorized investigation by this Commission. Failure to cooperate with a Commission investigation is serious misconduct. In Matter of Robert W. Jordan, NYLJ Aug. 7, 1979, p. 5, col. 1, the Court on the Judiciary suspended a judge for four months without pay for failing to appear before the Commission in the course of a duly authorized investigation. The Court stated as follows:

[R]espondent's refusals to cooperate were clearly improper. Although the respondent is not an attorney, as a judicial officer he is charged with knowledge of his responsibilities, which include cooperating with statutorily authorized Commission investigations. Id.

By failing to keep appropriate court records, by failing to file timely reports and remittances to the State Comptroller, and by failing to respond to appropriate inquiries from two state agencies, respondent has exhibited an inability or unwillingness to discharge the obligations of judicial office in a responsible manner. She thus has violated those provisions of the Rules

Governing Judicial Conduct which require diligent attention to administrative duties (Section 33.3[b][1]) and conduct promoting public confidence in the judiciary (Sections 33.1 and 33.2[a]).

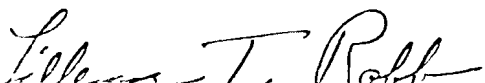
By reason of the foregoing, the Commission determines that the appropriate sanction is removal from office.

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: September 9, 1980
Albany, New York


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