

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

RICHARD J. COTE,

a Justice of the Pamela Town Court,
Jefferson County.

THE COMMISSION:

Mrs. Gene Robb, Chairwoman
John J. Bower, Esq.
David Bromberg, Esq.
Honorable Carmen Beauchamp Ciparick
E. Garrett Cleary, Esq.
Dolores DelBello
Victor A. Kovner, Esq.
Honorable William J. Ostrowski
Honorable Isaac Rubin
Honorable Felice K. Shea
John J. Sheehy, Esq.

APPEARANCES:

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

Honorable Richard J. Cote, pro se

The respondent, Richard J. Cote, a justice of the Pamela Town Court, Jefferson County, was served with a Formal Written Complaint dated April 10, 1985, alleging certain administrative and financial depositing, reporting and remitting failures. Respondent filed an answer dated May 17, 1985.

By order dated May 22, 1985, the Commission designated John F. Luchsinger, Jr., Esq., as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on June 25, 1985, and the referee filed his report with the Commission on July 19, 1985.

By motion dated August 13, 1985, the administrator of the Commission moved to confirm the referee's report and for a finding that respondent be removed from office. Respondent did not file any papers in response thereto and waived oral argument.

On September 12, 1985, the Commission considered the record of the proceeding and made the following findings of fact.

Preliminary findings:

1. Respondent became a justice of the Pamela Town Court in January 1976. He notified the Chief Administrator of the Courts of his resignation on June 24, 1985.

2. Respondent is not an attorney. He is a former state trooper and works as a credit manager for a furniture store.

3. Respondent has attended three training sessions for non-lawyer judges offered by the Office of Court Administration.

4. Respondent's wife works as his court clerk. She is primarily responsible for maintaining court dockets.

As to Charge I of the Formal Written Complaint:

5. In June 1982, Timothy L. Thompson was ticketed for Passing A Stop Sign in the Town of Pamelaia.

6. Mr. Thompson signed a plea of guilty on the back of the ticket and mailed the ticket and the conviction stub from his driver's license by registered mail to respondent on June 15, 1982.

7. A receipt indicating that respondent had received the documents on June 16, 1982, was returned to Mr. Thompson.

8. In July 1982, Mr. Thompson's wife, Tina, called respondent on behalf of her husband and inquired about disposition of the matter. Respondent promised to get to it as soon as possible.

9. In September 1982, Ms. Thompson called respondent and again inquired about disposition of the ticket. Respondent again promised to take care of the matter.

10. As of the hearing in this proceeding on June 25, 1985, respondent had not disposed of the Thompson case and was unable to locate any records in his court concerning it.

11. After having the matter brought to his attention by a Commission investigator, respondent notified the Jefferson

County Sheriff's Department and the state police that he was unable to locate any records of the Thompson case.

As to Charges II through V of the Formal Written Complaint:

12. From January 1976 until the Formal Written Complaint was served on April 10, 1985, respondent failed to perform his administrative and adjudicative responsibilities in that he:

(a) Failed to schedule for trial 45 cases pending in his court in which the defendants had pled not guilty, as denominated in Schedule A of the Formal Written Complaint;

(b) failed to dispose of 187 cases in which the defendants had pled guilty, as denominated in Schedule C of the Formal Written Complaint;¹

(c) failed to dispose of 356 cases in which the defendants had failed to appear or answer the charges against them, as denominated in Schedule D of the Formal Written Complaint;

(d) failed to maintain docket entries, case files or indices of cases for 637 cases pending in his court, as

¹The case of People v. Maurice Albert, which appears on page 2 of Schedule C, was withdrawn at the hearing.

denominated in Schedules A, B, C and D of the Formal Written Complaint;

(e) failed to return driver's licenses to 14 defendants who had pled not guilty, as denominated in Schedule A of the Formal Written Complaint;²

(f) failed to report to the appropriate law enforcement agencies and the Department of Motor Vehicles the disposition of 217 cases and failed to notify the Department of Motor Vehicles that the defendants had not paid fines, as denominated in Schedules B and C of the Formal Written Complaint;

(g) failed to report to the Department of Motor Vehicles that 356 defendants had not appeared or answered traffic tickets, as denominated in Schedule D of the Formal Written Complaint;

(h) failed, as of October 4, 1984, to deposit in his official court account \$1,395 in checks and money orders received between November 9, 1977, and August 20, 1984, in connection with 49 cases, as denominated in Schedule B of the Formal Written Complaint; and,

(i) failed, between December 11, 1977, and October 4, 1984, to report 49 cases and remit \$1,395 to the State

²In the case of People v. Brent P. Riley, which appears on page 2 of Schedule A, the allegation that respondent failed to return the conviction stub portion of the defendant's license was withdrawn at the hearing.

Comptroller, as denominated in Schedule B of the Formal Written Complaint.

13. Respondent was aware that he was required to notify law enforcement agencies and the Department of Motor Vehicles of the disposition of cases and that he was required to notify the Department of Motor Vehicles of the failure of defendants in traffic cases to pay fines.

14. Respondent was aware that he was required by law to deposit all monies received in his court within 72 hours of receipt.

15. Respondent offered no excuse for his failures other than that he "got behind" in his work.

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(a)(5) and 100.3(b)(1) of the Rules Governing Judicial Conduct; Canons 1, 2A, 3A(5) and 3B(1) of the Code of Judicial Conduct; Sections 107, 2019, 2019-a, 2020 and 2021(1) of the Uniform Justice Court Act; Sections 30.7(a) and 30.9 of the Uniform Justice Court Rules; Section 27 of the Town Law; Sections 514(3), 1803, 1805 and 1806 of the Vehicle and Traffic Law; Sections 105.1 and 105.3 of the Recordkeeping Requirements for Town and Village Courts, and Section 91.12 of the Regulations of the Commissioner of the Department of Motor

Vehicles. Charges I through V of the Formal Written Complaint are sustained, and respondent's misconduct is established.

Respondent has neglected hundreds of cases over a period of years and has mishandled thousands of dollars in public monies. He has no excuse for his misconduct. He was aware of the legal requirements concerning reporting and disposing of cases and the handling of court funds. He was trained and experienced in financial matters, and he had the assistance of a court clerk.

Such disregard of a judge's statutory responsibilities violates the public trust and warrants removal from office. Matter of Cooley v. State Commission on Judicial Conduct, 53 NY2d 64 (1981); Matter of Petrie v. State Commission on Judicial Conduct, 54 NY2d 807 (1981); Bartlett v. Flynn, 50 AD2d 401 (4th Dept. 1976); Matter of New, 3 Commission Determinations 155 (Com. on Jud. Conduct, Dec. 8, 1982); Matter of Hutzky, 3 Commission Determinations 251 (Com. on Jud. Conduct, Nov. 4, 1983).

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

Mrs. Robb, Mr. Bower, Mr. Cleary, Mrs. DelBello, Mr. Kovner, Judge Ostrowski, Judge Rubin, Judge Shea and Mr. Sheehy concur.

Mr. Bromberg was not present.


Judge Ciparick was not a member of the Commission at the time the vote in this proceeding was taken.

This determination is rendered pursuant to Section 47 of the Judiciary Law in view of respondent's resignation from the bench.

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: October 21, 1985



John J. Sheehy, Esq., Member
New York State
Commission on Judicial Conduct