

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

ROBERT A. CRNKOVICH,

a Justice of the Byron Town Court,
Genesee County.

THE COMMISSION:

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

APPEARANCES:

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

Honorable Robert A. Crnkovich, *pro se*

The respondent, Robert A. Crnkovich, a Justice of the Byron Town Court,
Genesee County, was served with a Formal Written Complaint dated March 4, 2002,
containing one charge. Respondent filed an answer dated April 23, 2002.

On June 20, 2002, the Administrator of the Commission and respondent 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 censured and waiving further submissions and oral argument.

On September 19, 2002, the Commission approved the agreed statement and made the following determination.

1. Respondent has been a Justice of the Byron Town Court, Genesee County, since January 1, 1980.

2. In the fall of 2001, respondent recorded a publicly broadcasted radio advertisement endorsing Joseph Filio, a candidate for Batavia Town Court in the November 2001 election. Respondent stated:

The Town of Batavia residents will be electing a new Town Justice. I have known Joe Filio and his family all my life. As a Genesee County Deputy he was always prepared for any trial in my court. He was well liked, very calm in all matters and did a very thorough job. I think he would be a well-qualified person for the Justice position in the Town of Batavia.

3. In the fall of 2001, respondent authorized Mr. Filio to print in a campaign advertisement respondent's full statement of endorsement from the radio advertisement. The printed advertisement identifies respondent as Byron Town Justice.

4. In the fall of 2001, respondent sent a letter to the editor of the Batavia Daily News, which was published on November 1, 2001, repeating the text of his

radio statement and identifying respondent as Byron Town Justice.

5. Respondent was aware that he was prohibited from endorsing candidates for political office.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.5 (A), 100.5(A)(1)(d) and 100.5(A)(1)(e) of the Rules Governing Judicial Conduct. Charge I of the Formal Written Complaint is sustained, and respondent's misconduct is established.

The ethical standards prohibit a judge from participating in the campaign of another candidate for public office or publicly endorsing a candidate (Sections 100.5[A][1][d] and 100.5[A][1][e] of the Rules Governing Judicial Conduct). Respondent's public statements on behalf of a candidate for another judicial office clearly constituted an improper political endorsement. *See Matter of Cacciatore*, 1999 Ann Rep 85 (Commn on Jud Conduct, Feb 6, 1998); *Matter of Decker*, 1995 Ann Rep 111 (Commn on Jud Conduct, Jan 27, 1994). By his endorsement, respondent interjected himself into the political campaign of another and lent the prestige of judicial office to advance the interests of the candidate, a long-time acquaintance.

Respondent's misconduct was not an isolated episode. By recording his statement for the radio, sending it to a newspaper and specifically authorizing the candidate to use the endorsement in a campaign advertisement, respondent ensured that his endorsement would be widely disseminated.

Every judge, lawyer or non-lawyer, has an obligation to learn and abide by the Rules Governing Judicial Conduct. *Matter of VonderHeide*, 72 NY2d 658, 660 (1988). As a judge since 1980, respondent should have recognized that his statements endorsing a judicial candidate were prohibited by the ethical rules.

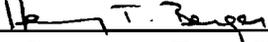
By reason of the foregoing, the Commission determines that the appropriate sanction is censure.

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

CERTIFICATION

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

Dated: November 18, 2002



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