

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

GERARD DECKELMAN,

a Justice of the Fremont Town Court,
Sullivan County.

THE COMMISSION:

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

APPEARANCES:

Gerald Stern (Cathleen S. Cenci, Of Counsel) for the
Commission

The respondent, Gerard Deckelman, a justice of the
Fremont Town Court, Sullivan County, was served with a Formal
Written Complaint dated July 31, 1987, alleging certain
reporting, remitting and depositing deficiencies and alleging
that he failed to perform his adjudicative and administrative

responsibilities in numerous cases. Respondent did not answer the Formal Written Complaint.

By motion dated October 8, 1987, the administrator of the Commission moved for summary determination and a finding that respondent's misconduct be deemed established. Respondent did not file any papers in response thereto. By determination and order dated November 18, 1987, the Commission granted the administrator's motion and found respondent's misconduct established.

The administrator filed a memorandum as to sanction. Respondent neither filed any papers nor requested oral argument. On December 17, 1987, 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 is a justice of the Fremont Town Court and has been since January 1984.

2. From January 1984 to April 1987, respondent failed to remit funds or report cases in a timely manner to the Department of Audit and Control, as set forth in Schedule A of the Formal Written Complaint, in violation of Sections 2020 and 2021(1) of the Uniform Justice Court Act, Section 27(1) of the Town Law and Section 1803 of the Vehicle and Traffic Law. Respondent's reports were late in 39 of the 40 months of the

period. They were from 3 to 216 days late, or an average of 62 days late.

As to Charge II of the Formal Written Complaint:

3. Between May 1985 and June 1987, respondent failed to deposit funds in his official court account in a timely manner, as set forth in Schedule B of the Formal Written Complaint, in violation of Section 30.7(a) of the Uniform Justice Court Rules in effect until January 6, 1986, and thereafter in violation of Section 214.9(a) of the Uniform Civil Rules for the Justice Courts.

4. Respondent kept undeposited court funds in a briefcase and a filing cabinet.

As to Charge III of the Formal Written Complaint:

5. Respondent failed to dispose of five cases pending in his court for between 7 and 18 months, as set forth in Schedule C of the Formal Written Complaint.

6. Respondent failed to maintain a cashbook, in violation of Section 105.1 of the Recordkeeping Requirements for Town and Village Courts in effect until January 6, 1986, Section 30.9 of the Uniform Justice Court Rules in effect until January 6, 1986, and thereafter in violation of Section 214.11(a)(3) of the Uniform Civil Rules for the Justice Courts.

7. Respondent failed to maintain case files and indices of cases, in violation of Sections 107, 2019 and 2019-a of the Uniform Justice Court Act, Section 105.1 of the Recordkeeping Requirements for Town and Village Courts in effect until January 6, 1986, Section 30.9 of the Uniform Justice Court Rules in effect until January 6, 1986, and thereafter in violation of Sections 214.11(a)(1) and 214.11(a)(2) of the Uniform Civil Rules for the Justice Courts.

8. In ten cases, respondent failed to issue receipts to defendants who had paid fines to the court, as set forth in Schedule D of the Formal Written Complaint, in violation of Section 31(1)(a) of the Town Law.

9. Between February 1986 and June 1987, respondent failed to notify law enforcement agencies and the Department of Motor Vehicles of the disposition of cases, in violation of Section 91.12 of the Regulations of the Commissioner of the Department of Motor Vehicles.

10. Respondent failed to maintain complete and adequate dockets in eight cases, as set forth in Schedule E of the Formal Written Complaint, in violation of Sections 107, 2019 and 2019-a of the Uniform Justice Court Act and Section 105.3 of the Recordkeeping Requirements for Town and Village Courts in effect until January 6, 1986.

11. On October 12, 1986, in People v. Michael Rigney, respondent failed to properly advise the defendant of his rights

at arraignment, in violation of Section 180.10(4) of the Criminal Procedure Law. Respondent set bail at \$500 but did not deposit it in his official court account until June 8, 1987, nearly eight months after he received it, because he did not know what to do with it, he testified before a member of the Commission on June 16, 1987. Respondent also failed to keep any record of the case.

12. From January 1984 to June 1987, respondent handled fewer than 25 cases. Although he sits once a week, he never hears more than two cases, and in many court sessions he has no cases at all. In his testimony before a member of the Commission, he attributed his failures to carelessness and procrastination.

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)(1), 100.3(a)(5) and 100.3(b)(1) of the Rules Governing Judicial Conduct and Canons 1, 2A, 3A(1), 3A(5) 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.

Despite an extremely small caseload (fewer than 25 cases in three and a half years), respondent has neglected nearly every aspect of his adjudicative and administrative

duties. He failed to promptly dispose of cases. He failed to keep proper court records. He mishandled public moneys by keeping them in his personal possession instead of depositing them in his official account and turning them over to the state as the law requires.

By his disdain for the responsibilities of a judge, respondent has demonstrated that he is not fit to hold judicial office. Matter of Vincent v. State Commission on Judicial Conduct, 70 NY2d 208 (1987); Matter of Petrie v. State Commission on Judicial Conduct, 54 NY2d 807 (1981); Bartlett v. Flynn, 50 AD2d 401 (4th Dept. 1976).

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

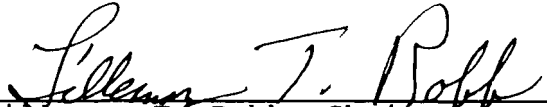
Mrs. Robb, Mr. Bower, Mr. Bromberg, Judge Ciparick, Mrs. DelBello, Mr. Kovner, Judge Shea and Mr. Sheehy concur.

Mr. Cleary, Judge Ostrowski and Judge Rubin 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: December 21, 1987


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