

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

FRANK W. DEGENHARDT,

a Justice of the Gallatin Town Court,
Columbia County.

Determination

THE COMMISSION:

Henry T. Berger, Esq., Chair
Jeremy Ann Brown
Stephen R. Coffey, Esq.
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 for the Commission

Trezza Kane & Efron (By John B. Kane, Jr.) for Respondent

The respondent, Frank W. Degenhardt, a justice of the Gallatin Town Court, Columbia County, was served with a Formal Written Complaint dated February 17, 1998, alleging that he mishandled a small claims case. Respondent did not answer the charge.

On April 14, 1998, the administrator of the Commission, respondent and respondent's counsel entered into an Agreed Statement of Facts pursuant to Judiciary Law §44(5), stipulating that the Commission make its determination based on the agreed upon facts, jointly recommending that respondent be admonished and waiving further submissions and oral argument.

On June 18, 1998, the Commission approved the agreed statement and made the following determination.

1. Respondent has been a justice of the Gallatin Town Court since January 1, 1996.
2. On April 9, 1997, respondent presided over Linda Colwell v David Colwell, which was scheduled for trial on that day. The plaintiff was suing her son for money that she claimed to have loaned him.
3. During a pretrial conference, the plaintiff showed respondent a list of loans she claimed to have made to her son while he was living at home. The defendant denied that his mother had loaned him money. Respondent said that the defendant had a "moral obligation" to repay his mother.
4. The defendant noted that the date of one of the purported loans was more than six years before the complaint and was, thus, barred by the statute of limitations.

Respondent took a recess in order to research the matter and concluded that the statute of limitations was six years. On returning to the bench, respondent noted that this claim was time-barred.

5. No evidence was presented as to the time of most of the other purported loans, and respondent did not inquire concerning the dates.

6. The defendant continued to deny that any of the payments were loans. Respondent repeated that the defendant had a “moral obligation” to repay his mother.

7. Respondent entered a judgment for the full amount of the claim, including the payment that he had concluded was time-barred.

8. Respondent knew when he entered the judgment that he had not held a trial or administered an oath to the witnesses. He knew that he had received no evidence that would support his judgment, that the defendant had no legal obligation to pay the amount claimed and that the decision was contrary to law.

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), 100.3(B)(4) and 100.3(B)(6). Charge I of the Formal Written Complaint is sustained insofar as it is consistent with the findings herein, and respondent’s misconduct is established.

Knowing that he had not conducted a trial on a disputed civil claim and that he had no evidentiary or other legal basis for doing so, respondent entered a judgment against Mr. Colwell based on what respondent considered a “moral obligation.”

“ A judge is obliged by the Rules Governing Judicial Conduct to be faithful to and competent in the law, to insure that all those with a legal interest have a full right to be heard, and to act in a manner that promotes public confidence in the integrity of the judiciary.” (Matter of Curcio, 1984 Ann Report of NY Commn on Jud Conduct, at 80, 82). These standards are violated when a judge disposes of a contested case without affording the opportunity for a trial. (See, Matter of McGee, 59 NY2d 870; Matter of Curcio, supra).

Knowing disregard of the law is especially improper. (See, Matter of LaBelle, 79 NY2d 350, 358; Matter of Schneider, 1991 Ann Report of NY Commn on Jud Conduct, at 71, 73).

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

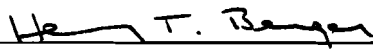
Mr. Berger, Ms. Brown, Mr. Goldman, Judge Luciano, Judge Marshall, Judge Newton, Judge Salisbury and Judge Thompson concur.

Mr. Coffey and Mr. Pope 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: July 27, 1998


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