

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

RONALD L. FABRIZIO,

a Justice of the Town Court of New Windsor,
Orange County.

THE COMMISSION:

Mrs. Gene Robb, Chairwoman
Honorable Fritz W. Alexander, II
John J. Bower, Esq.
David Bromberg, Esq.
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 (Alan W. Friedberg, Of Counsel) for
the Commission

Stewart A. Rosenwasser for Respondent

The respondent, Ronald L. Fabrizio, a justice of the
New Windsor Town Court, Orange County, was served with a Formal
Written Complaint dated January 4, 1984, alleging that he sought
special consideration on behalf of two defendants in other

courts, that he was undignified and discourteous to a defendant in his court, that he altered a transcript, that he presided over a case involving his dentist, that he used racial epithets and that he falsely testified before a Commission member.

Respondent filed an answer dated January 12, 1984.

By order dated January 23, 1984, the Commission designated Richard L. Baltimore, Jr., Esq., as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on April 3, 4, 10, 11 and 12, 1984, and the referee filed his report with the Commission on September 4, 1984.

By motion dated October 5, 1984, the administrator of the Commission moved to confirm the referee's report and for a finding that respondent be removed from office. Respondent opposed the motion on October 23, 1984.

On November 13, 1984, the Commission heard oral argument, at which respondent and his counsel appeared, and thereafter 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 New Windsor Town Court, Orange County, and has been since January 1, 1982.
2. On April 3, 1983, Bohdan Kryzaniwsky was ticketed for Speeding in the City of Newburgh by Officer John Vigniero.

3. Mr. Kryzaniwsky is the brother of respondent's dentist, Dr. George Kryzaniwsky.

4. After he received the ticket, Mr. Kryzaniwsky went to see respondent and asked whether respondent could help him in some way.

5. Respondent told Mr. Kryzaniwsky that he would call Officer Vigniero.

6. The case was scheduled for trial on May 3, 1983. Having no other business in the court that day, respondent went to the Newburgh City Court and asked to see Officer Vigniero.

7. Respondent told Officer Vigniero that Mr. Kryzaniwsky was a friend and asked him to consent to a reduction of the charge to one that would carry no points on a driver's license.

8. Respondent gave the officer his business card, identifying him as a judge, and left.

9. Because of respondent's request, Officer Vigniero consented to a reduction of the charge to Failure To Keep Right.

As to Charge II of the Formal Written Complaint:

10. On January 31, 1983, Alexander Supik, Jr., received tickets for Speeding and Driving Without Insurance in the Town of Newburgh.

11. Mr. Supik and members of his family have been friends of respondent for more than ten years.

12. In early February 1983, Mr. Supik went to respondent's chambers and asked him what to do about the tickets he had received.

13. Mr. Supik told respondent that he was guilty of the offenses charged.

14. Respondent told Mr. Supik that he would "take care of" the tickets, and Mr. Supik turned them over to respondent.

15. Respondent then communicated with the Newburgh Town Court, seeking special consideration for Mr. Supik.

16. On February 3, 1983, Justice Angelo Darrigo of the Newburgh Town Court dismissed the Driving Without Insurance charge on the ground that Mr. Supik had produced proof of insurance. Mr. Supik was fined \$15 on the Speeding charge.

17. In March 1984, Mr. Supik's mother, Anna Margaret Supik, called respondent and told him that her son had been asked to talk to the Commission staff concerning the tickets.

18. Respondent told Ms. Supik that Mr. Supik "had better say the right thing" and that respondent would see who his friends are.

19. Respondent also said, "People think I am a bastard now. When this is over, they can call me Mr. Bastard for all I care." When respondent made the statement, he knew that one of the charges in this proceeding involved his handling of Mr. Supik's tickets.

As to Charge III of the Formal Written Complaint:

20. On October 13, 1982, Mostafa Soltani was ticketed in the Town of New Windsor for Insufficient Headlights, Driving Without A License, Driving Without Insurance and Driving An Unregistered Vehicle.

21. Mr. Soltani is a civil engineer who lives at West Point with his wife, an Army captain. Mr. Soltani was born in Iran.

22. Mr. Soltani appeared before respondent on December 28, 1982. Respondent referred to Mr. Soltani as "the Iranian guy" and told him to "shut up" when he attempted to speak.

23. When Mr. Soltani attempted to explain that he had an international driver's license, respondent referred to the license as "bullshit." Respondent said, "I am a retired colonel from the United States Military Police, and I don't want you to tell me what the laws of the State of New York are."

24. Mr. Soltani was at all times courteous and respectful to respondent. Respondent was, according to several witnesses in the courtroom, discourteous and undignified.

25. Respondent ordered Mr. Soltani held in lieu of \$225 cash bail on the traffic charges and, according to two court clerks, said that he was holding Mr. Soltani as a "hostage," although Mr. Soltani did not hear the remark. Respondent refused to accept a check for the bail from Mr. Soltani, and Mr. Soltani spent a night in jail.

26. Prior to the proceeding on December 28, 1982, respondent told his court clerk, Yvette Donegan, that he was going to "get the Iranian bastard."

27. On February 1, 1983, respondent dismissed one of the charges against Mr. Soltani and fined him a total of \$60 on the remaining charges.

As to Charge IV of the Formal Written Complaint:

28. After the conclusion of the Soltani case, the Office of Court Administration asked respondent for transcripts of the proceedings on December 28, 1982, and February 1, 1983. Respondent was aware that the transcripts were being requested because his conduct in the Soltani case was being reviewed.

29. Respondent asked his court reporter, Alberta Goucher Murtagh, to prepare the transcripts.

30. Ms. Murtagh prepared a "rough draft" of the transcripts and gave them to respondent.

31. Respondent made several changes to the transcripts in his own handwriting. Among the changes, respondent added that he had advised Mr. Soltani of his right to counsel and a supporting deposition on all charges and noted that Mr. Soltani refused counsel. Respondent also crossed out a statement attributed to him in Ms. Murtagh's transcript: "I am a retired colonel from the United States Military Police, and I

don't want you to tell me what the laws of the State of New York are."

32. Respondent then told Ms. Murtagh to retype the transcripts to incorporate his changes.

33. Respondent ordered the transcripts sent to the Office of Court Administration. The transcripts were certified as true and accurate by Ms. Murtagh. There was no indication that the transcripts had been altered by respondent.

As to Charge V of the Formal Written Complaint:

34. On or about July 8, 1983, respondent learned that Ms. Murtagh had been subpoenaed to appear for the purpose of giving testimony before the Commission staff and had been directed to bring her stenographic notes in People v. Mostafa Soltani.

35. Ms. Murtagh told respondent that she was concerned that, because of the changes he had made to the transcripts, her stenographic notes and the transcripts would not "match."

36. Respondent told Ms. Murtagh, "Everything should match up."

37. Ms. Murtagh took this as a direction to alter her notes to match the changes that respondent had made in the transcripts. She did so and submitted the altered notes to the Commission staff.

As to Charge VI of the Formal Written Complaint:

38. On August 2, 1982, respondent presided over Ethan Allen Agency v. Dr. George Kryzaniwsky, a small claims case.

39. Dr. Kryzaniwsky had been respondent's regular dentist for approximately ten years.

40. On August 13, 1982, respondent decided the case in favor of Dr. Kryzaniwsky and dismissed the plaintiff's claim.

41. Respondent never notified the plaintiff or the plaintiff's attorney of his relationship with Dr. Kryzaniwsky or offered to disqualify himself.

As to Charge VII of the Formal Written Complaint:

42. In 1982 and 1983, while acting in his official capacity, respondent used racial epithets, such as "nigger" and "spick," in the presence of a court clerk and a police sergeant.

43. In July 1983, respondent spoke in chambers with Hilda Kogut, a special agent for the Federal Bureau of Investigation.

44. Investigator Kogut inquired about a defendant in respondent's court. Respondent referred to the defendant as a "nigger."

45. Between May 1, 1982, and February 1, 1983, respondent used the term "nigger" while conferring in chambers on official business with David A. Lindine, an attorney for the Legal Aid Society.

As to Charge VIII of the Formal Written Complaint:

46. The charge is not sustained and is, therefore, dismissed.

As to Charge IX of the Formal Written Complaint:

47. Respondent failed to cooperate with a Commission investigation in that he:

(a) Testified falsely before a member of the Commission on August 30, 1983, that he did not ask Officer John Vigniero on May 3, 1983, to agree to a reduction of the charge in People v. Bohdan Kryzaniwsky;

(b) testified falsely before a member of the Commission on October 3, 1983, that Alexander Supik, Jr., had asked him to obtain an adjournment from the Newburgh Town Court because Mr. Supik wanted to play basketball on the date that he was due in court and that respondent called the court only to obtain an adjournment;

(c) testified falsely before a member of the Commission on October 3, 1983, that Mr. Supik had told respondent that he had gone to the Newburgh Town Court and produced proof of automobile insurance;

(d) testified falsely before a member of the Commission on August 30, 1983, and at the hearing on April 11, 1984, that a courtroom spectator and not respondent had used the term

"hostage" on December 28, 1982, in People v. Mostafa Soltani;

(e) testified falsely on October 3, 1983, that on or about July 8, 1983, he had not directed Alberta Murtagh to alter the stenographic notes in People v. Mostafa Soltani before providing them to the Commission; and,

(f) testified falsely before a member of the Commission on August 30, 1983, and at the hearing on April 11 and 12, 1984, that he had not used racial epithets in his judicial capacity or at any other time in his life.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2, 100.3(a) and 100.3(c) of the Rules Governing Judicial Conduct; Canons 1, 2, 3A and 3C of the Code of Judicial Conduct, and Sections 700.5(a) and 700.5(e) of the Special Rules Concerning Court Decorum of the Appellate Division, Second Department. Charges I through VII and paragraphs 20(a) through (e) and (g) of Charge IX of the Formal Written Complaint are sustained, and respondent's misconduct is established.

In a relatively brief judicial career, respondent has demonstrated by a persistent and varied pattern of misconduct that he is unfit for the bench.

Respondent created the appearance of impropriety by sitting on a case in which one of the parties was his dentist of long standing, without disclosing the relationship or offering to disqualify himself. In so doing, he heard a case in which

his impartiality might reasonably be questioned, in violation of Section 100.3(c) of the Rules Governing Judicial Conduct.

Respondent intervened in two cases in other courts to obtain special consideration for defendants who had asked him for help, long after the practice had been condemned by the courts and this Commission. Matter of Dixon v. State Commission on Judicial Conduct, 47 NY2d 523 (1979); Matter of Bulger v. State Commission on Judicial Conduct, 48 NY2d 32 (1979); Bartlett v. Enea, 45 AD2d 471 (4th Dept. 1974); "Ticket-Fixing: The Assertion of Influence in Traffic Cases," Interim Report by the State Commission on Judicial Conduct (June 20, 1977).

Respondent was discourteous to a foreign-born defendant and created the appearance that he was basing his bail decision on his biased views of the defendant's national origin. He repeatedly used racist language while performing his judicial duties. Standing alone, this is serious misconduct. Matter of Cerbone v. State Commission on Judicial Conduct, 61 NY2d 93 (1984); Matter of Kuehnel v. State Commission on Judicial Conduct, 49 NY2d 465 (1980); Matter of Bloodgood, unreported (Com. on Jud. Conduct, June 11, 1981).

Respondent exacerbated his serious misdeeds by numerous attempts to frustrate the Commission investigation into his conduct. At a time when he knew his conduct in the Soltani case had been called into question, he made changes in the transcripts of the case to make his conduct look more proper. He

then ordered the court stenographer to change her notes so that his alterations might go undetected. Such alterations of official records constitute serious misconduct. Matter of Jones, 47 NY2d (mmm) (Ct. on the Judiciary 1979). Respondent threatened a witness by telling his mother that by the witness' testimony respondent would "see who his friends are," and by indicating that people would call him a "bastard" once the Commission proceeding was concluded. (See, Matter of Mahar, unreported [Com. on Jud. Conduct, June 10, 1982]). Respondent further attempted to obstruct the Commission's discharge of its lawful mandate by repeatedly giving false testimony. Such lack of candor is "totally unacceptable, for a Judge is, of course, sworn to uphold the truth-seeking process." Matter of Steinberg v. State Commission on Judicial Conduct, 51 NY2d 74, 78 (fn.) (1980).

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

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

Mr. Kovner was 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 26, 1984

A handwritten signature in cursive script, reading "Lillemor T. Robb". The signature is written in dark ink and is positioned above a horizontal line.

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