

**State of New York**  
**Commission on Judicial Conduct**

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In the Matter of the Proceeding Pursuant to Section 44,  
subdivision 4, of the Judiciary Law in Relation to

ROLLIN L. FANCHER,

a Justice of the Dunkirk Town Court,  
Chautauqua County.

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**Determination**

BEFORE: Mrs. Gene Robb, Chairwoman  
Honorable Fritz W. Alexander, II  
David Bromberg  
Honorable Richard J. Cardamone  
Dolores DelBello  
Michael M. Kirsch  
Victor A. Kovner  
William V. Maggipinto  
Honorable Isaac Rubin  
Carroll L. Wainwright, Jr.

Respondent, Rollin L. Fancher, a justice of the Town Court of Dunkirk, Chautauqua County, was served with a Formal Written Complaint dated June 1, 1979, setting forth four charges of misconduct relating to the improper assertion of influence in traffic cases. Respondent filed an amended answer dated July 30, 1979.

By notice of motion dated August 29, 1979, the administrator of the Commission moved for summary determination, pursuant to Section 7000.6(c) of the Commission's rules (22 NYCRR 7000.6[c]). Respondent did not oppose the motion. The Commission granted the motion on September 26, 1979, deemed respondent's misconduct

established with respect to all four charges in the Formal Written Complaint, and set a date for oral argument on the issue of an appropriate sanction. The administrator submitted a memorandum in lieu of oral argument. Respondent did not submit a memorandum and did not appear for oral argument.

The Commission considered the record of this proceeding on October 26, 1979, and upon that record makes the following findings of fact.

1. As to Charge I, on May 15, 1975, respondent sent a letter to Justice Norman E. Kuehnel of the Town Court of Hamburg, seeking special consideration on behalf of the defendant in People v. Edward L. Johnson, a case then pending in that court.

2. As to Charge II, on December 9, 1974, respondent sent a letter to Justice John S. Abramo of the Town Court of Brant, seeking special consideration on behalf of the defendant in People v. William M. Roberts, a case then pending before Judge Abramo.

3. As to Charge III, on January 22, 1974, respondent sent a letter to Justice Norman E. Kuehnel of the Town Court of Hamburg, seeking special consideration on behalf of the defendant in People v. John O. Wrigley, a case then pending before Judge Kuehnel.

4. As to Charge IV, on March 5, 1975, respondent communicated with Justice Morten Morrison of the Town Court of Pomfret, seeking special consideration on behalf of the defendant in People v. Lester E. Bennett, a case then pending before Judge Morrison.

Upon the foregoing facts, the Commission concludes as a matter of law that respondent violated Sections 33.1, 33.2, 33.3(a)(1) and 33.3(a)(4) of the Rules Governing Judicial Conduct and Canons 1, 2 and 3A of the Code of Judicial Conduct. Charges I through IV of the Formal Written Complaint are sustained, and respondent's misconduct is established.

It is improper for a judge to seek to persuade another judge, on the basis of personal or other special influence, to alter or dismiss a traffic ticket. A judge who accedes to such a request is guilty of favoritism, as is the judge who made the request. By making ex parte requests of other judges for favorable dispositions for the defendants in traffic cases, respondent violated the Rules enumerated above, which read in part as follows:

Every judge...shall himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. [Section 33.1]

A judge shall respect and comply with the law and shall conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. [Section 33.2(a)]

No judge shall allow his family, social or other relationships to influence his judicial conduct or judgment. [Section 33.2(b)]

No judge...shall convey or permit others to convey the impression that they are in a special position to influence him.... [Section 33.2(c)]

A judge shall be faithful to the law and maintain professional competence in it....  
[Section 33.3(a) (1)]

A judge shall...except as authorized by law, neither initiate nor consider ex parte or other communications concerning a pending or impending proceedings.... [Section 33.3(a) (4)]

Courts in this state and other jurisdictions have found that favoritism is serious judicial misconduct and that ticket-fixing is a form of favoritism.

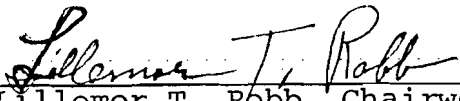
In Matter of Byrne, N.Y.L.J. Apr. 20, 1978, p. 5 (Ct. on the Judiciary, Apr. 18, 1978), the court declared that a "judicial officer who accords or requests special treatment or favoritism to a defendant in his court or another judge's court is guilty of malum in se misconduct constituting cause for discipline." In that case, ticket-fixing was equated with favoritism, which the court stated was "wrong and has always been wrong." Id.

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

All concur.

#### 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.

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

Dated: December 19, 1979  
Albany, New York

APPEARANCES:

Rollin L. Fancher, Respondent *Pro Se*

Gerald Stern for the Commission (Judith Siegel-Baum, Of Counsel)