

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 L. GIZA,

a Justice of the Wawayanda
Town Court, Orange County.

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
Honorable Isaac Rubin
Honorable Felice K. Shea
Carroll L. Wainwright, Jr.

Respondent, Frank L. Giza, a justice of the Town Court of Wawayanda, Orange County, was served with a Formal Written Complaint dated April 16, 1979, setting forth three charges relating to the improper assertion of influence in traffic cases. Respondent filed an answer dated June 1, 1979.

The administrator of the Commission, respondent and respondent's counsel entered into an agreed statement of facts on December 13, 1979, pursuant to Section 44, subdivision 5, of the Judiciary Law, thus waiving the hearing provided for by Section 44, subdivision 4, of the Judiciary Law and stipulating that the Commission make its determination on the pleadings and the facts

as agreed upon. The Commission approved the agreed statement of facts, as submitted, on January 24, 1980, determined that no outstanding issue of fact remained and scheduled oral argument with respect to determining (i) whether the facts establish misconduct and (ii) an appropriate sanction, if any. The administrator submitted a memorandum in lieu of oral argument. Respondent waived oral argument and submitted a written statement.

The Commission considered the record in this proceeding on February 26, 1980, and upon that record makes the following findings of fact.

1. Charge I: On February 23, 1976, respondent sent a letter to Justice Harvey W. Chase of the Town Court of Cicero, seeking special consideration on behalf of the defendant in People v. Peter Bogdanski, a case then pending before Judge Chase.

2. Charge II: On April 23, 1976, respondent sent a letter to Justice Charles Shaughnessy of the Town Court of Chester, seeking special consideration on behalf of the defendant in People v. John Quidone, a case then pending before Judge Shaughnessy.

3. Charge III: On January 15, 1977, respondent sent a letter to Justice James McMahon of the Town Court of Wallkill, seeking special consideration on behalf of the defendant in People v. Arlene M. Scott, a case then pending before Judge McMahon.

Upon the foregoing findings of fact, 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 III 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 makes the request. By making ex parte requests of other judges for favorable dispositions for defendants in traffic cases, respondent violated the Rules enumerated above.

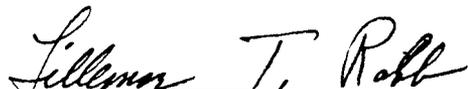
Courts in this and other states, as well as the Commission, have found that favoritism is serious judicial misconduct and that ticket-fixing is a form of favoritism.

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

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: May 20, 1980
Albany, New York

APPEARANCES:

Gerald Stern (Barry M. Vucker, Of Counsel) for the Commission

Michael A. Gurda for Respondent