

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

ROBERT N. GOING,

Determination

a Judge of the Family Court, Montgomery County.

THE COMMISSION:

Henry T. Berger, Esq., Chair
Stephen R. Coffey, Esq.
Mary Ann Crotty
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

Honorable Robert N. Going, pro se

The respondent, Robert N. Going, a judge of the Family Court, Montgomery County, was served with a Formal Written Complaint dated February 3, 1997, alleging improper demeanor. Respondent filed an answer dated February 24, 1997.

On May 12, 1997, the administrator of the Commission and respondent entered into an agreed statement of facts pursuant to Judiciary Law § 44(5), waiving the hearing provided by Judiciary Law § 44(4), 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 May 22, 1997, the Commission approved the agreed statement and made the following determination.

1. Respondent has been a judge of the Montgomery County Family Court since January 1, 1995.

2. On May 7, 1996, respondent presided over a visitation proceeding brought by Elmer H. Respondent summarily dismissed the petition on the basis that Elmer had failed to submit to a psychological evaluation. Respondent was under the mistaken impression that he had previously ordered a psychological evaluation of Elmer.

3. Elmer asked for a lawyer. Respondent replied that he was dismissing the petition until Elmer was evaluated "because it appears to me...that you are more than a little nuts."

4. When Elmer objected to the remark, respondent said, "I understand what I have heard with my own ears and it appears to me that you are nuts."

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)(3), 100.3(B)(4) and 100.3(B)(6), and Canons 1, 2A, 3A(3) and 3A(4) of the Code of Judicial Conduct. Charge I of the Formal Written Complaint is sustained, and respondent's misconduct is established.

By his disparagement of a litigant from the bench, respondent conveyed the appearance of bias and violated his obligation to be patient, dignified and courteous to all those who come before him. Breaches of judicial temperament “impair[] the public’s image of the dignity and impartiality of courts, which is essential to their fulfilling the court’s role in society.” (Matter of Mertens, 56 AD2d 456, 470 [1st Dept]).

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

Mr. Berger, Mr. Coffey, Mr. Goldman, Judge Luciano, Judge Marshall, Judge Newton, Mr. Pope and Judge Salisbury concur.

Ms. Crotty and Judge Thompson 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 18, 1997


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