

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

ROBERT K. GOODSELL,

a Justice of the Sterling Town Court  
and the Fair Haven Village Court,  
Cayuga County.

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## Determination

THE COMMISSION:

Henry T. Berger, Esq., Chair  
Honorable Myriam J. Altman  
Helaine M. Barnett, Esq.  
Herbert L. Bellamy, Sr.  
Honorable Carmen Beauchamp Ciparick  
E. Garrett Cleary, Esq.  
Dolores Del Bello  
Lawrence S. Goldman, Esq.  
Honorable Eugene W. Salisbury  
John J. Sheehy, Esq.  
Honorable William C. Thompson

APPEARANCES:

Gerald Stern for the Commission

Cosentino and Yates (By Dale R. Yates) for  
Respondent

The respondent, Robert K. Goodsell, a justice of the Sterling Town Court and the Fair Haven Village Court, Cayuga County, was served with a Formal Written Complaint dated April 21, 1992, alleging that he improperly delegated his authority to review and approve bail bonds. Respondent did not answer the Formal Written Complaint.

On August 21, 1992, the administrator of the Commission, respondent and respondent's counsel entered into an agreed statement of facts pursuant to Judiciary Law §44(5), waiving the hearing provided in Judiciary Law §44(4), stipulating that the Commission make its determination based on the pleadings and the agreed upon facts, jointly recommending that respondent be admonished and waiving further submissions and oral argument.

On September 18, 1992, the Commission approved the agreed statement and made the following determination.

1. Respondent has been a justice of the Sterling Town Court since 1987 and of the Fair Haven Village Court since 1988.

2. On January 17, 1988, respondent arraigned Matthew Ladd on a charge of Aggravated Unlicensed Operation, Third Degree, and committed him to jail in lieu of \$250 cash bail or \$500 bail bond.

3. Also on January 17, 1988, a bail bond was presented to Cayuga County Sheriff's Lt. Frank Thomas at the county jail. Lieutenant Thomas called respondent, told him that he had a bond application for Mr. Ladd and said that it was the policy of many town and village justices in the county to delegate to Lieutenant Thomas the authority to review and approve bail bonds and to sign the committing judge's name to a Certificate of Release.

4. Respondent authorized Lieutenant Thomas to release Mr. Ladd and to sign his name to the Certificate of Release. Respondent also authorized the lieutenant to review and approve

future bail bonds and to sign his name to the certificates without the necessity of having respondent review the bonds.

5. Between August 21, 1988, and June 4, 1989, in accordance with the authorization given by respondent, Lieutenant Thomas released five additional defendants who had been committed to the jail by respondent, as set forth in Schedule A appended hereto.

6. Respondent had not reviewed and approved any of the six bail bonds, as required by CPL 510.40(3).

7. After each of the six defendants was released, respondent received the bail bonds from the sheriff's department. He did not revoke bail, demand the production of justifying affidavits or take any other corrective action, even though the six bail bonds did not comply with the requirements of CPL 520.20.

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, 100.3(a) and 100.3(b), and Canons 1, 2, 3A and 3B of the Code of Judicial Conduct. The charge in the Formal Written Complaint is sustained, and respondent's misconduct is established.

The law permits a judge to accept a bond to ensure a criminal defendant's reappearance in court (CPL 520.10) but provides several safeguards to the procedure (CPL 520.20).

Upon posting of bail in any form, a judge must examine it to determine that it complies with the court's order. (CPL 510.40[3]). Bail bonds must be submitted to the court and must contain certain information identifying the person or organization posting the bond on behalf of the defendant and promising to pay the court if the defendant does not appear. (CPL 520.20[1], [2]). The bond application must also include a Justifying Affidavit, containing such information as the amount of the premium paid, security and promises received and any personal and real property pledged as security and its value. (CPL 520.20[4]).

Thus, it is the responsibility of the judge to ensure that a bail bond provides adequate protection that a defendant will return to court. Judicial duties cannot be delegated to jailers or any other non-judicial officers. (See, Matter of Greenfeld v. State Commission on Judicial Conduct, 71 NY2d 389; Matter of Rider, 1988 Ann Report of NY Commn on Jud Conduct, at 212; Matter of Hopeck, 1981 Ann Report of NY Commn on Jud Conduct, at 133).

By authorizing the sheriff's department to perform a judicial function and permitting a jailer to release six defendants on legally insufficient bail bonds, respondent was not faithful to the law and did not diligently perform his judicial duties.

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

Mr. Berger, Judge Altman, Ms. Barnett, Judge Ciparick, Mr. Cleary, Mrs. Del Bello, Mr. Goldman, Judge Salisbury and Judge Thompson concur.

Mr. Bellamy and Mr. Sheehy 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: (November 4, 1992)

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

Schedule A

<u>Defendant</u>	<u>Date of Release</u>
Richard G. Linsley	8/21/88
Robert L. Patchen	10/30/88
Ralph E. Bigger	3/12/89
Timothy Glidden	6/4/89
Matthew MacIntyre	6/4/89