

STATE OF NEW YORK  
COMMISSION ON JUDICIAL CONDUCT

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In the Matter of the Proceeding :  
Pursuant to Section 44, subdivision 4, : COMMISSION PER CURIAM  
of the Judiciary Law in Relation to : DETERMINATION  
EDWARD U. GREEN, JR., :  
a Judge of the District Court, :  
County of Suffolk. :  
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PRESENT: Mrs. Gene Robb, Chairwoman  
David Bromberg  
Dolores DelBello  
Michael M. Kirsch  
Victor A. Kovner  
William V. Maggipinto  
Hon. Isaac Rubin  
Hon. Felice K. Shea

The respondent, Edward U. Green, Jr., a judge of the Suffolk County District Court, was served with a Formal Written Complaint on September 25, 1978. The complaint alleged misconduct in connection with respondent's participation in an August 30, 1975, proceeding in the office of the Suffolk County Police Commissioner.

The allegations of the complaint were denied by respondent in his verified answer, dated October 11, 1978.

On February 9, 1979, the Administrator of the State Commission on Judicial Conduct ("Administrator"), respondent and respondent's counsel entered into an agreed statement of facts pursuant to Section 7000.6(d) of the Operating Procedures and Rules of the State Commission on Judicial Conduct (22 NYCRR §7000.6[d]), approved by the Commission on February 27, 1979, pursuant to Section 44, subdivision 4, of the Judiciary Law.

On March 21, 1979, the Administrator, respondent and his counsel appeared before the Commission for the purpose of presenting oral argument on the issues of misconduct and sanctions, if any.

The Commission finds as follows: On the evening of August 30, 1975, respondent, a Suffolk County District Court judge, without authority, improperly conducted what purported to be a "legal proceeding", in the office of the Suffolk County Police Commissioner concerning an individual who was being held in police custody under a County Court arrest warrant. During the course of the "proceeding" respondent failed to notify the individual of his right to an attorney or to provide otherwise for the presence of an attorney to represent him; nor was the District Attorney's office or the office of the Special Prosecutor appointed for Suffolk County notified to be present. Respondent also advised the said individual that he deliberately was failing to inform the individual of his constitutional rights in order that any admission the individual made could not be used against him.

The Commission further finds that respondent knew of the controversy which existed between the Suffolk County District Attorney and the Suffolk County Police Commissioner; and that respondent knew that the reason he was asked to be present in the County Police Commissioner's office on August 30, 1975, was related to that controversy. The Commission concludes that respondent either knew or should have known that it was inappropriate for him to participate in that proceeding.

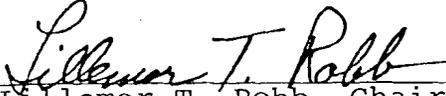
By reason of the foregoing, respondent violated Sections 33.1 and 33.2(a) and 32.2(c) of the Rules Governing Judicial Con-

duct (22 NYCRR §33.1, 33.2[a] and 33.2[c]) and Canons 1 and 2 of the Code of Judicial Conduct. Whether knowingly or not, respondent's conduct was contrary to the interests of an independent judiciary. At the least he permitted his office to be used by the Suffolk County Police Commissioner in the latter's public dispute with the Suffolk County District Attorney. Respondent's participation in this matter violates his obligation to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

The Commission considers by way of mitigation the fact that respondent did attempt to extricate himself from more extensive participation than actually occurred. It is also mindful that the incident was a single instance of misconduct on respondent's otherwise good record. The Commission hereby determines that the appropriate sanction is censure.

The foregoing constitutes the findings of fact and conclusions of law required by Section 44, subdivision 7, of the Judiciary Law.

Dated: Albany, New York  
April 26, 1979

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

APPEARANCES:

Robert E. Green, for Respondent

Gerald Stern for the Commission (Robert H. Straus, Of Counsel)