

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

Determination

KARL L. GREGORY,

a Justice of the Pittsfield Town Court,
Otsego County.

THE COMMISSION:

Henry T. Berger, Esq., Chair
Jeremy Ann Brown
Stephen R. Coffey, Esq.
Lawrence S. Goldman, Esq.
Christina Hernandez
Honorable Daniel W. Joy
Honorable Daniel F. Luciano
Honorable Frederick M. Marshall
Honorable Juanita Bing Newton
Alan J. Pope, Esq.
Honorable Eugene W. Salisbury

APPEARANCES:

Gerald Stern (Cathleen S. Cenci, Of Counsel) for the Commission

Honorable Karl L. Gregory, pro se

The respondent, Karl L. Gregory, a justice of the Pittsfield Town Court, Otsego County, was served with a Formal Written Complaint dated June 24, 1998, alleging that he neglected his judicial duties and failed to cooperate in the Commission's investigation. Respondent failed to answer the charges.

By Motion dated September 3, 1998, the administrator of the Commission moved for summary determination and a finding that respondent's misconduct had been established. Respondent did not file any papers in response thereto, but a letter dated September 18, 1998, was received concerning his medical condition and purporting to have been sent with respondent's permission and at his request. By Determination and Order dated October 6, 1998, the Commission granted the administrator's motion.

The administrator filed a memorandum as to sanction. Respondent submitted a letter dated November 12, 1998, but did not request oral argument. By letter dated January 16, 1999, respondent announced to his administrative judge that he would resign effective March 31, 1999.

On February 25, 1999, the Commission considered the record of the proceeding and made the following findings of fact.

As to Charge I of the Formal Written Complaint:

1. Respondent has been a justice of the Pittsfield Town Court since January 1986.

2. Notwithstanding that he has handled not more than nine cases a month since 1995, respondent has neglected his judicial duties in that he:

a) failed to maintain proper court records, including dockets, case files, a cashbook, bank statements, canceled checks and a check register, as required by

UJCA 107 and 2019; Town Law §31(1)(a), and the Uniform Civil Rules for the Justice Courts, 22 NYCRR 214.11(a)(1) and 214.11(a)(3);

b) kept court records in an office in his home that he acknowledged was a “shambles” and that included personal records, newspapers, clothing, boxes, tools, garbage and other litter;

c) when he met with a Commission investigator on January 8, 1998, was unable to locate many of the records requested, even after four hours of searching;

d) continued to be unable to locate the records, even though he was asked to submit them after the interview with a Commission investigator, even though he was asked to produce them when examined by staff counsel on March 5, 1998, and even though he was asked to search and submit them after he gave testimony;

e) from January 1995 to March 1998, as denominated in the attached Schedule A, failed to report cases and remit funds to the state comptroller within ten days of the month following collection, as required by UJCA 2021(1), Town Law §27(1) and Vehicle and Traffic Law §1803(8);

f) acknowledged that he failed to remit court funds in early 1995 in order to “get back” at the town board for refusing to give him additional compensation because he was handling additional cases during a period in which he was the only judge of the court; and,

g) between December 1995 and September 1997, as denominated in the attached Schedule B, failed to deposit court funds in his official account within 72 hours of receipt, as required by the Uniform Civil Rules for the Justice Courts, 22 NYCRR 214.9(a), keeping court funds in his personal possession for as long as seven weeks.

As to Charge II of the Formal Written Complaint:

3. Respondent failed to cooperate in the Commission investigation in that he failed to respond to letters from staff counsel sent certified mail, return receipt requested, on June 23, 1997, August 19, 1997, September 18, 1997, March 11, 1998, and April 1, 1998.

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) and 100.3(C)(1) and its predecessor Section 100.3(b)(1) [renumbered eff. Jan. 1, 1996]. Charges I and II of the Formal Written Complaint are sustained insofar as they are consistent with the findings herein, and respondent's misconduct is established.

By his own admission, respondent's records are a "shambles." His gross neglect of court recordkeeping makes it impossible to reconstruct what cases have come

before him and to determine how they were handled. (See, Matter of Hutzky, 1984 Ann Report of NY Commn on Jud Conduct, at 94, 98). Respondent has kept public records in such disarray that even he cannot locate them after hours of sustained searching.

His failure to promptly deposit court funds in his official account raises questions about their interim use. (See, Matter of More, 1990 Ann Report of NY Commn on Jud Conduct at 140, 141). His failure to promptly remit money to the state comptroller is also misconduct. (See, Matter of Ranke, 1992 Ann Report of NY Commn on Jud Conduct, at 64). Such disdain for legal requirements and carelessness in handling public funds constitute a serious breach of the public trust and warrant removal. (See, Matter of Petrie, 54 NY2d 807, 808).

In addition, respondent has exacerbated this misconduct by his failure to cooperate in the Commission's investigation, showing "contumacious disregard for the responsibilities of...judicial office." (Matter of Carney, 1997 Ann Report of NY Commn on Jud Conduct, at 78, 79).

Respondent's primary explanation for his omissions is that he has long suffered from depression. Such a condition has been considered mitigating in some instances. (See, Matter of Kelso, 61 NY2d 82, 84, 88 [conduct "unrelated, either directly or peripherally to [[his]] judicial position"]; Matter of Giffin, 1995 Ann Report of NY Commn on Jud Conduct, at 116, 117 [judge failed to deposit and remit for approximately six months]). However, respondent's conduct involves neglect of his official duties and is

extensive and persistent. The purpose of sanction in judicial disciplinary cases is not punishment but to protect the public from unfit incumbents. (Matter of Reeves, 63 NY2d 105, 111; Matter of Waltemade, 37 NY2d [nn], [lll][Ct on the Judiciary]). This record demonstrates that respondent is unable or unwilling to perform his judicial duties or to fulfill the requirements for the proper administration of justice.

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

Mr. Berger, Ms. Brown, Mr. Goldman, Ms. Hernandez, Judge Joy, Judge Marshall, Judge Newton and Judge Salisbury concur.

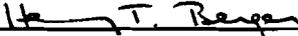
Mr. Pope dissents and would table the matter in order to allow respondent to resign from the bench.

Mr. Coffey and Judge Luciano 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: March 23, 1999



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

Schedule A

<u>Month</u>	<u>Date Remitted</u>	<u>Days Late</u>
January 1995	3/7/95	25
February 1995	3/7/95	0
March 1995	6/16/95	67
April 1995	6/26/95	47
May 1995	6/23/95	13
June 1995	7/17/95	7
July 1995	8/11/95	1
August 1995	9/14/95	4
September 1995	12/18/95	69
October 1995	1/30/96	81
November 1995	2/15/96	67
December 1995	2/15/96	36
January 1996	3/13/96	32
February 1996	3/13/96	3
March 1996	4/10/96	0
April 1996	6/18/96	39
May 1996	6/17/96	7
June 1996	10/3/96	85
July 1996	10/3/96	54
August 1996	12/4/96	85
September 1996	12/4/96	55
October 1996	12/10/96	30
November 1996	12/11/96	1

<u>Month</u>	<u>Date Remitted</u>	<u>Days Late</u>
December 1996	3/17/97	66
January 1997	6/16/97	126
February 1997	6/16/97	98
March 1997	6/16/97	67
April 1997	6/26/97	47
May 1997	8/11/97	62
June 1997	8/11/97	32
July 1997	10/27/97	78
August 1997	11/6/97	57
September 1997	11/6/97	27
October 1997	11/12/97	2
November 1997	3/3/98	83
December 1997	3/3/98	52
January 1998	3/3/98	21
February 1998	5/17/98	68
March 1998	5/17/98	37

Schedule B

<u>Party</u>	<u>Date of Receipt</u>	<u>Date of Deposit</u>
George Hoffman	12/19/95	2/10/96
W. P. Bunscheen Claim Service	3/28/96	4/11/96
Charles Bishop	5/17/96	6/17/96
Shane Dockstader	5/17/96	6/17/96
Jeffrey P. Lubanda	1/13/97	2/10/97
Shawn Costin	4/18/97	6/11/97
Angela D. Tedesco	8/1/97	9/9/97
Angela D. Tedesco	8/15/97	9/16/97