

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

RALPH A. GREMS, JR.,

a Justice of the Floyd Town Court,
Oneida County.

Determination

THE COMMISSION:

Henry T. Berger, Esq., Chair
Jeremy Ann Brown
Stephen R. Coffey, Esq.
Lawrence S. Goldman, Esq.
Christina Hernandez, M.S.W.
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 for the Commission

Calvin J. Domenico, Jr., for Respondent

The respondent, Ralph A. Grems, Jr., a justice of the Floyd Town Court, Oneida County, was served with a Formal Written Complaint dated January 6, 1999, alleging that he improperly handled a small claims case. Respondent filed an answer dated February 19, 1999.

On May 4, 1999, the administrator of the Commission, respondent and respondent's counsel entered into an Agreed Statement of Facts pursuant to Judiciary Law §44(5), 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 June 3, 1999, the Commission approved the agreed statement and made the following determination.

1. Respondent has been a justice of the Floyd Town Court since 1971.
2. On March 23, 1998, respondent presided over the small claims trial of Rick's Body Shop v Lana Makarchuk. Respondent failed to disclose to the defendant that respondent had recently had his automobile repaired by Rick's Body Shop, even though the quality of repairs to Ms. Makarchuk's vehicle was a contested issue in the case.
3. Respondent ruled in favor of the body shop.
4. Later on March 23, 1998, the plaintiff advised respondent that Ms. Makarchuk had made an error in writing a check for the amount of the judgment.
5. Respondent then went to Ms. Makarchuk's home and requested that she give him a new check made out to the plaintiff. She refused because she intended to appeal the decision.

6. Respondent said that he would call the state police, implying that he would have Ms. Makarchuk arrested. He did not contact the police; however.

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), 100.2(C) and 100.3(B)(3). Charge I of the Formal Written Complaint is sustained, and respondent's misconduct is established.

A reasonable person might conclude that respondent's recent experience with Rick's Body Shop would affect his judgment about the quality of the work that had been done in the case before him. Therefore, he should have disclosed that he had recently had work done by the shop on his own car, and he should have entertained objections to his presiding. (See, Matter of Barker, 1999 Ann Report of NY Commn on Jud Conduct, at 77.)

In addition, respondent created the appearance that he was acting on behalf of the body shop when he went to Ms. Makarchuk's home, asked her to write a new check and, when she refused, in effect, threatened her with arrest. The plaintiff had remedies at law if the judgment had not been properly paid, and respondent should not have acted outside of court to assist in the collection of the judgment.

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

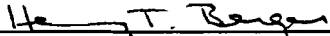
Mr. Berger, Ms. Brown, Mr. Coffey, Mr. Goldman, Ms. Hernandez, Judge Joy, Judge Newton and Mr. Pope concur.

Judge Luciano, Judge Marshall and Judge Salisbury 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: September 15, 1999



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