

**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

KARL J. GRIEBSCH,

a Justice of the Harrietstown Town  
Court, Franklin County.

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**Determination**

BEFORE: Mrs. Gene Robb, Chairwoman  
Dolores DelBello  
Michael M. Kirsch  
Victor A. Kovner  
William V. Maggipinto  
Honorable Isaac Rubin  
Honorable Felice K. Shea  
Carroll L. Wainwright, Jr.

The respondent, Karl J. Griebisch, a justice of the Harrietstown Town Court, Franklin County, was served with an amended Formal Written Complaint dated December 11, 1978, setting forth eight charges of misconduct relating to the improper assertion of influence in traffic cases. Respondent filed an answer dated January 2, 1979.

The administrator of the Commission, respondent and respondent's counsel entered into an agreed statement of facts on June 28, 1979, pursuant to Section 44, subdivision 5, of the Judiciary Law, waiving the hearing provided for by Section 44, subdivision 4, of the Judiciary Law and stipulating that the Commission make its determination on the pleadings and the facts as agreed upon. The Commission approved the agreed statement of

facts, as submitted, on July 19, 1979, determined that no outstanding issue of fact remained, and scheduled oral argument with respect to determining (i) whether the facts establish misconduct and (ii) an appropriate sanction, if any. The administrator submitted a memorandum on the issues herein. The Commission heard oral argument on August 16, 1979, thereafter considered the record in this proceeding, and upon that record finds the following facts.

1. As to Charge I, on August 29, 1974, respondent sent a letter to Justice James Lamb of the Town Court of Nassau, seeking special consideration on behalf of the defendant in People v. Joseph Gnocci, a case then pending before Judge Lamb.

2. As to Charge II, on August 27, 1976, respondent reduced a charge of speeding to driving with unsafe tires in People v. William C. Dietrich, as a result of a written communication he received from Justice Thomas Byrne of the Town Court of Newburgh, seeking special consideration on behalf of the defendant.

3. As to Charge III, on April 16, 1975, respondent reduced a charge of speeding to driving with unsafe tires in People v. Benjamin King, as a result of a communication he received from Justice Philip Drollette of the Town Court of Plattsburgh, seeking special consideration on behalf of the defendant.

4. As to Charge IV, on April 12, 1975, respondent dismissed a misdemeanor charge of leaving the scene of an accident in People v. Francis Bourdage, Jr., as a result of a written

communication he received from Justice Anthony Ellis of the Town Court of Altamont, seeking special consideration on behalf of the defendant.

5. As to Charge V, on August 21, 1975, respondent reduced a charge of following too closely to driving with unsafe tires in People v. Patricia Vanucchi, as a result of a written communication he received from Justice Joseph Vanucchi of the Town Court of Owego, seeking special consideration on behalf of the defendant.

6. As to Charge VI, on September 2, 1976, respondent reduced a charge of speeding to driving with unsafe tires in People v. Germain D. Carriere, as a result of a written communication he received from Justice Anthony Ellis of the Town Court of Altamont, seeking special consideration on behalf of the defendant.

7. As to Charge VII, on April 13, 1973, respondent reduced a charge of speeding to improper passing in People v. Michael O. Wells, as a result of a written communication he received from Justice Armand Favreau of the Town Court of Champlain, seeking special consideration on behalf of the defendant, who is Judge Favreau's grandson.

8. As to Charge VIII, on February 16, 1973, respondent reduced a charge of driving while impaired to speeding in People v. Paul M. Turner, as a result of a written communication he received from Justice John LaMalfa of the Town Court of Rotterdam, seeking special consideration on behalf of the defendant.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 33.1, 33.2, 33.3(a)(1) and 33.3(a)(4) of the Rules Governing Judicial Conduct and Canons 1, 2 and 3A of the Code of Judicial Conduct. Charges I through VIII of the Formal Written Complaint are sustained, and respondent is thereby guilty of misconduct.

It is improper for a judge to seek to persuade another judge, on the basis of personal or other special influence, to alter or dismiss a traffic ticket. A judge who accedes to such a request is guilty of favoritism, as is the judge who made the request. By making an ex parte request of another judge for a favorable disposition for the defendant in a traffic case, and by granting such requests from other judges, respondent violated the Rules enumerated above, which read in part as follows:

Every judge...shall himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. [Section 33.1]

A judge shall respect and comply with the law and shall conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. [Section 33.2(a)]

No judge shall allow his family, social or other relationships to influence his judicial conduct or judgment. [Section 33.2(b)]

No judge...shall convey or permit others to convey the impression that they are in a special position to influence him....  
[Section 33.2(c)]

A judge shall be faithful to the law and maintain professional competence in it....  
[Section 33.3(a)(1)]

A judge shall...except as authorized by law, neither initiate nor consider ex parte or other communications concerning a pending or impending proceedings.... [Section 33.3(a)(4)]

Courts in this state and other jurisdictions have found that favoritism is serious judicial misconduct and that ticket-fixing is a form of favoritism.

In Matter of Byrne, N.Y.L.J. Apr. 20, 1978, p. 5 (Ct. on the Judiciary, Apr. 18, 1978), the court declared that a "judicial officer who accords or requests special treatment or favoritism to a defendant in his court or another judge's court is guilty of malum in se misconduct constituting cause for discipline." In that case, ticket-fixing was equated with favoritism, which the court stated was "wrong and has always been wrong." Id.

By reason of the foregoing, the Commission determines by vote of 7 to 1 that the appropriate sanction is censure. Judge Rubin dissents only with respect to sanction and votes that the appropriate sanction is admonition.

#### 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.

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

Dated: October 11, 1979  
Albany, New York

APPEARANCES:

Joseph F. Duffy for Respondent

Gerald Stern for the Commission (Stephen F. Downs, Judith Siegel-Baum,  
Of Counsel)