

on the issue of an appropriate sanction. The administrator submitted a memorandum in lieu of oral argument. Respondent neither submitted a memorandum nor appeared for oral argument.

The Commission finds as follows:

1. On or about September 29, 1973, respondent reduced a charge of speeding to driving with unsafe tires in People v. Marjorie Casella as a result of a written communication he received from Judge Sebastian Lombardi of the Lewiston Town Court, seeking special consideration on behalf of the defendant.

2. On or about March 24, 1975, respondent reduced a charge of speeding to driving with unsafe tires in People v. Theodore Beyer as a result of a written communication he received from Trooper E. A. Pokorny, seeking special consideration on behalf of the defendant.

3. On or about March 4, 1976, respondent reduced a charge of speeding to failure to keep right in People v. David Edinger as a result of a communication he received from a justice of the Tully Town Court, or someone at the justice's request, seeking special consideration on behalf of the defendant.

4. On or about November 18, 1976, respondent reduced a charge of speeding to failure to obey a traffic control device in People v. Christopher Hanks as a result of a communication he received from Justice Roger E. Hammer of the Westfield Town Court, or someone at Judge Hammer's request, seeking special consideration on behalf of the defendant.

5. On or about March 28, 1973, respondent accepted forfeiture of bail in lieu of further prosecution of a charge

of speeding in People v. James L. Briggs as a result of a communication he received from a justice of the Niagara Town Court, or someone at the justice's request, seeking special consideration on behalf of the defendant.

6. On or about August 13, 1976, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of speeding in People v. Daniel Tartaglia as a result of a communication he received from a justice of the Gates Town Court, or someone at the justice's request, seeking special consideration on behalf of the defendant.

7. On May 3, 1976, respondent reduced a charge of speeding to driving with unsafe tires in People v. Michael Curran as a result of a communication he received seeking special consideration on behalf of the defendant.

8. On or about November 18, 1976, respondent, or someone at his request, communicated with Justice Thomas O'Connell of the Brutus Town Court, seeking special consideration on behalf of the defendant in People v. Frank Dimino, a case then pending before Judge O'Connell.

9. By reason of the foregoing, 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.

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 judges and others with influence, 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)]

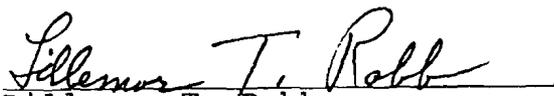
Courts in this state and other jurisdictions have found that favoritism is serious judicial misconduct and that ticket-fixing is a form of favoritism.

In Matter of Byrne, N.Y.L.J. April 20, 1978, vol. 179, p. 5 (Ct. on the Judiciary), the Court on the Judiciary 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 that respondent should be censured.

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

All concur.


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

Dated: May 29, 1979
Albany, New York

APPEARANCES:

Raymond S. Sant for Respondent

Gerald Stern for the Commission (Edith Holleman, Judith Siegel-Baum, Of Counsel)