

**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**

JOSEPH HARRIS,

a Judge of the County Court,  
Albany County.

---

THE COMMISSION:

Mrs. Gene Robb, Chairwoman  
John J. Bower, Esq. \*  
David Bromberg, Esq.  
Honorable Carmen Beauchamp Ciparick  
E. Garrett Cleary, Esq.  
Dolores Del Bello  
Victor A. Kovner, Esq.  
Honorable William J. Ostrowski  
Honorable Isaac Rubin  
Honorable Felice K. Shea  
John J. Sheehy, Esq.

APPEARANCES:

Gerald Stern (Cathleen S. Cenci, Of Counsel) for the  
Commission  
  
Kohn, Bookstein & Karp, P.C. (By Richard A. Kohn) for  
Respondent

---

\* Mr. Bromberg died on January 14, 1988. The vote in this matter was on December 18, 1987.

The respondent, Joseph Harris, a judge of the County Court, Albany County, was served with a Formal Written Complaint dated October 31, 1986, alleging that he participated in fund-raising and political activities. Respondent filed an answer dated December 15, 1986.

Respondent also moved on December 15, 1986, to dismiss the Formal Written Complaint. The administrator of the Commission opposed the motion on January 19, 1987. Respondent filed a reply on February 5, 1987. By determination and order dated February 20, 1987, the Commission denied respondent's motion.

By order dated March 9, 1987, the Commission designated Shirley Adelson Siegel, Esq., as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on May 21 and 22, 1987, and the referee filed her report with the Commission on October 5, 1987.

By motion dated October 16, 1987, the administrator of the Commission moved to confirm the referee's report and for a finding that respondent be admonished. Respondent opposed the motion by cross motion on November 20, 1987. The administrator filed a reply on December 10, 1987.

On December 18, 1987, the Commission heard oral argument, at which respondent and his counsel appeared, and thereafter considered the record of the proceeding and made the following findings of fact.

As to Charge I of the Formal Written Complaint:

1. Respondent is a judge of the Albany County Court and has been since September 1976.

2. On April 17, 1986, respondent participated in the "Jail Bail for Heart" program of the American Heart Association.

3. Respondent acted as a judge in mock court proceedings in his courtroom. Persons who had collected money or pledges for the heart association were brought before respondent and "charged" with "crimes against the heart," such as smoking, over-eating or leading overly-stressful lives. Respondent lectured them on ways of preventing heart trouble. The district attorney and a defense attorney made "bail applications," and respondent set "bail" in the amount that each "defendant" had collected.

4. Respondent was dressed in his judicial robes and sat on the bench in the courtroom where he usually presides.

5. He engaged in humorous banter with the participants and referred to the heart association as a wonderful organization.

6. After their appearances before respondent, the "defendants" paid the money that they had collected to representatives of the heart association at the rear of the courtroom or in a jurors' room nearby.

7. The purposes of the event were to raise funds for the heart association, to publicize its cause and to educate the

public as to ways of preventing heart trouble. About \$18,000 was raised by the event.

8. Respondent's participation in the event was first solicited in early 1985 by Albany County Sheriff George L. Infante. Respondent agreed to participate in the event in 1985 and again in 1986 on the conditions that he would not personally be involved in any fund-raising, that his name would not be used in connection with any fund-raising, that the event be scheduled for a day when it would not conflict with his judicial duties and that the sheriff would make arrangements for use of the courtroom.

9. Respondent had also agreed to participate in the Jail Bail for Heart event on March 8, 1985, but conducted only one "arraignment." He was aware that there was media publicity after the 1985 event.

As to Charge II of the Formal Written Complaint:

10. The charge is not sustained and is, therefore, dismissed.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2 and 100.5(b)(2) of the Rules Governing Judicial Conduct and Canons 1, 2 and 5B(2) of the Code of Judicial Conduct. Charge I of the Formal Written Complaint is sustained

insofar as it is consistent with the findings enumerated herein, and respondent's misconduct is established. Charge II is dismissed.

Respondent lent the prestige of his judicial office to assist a charitable fund-raising event, in violation of Section 100.5(b)(2) of the Rules Governing Judicial Conduct. Although he did not personally solicit funds, his participation aided and endorsed what was principally a money-making program. See, Matter of Kaplan, 1984 Annual Report 112 (Com. on Jud. Conduct, May 17, 1983); Matter of Turner, unreported (Com. on Jud. Conduct, Mar. 23, 1987); Matter of Wolfgang, unreported (Com. on Jud. Conduct, Nov. 19, 1987).

Respondent further deviated from the high standards of conduct expected of every judge by mocking a court proceeding. Matter of Turner, supra.

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

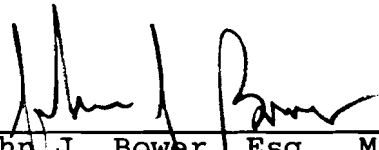
Mrs. Robb, Mr. Bower, Mr. Bromberg, Judge Ciparick, Mr. Cleary, Mrs. DelBello, Mr. Kovner, Judge Rubin, Judge Shea and Mr. Sheehy concur, except that Mrs. Robb, Mrs. DelBello, Mr. Kovner and Mr. Sheehy dissent as to Charge II only and vote that the charge be sustained.

Judge Ostrowski was 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: January 22, 1988

  
\_\_\_\_\_  
John J. Bower, Esq., Member  
New York State  
Commission on Judicial Conduct