

STATE OF NEW YORK  
STATE COMMISSION ON JUDICIAL CONDUCT

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In the Matter :  
- of - : DETERMINATION  
Joseph M. Henderson :  
A Justice of the Town of :  
Parish, County of Oswego :  
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STATE COMMISSION ON  
JUDICIAL CONDUCT

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DETERMINATION OF THE  
STATE COMMISSION ON JUDICIAL CONDUCT  
IN THE MATTER OF PARISH  
TOWN JUSTICE JOSEPH M. HENDERSON

PRELIMINARY STATEMENT

This Determination of the State Commission on Judicial Conduct (hereinafter the "Commission") is submitted in accordance with Article VI, Section 22k, of the Constitution of the State of New York, and Article 2-A of the Judiciary Law, for transmittal by the Chief Judge of the Court of Appeals to the Honorable Joseph M. Henderson.

Joseph M. Henderson is a justice of the Town Court of Parish in Oswego County. He is not an attorney. He first took office in January 1967. His current term of office expires on December 31, 1979.

Pursuant to Section 43, subdivision 1, a complaint was filed with the Commission alleging matters unrelated to this Determination. The investigation commenced on August 25, 1976. In the course of the investigation the Commission discovered ten instances in which Judge Henderson granted favorable dispositions to defendants in traffic cases pursuant to requests from third parties and one instance in which Judge Henderson made an ex parte request of another judge for a favorable disposition for a defendant in a traffic case.

JUSTICE HENDERSON'S REQUEST FOR A FAVORABLE DISPOSITION  
FOR A DEFENDANT IN A TRAFFIC CASE

On or about November 12, 1974, Judge Henderson sent a letter, in which he identified himself as a judge, to Judge Helen Burnham of the Town Court of Salina, requesting favorable treatment for the defendant, who was charged with an unsafe lane change, in People v. Jeffrey Rhinehart, a case then pending before Judge Burnham.

JUSTICE HENDERSON'S GRANTING OF FAVORABLE DISPOSITIONS  
FOR DEFENDANTS IN TRAFFIC CASES

On or about November 29, 1972, Judge Henderson reduced a charge of speeding to failure to keep right in People v. Darrell Weston as a result of a letter he received from Judge Burnham of the Town Court of Salina.

On or about April 3, 1974, Judge Henderson reduced a charge of speeding to driving with an inadequate muffler in People v. N.A. Pinonnault as a result of a communication he received on behalf of the defendant from State Senator H. Douglas Barclay, or someone at Senator Barclay's request.

Sometime between April 5, 1974, and April 17, 1974, Judge Henderson reduced a charge of speeding to driving with an inadequate muffler in People v. John Doldo as a result of a communication he received on behalf of the defendant from State Senator H. Douglas Barclay, or someone at Senator Barclay's request.

On or about April 16, 1974, Judge Henderson reduced a charge of speeding to driving with an inadequate muffler in People v. Lansing Baker as a result of a communication he received on behalf of the defendant from Investigator "Chucky" Nellis of the New York State Police.

On or about April 17, 1974, Judge Henderson reduced a charge of speeding to driving with an inadequate muffler in People v. Robert L. Coffin as a result of a communication he received on behalf of the defendant from Judge Murrill Henry of the Town Court of Otisco, or someone at Judge Henry's request.

On or about November 7, 1974, Judge Henderson reduced a charge of speeding to failure to keep right in People v. Joseph DeFazio as the result of a letter he received on behalf of the defendant from Judge Michael Perretta of the Town Court of Lenox.

On or about March 24, 1975, Judge Henderson reduced a charge of speeding to driving with an inadequate muffler in People v. Gregory K. Sullivan as a result of a letter he received on behalf of the defendant from Judge Leroy T. Ramsey of the Town Court of Greece.

On or about June 13, 1975, Judge Henderson reduced a charge of speeding to driving with an inadequate exhaust in People v. Thomas Lesage as a result of a letter he received on behalf of the defendant from Judge John Schott of the Town Court of Bergen.

On or about December 5, 1975, Judge Henderson reduced a charge of speeding to driving with an inadequate muffler in People v. Thomas Maass as a result of a letter he received on behalf of the defendant from Judge Robert F. Kiener of the Town Court of West Seneca.

On or about September 4, 1976, Judge Henderson reduced a charge of speeding to failure to keep right in People v. Robert Campbell as a result of a communication he received on behalf of the defendant from Senator H. Douglas Barclay, or someone at Senator Barclay's request.

JUSTICE HENDERSON'S WAIVER OF A SCHEDULED HEARING  
BEFORE THE COMMISSION

Pursuant to Section 43, subdivision 3, of the Judiciary Law, the Commission requested that Judge Henderson appear before a panel of its members on March 18, 1977. In his testimony, Judge Henderson acknowledged granting favorable dispositions in the ten cases noted above.

Pursuant to Section 43, subdivision 5, of the Judiciary Law, the Commission determined that cause existed to conduct a hearing with respect to the judge's apparent conduct in all of the cases noted above. Judge Henderson was served with a Notice of Hearing and a Formal Written Complaint detailing the factual allegations in the eleven cases. In his Answer dated December 7, 1977, Judge Henderson made a general denial. In a subsequent letter dated January 6, 1978, Judge Henderson waived

his right to the scheduled hearing and admitted all the factual allegations, adding he believed at the time he was acting properly.

#### CONCLUSION

By making an ex parte request of another judge for a favorable disposition for the defendant in a traffic case, and by granting favorable dispositions to defendants at the request of third parties, Judge Henderson was in violation of Sections 33.1, 33.2, 33.3(a)(1) and 33.3(a)(4) of the Rules Governing Judicial Conduct of the Administrative Board of the Judicial Conference, and Canons 1, 2 and 3(A) of the Code of Judicial Conduct, 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)]

DETERMINATION

By reason of the foregoing, in accordance with Article VI, Section 22k, of the Constitution of the State of New York, and Section 43, subdivision 7, of the Judiciary Law, the State Commission on Judicial Conduct has determined that Judge Henderson should be publicly censured.

Respectfully submitted,

State Commission on Judicial  
Conduct

Dated: February 16, 1978  
New York, New York

APPEARANCES:

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Joseph M. Henderson, *Pro Se*