

STATE OF NEW YORK  
STATE COMMISSION ON JUDICIAL CONDUCT

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In the Matter :  
- of - :  
Murrill Henry : DETERMINATION  
A Justice of the Town of :  
Otisco, County of Onondaga :  
----- X

STATE COMMISSION ON  
JUDICIAL CONDUCT

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DETERMINATION OF THE  
STATE COMMISSION ON JUDICIAL CONDUCT  
IN THE MATTER OF OTISCO  
TOWN JUSTICE MURRILL HENRY

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 Murrill Henry.

Murrill Henry is a justice of the Town Court of Otisco in Onondaga County. He is not an attorney. He first took office in January 1969. His current term of office expires on December 31, 1981.

Pursuant to Section 43, subdivision 2, of the Judiciary Law, the present investigation of Judge Henry commenced on January 26, 1977. In the course of its investigation, the Commission discovered four instances in which Judge Henry made ex parte requests of other judges for favorable dispositions for defendants in traffic cases.

JUSTICE HENRY'S REQUESTS FOR FAVORABLE DISPOSITIONS FOR  
DEFENDANTS IN TRAFFIC CASES

On or about March 29, 1974, Judge Henry communicated with Judge Joseph M. Henderson of the Town Court of Parish on behalf of the defendant, who was charged with speeding, in People v. Robert L. Coffin, a case then pending before Judge Henderson.

On or about January 17, 1975, Judge Henry sent a letter, on stationery which identifies him as a judge, to Judge Joseph M. Henderson of the Town Court of Parish, requesting favorable treatment for the defendant, who was charged with speeding, in People v. Robert E. Coffin, a case then pending before Judge Henderson.

On or about June 23, 1976, Judge Henry sent a letter, on stationery which identifies him as a judge, to the Justice of the Town Court of Thompson, requesting favorable treatment for the defendant, his son, who was charged with speeding, in People v. John A. Henry, a case then pending before the Thompson Town Court.

On or about August 6, 1976, Judge Henry sent a letter, on stationery which identifies him as a judge, to the Justice of the Town Court of Liberty, requesting favorable treatment for the defendant, his son, who was charged with driving a truck without a valid tax mileage ticket, in People v. John A. Henry, a case then pending before the Liberty Town Court.

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

The Commission sent Judge Henry a letter dated July 14, 1977, asking him to comment on his requests for favorable treatment in the Robert L. Coffin case and the Henry case before Liberty Town Justice Hering. In a letter dated July 28, 1977, Judge Henry acknowledged making the requests in these cases.

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 the cases noted above, and in the Robert E. Coffin case and the remaining Henry case. On November 25, 1977, Judge Henry was served with a Notice of Hearing and a Formal Written Complaint detailing the factual allegations in the four cases noted above. In an Answer dated December 6, 1977, Judge Henry's attorney admitted all the factual allegations and submitted an affidavit from Judge Henry setting forth his lack of knowledge of the Canons of the Code of Judicial Conduct at the time he made the requests. In a letter dated December 27, 1977, Judge Henry's attorney confirmed a telephone conversation in which the judge waived his right to the scheduled hearing.

#### CONCLUSION

By making ex parte requests of other judges for favorable dispositions for defendants in traffic cases, Judge Henry 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 Henry should be publicly censured.

Respectfully submitted,

State Commission on Judicial  
Conduct

Dated: February 16, 1978  
New York, New York

APPEARANCES:

Gerald Stern (Barry M. Vucker, Of Counsel) for the Commission

Graham & Egleson (By James M. Graham) for Respondent