

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

JO HOOPER,

Determination

a Justice of the Hinsdale Town Court,
Cattaraugus County.

THE COMMISSION:

Henry T. Berger, Esq., Chair
Jeremy Ann Brown
Stephen R. Coffey, Esq.
Mary Ann Crotty
Lawrence S. Goldman, Esq.
Honorable Daniel F. Luciano
Honorable Frederick M. Marshall
Honorable Juanita Bing Newton
Alan J. Pope, Esq.
Honorable Eugene W. Salisbury
Honorable William C. Thompson

APPEARANCES:

Gerald Stern for the Commission

DiCerbo & Palumbo (By Daniel R. Palumbo) for Respondent

The respondent, Jo Hooper, a justice of the Hinsdale Town Court, Cattaraugus County, was served with a Formal Written Complaint dated October 6, 1997, alleging two charges of misconduct. Respondent did not answer the complaint.

On February 28, 1998, the administrator of the Commission, respondent and respondent's counsel entered into an Agreed Statement of Facts pursuant to Judiciary Law §44(5), waiving the hearing provided by Judiciary Law §44(4), stipulating that the

Commission make its determination based on the agreed upon facts, jointly recommending a disposition no more severe than admonition and waiving further submissions and oral argument.

On March 12, 1998, the Commission approved the agreed statement and made the following determination.

As to Charge I of the Formal Written Complaint:

1. Respondent has been a justice of the Hinsdale Town Court since January 1995.
2. On July 24, 1996, respondent presided over People v David W. Leavitt, in which the defendant was charged with Speeding. Mr. Leavitt appeared in respondent's office before court was scheduled to begin. He told respondent that he wanted to avoid a disposition that would result in "points" on his driving record and an anticipated increase in his automobile insurance rate.
3. Respondent did not advise Mr. Leavitt to return later in the day for the scheduled court session, and she did not adjourn the matter to allow the prosecution an opportunity to consider Mr. Leavitt's request.
4. Respondent agreed to grant Mr. Leavitt a reduction of the charge to Failure To Obey The Law. She did not notify the prosecution or seek its consent to the reduction, as required by CPL 220.10(3) and 340.20(1).

5. Respondent granted the reduction because she was concerned about Mr. Leavitt being “embarrassed” in court. She believed that he had limited reading and writing skills.

6. Respondent fined Mr. Leavitt \$80 with a \$25 surcharge.

7. On July 9, 1996, Amargit Singh was charged with Speeding. The matter was returnable on July 31, 1996, before another judge of respondent’s court. Respondent was not scheduled to preside on that day.

8. Mr. Singh did not appear in court on July 31, 1996. Sometime between July 9, 1996, and August 6, 1996; Mr. Singh called the court and spoke with respondent. He told respondent that a Speeding conviction would adversely affect his airplane pilot’s license.

9. Respondent obtained the Simplified Traffic Information issued to Mr. Singh from her fellow judge’s case file. She told Mr. Singh that she was reducing the charge to Failure To Obey The Law in satisfaction of the Speeding charge.

10. Respondent did not notify the prosecution or seek its consent to the disposition, as required by CPL 220.10(3) and 340.20(1).

11. Respondent fined Mr. Singh \$110 with a \$25 surcharge.

As to Charge II of the Formal Written Complaint:

12. 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 the Rules Governing Judicial Conduct, 22 NYCRR 100.1, 100.2(A) and 100.3(B)(6). Charge I of the Formal Written Complaint is sustained insofar as it is consistent with the findings herein, and respondent's misconduct is established. Charge II is dismissed.

Respondent reduced the charges in two traffic cases based solely on conversations with the defendants and without notice to, or the consent of, the prosecution. In one of the matters, she reached out to the docket of another judge in order to dispose of a case not before her.

By these extraordinary procedures, respondent failed to meet her ethical obligations to "respect and comply with the law" (Rules Governing Judicial Conduct, 22 NYCRR 100.2[A]; see, Matter of Little, 1988 Ann Report of NY Commn on Jud Conduct, at 191, 193) and to "accord to every person who has a legal interest in a proceeding... the right to be heard according to law," (22 NYCRR 100.3[B][6]). (See also, Matter of Lombardi, 1987 Ann Report of NY Commn on Jud Conduct, at 105).

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

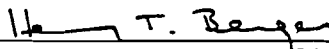
Mr. Berger, Ms. Brown, Mr. Coffey, Mr. Goldman, Judge Luciano, Judge Marshall, Judge Newton, Mr. Pope, Judge Salisbury and Judge Thompson concur.

Ms. Crotty 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: June 29, 1998


Henry T. Berger, Esq., Chair
New York State
Commission on Judicial Conduct