

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 4, : DETERMINATION
of the Judiciary Law in Relation to :

JAMES S. JEROME, :

a Justice of the Geddes Town Court, :
Onondaga County. :

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PRESENT: Mrs. Gene Robb, Chairwoman
Honorable Fritz W. Alexander, II
David Bromberg
Honorable Richard J. Cardamone
Dolores DelBello
Michael M. Kirsch
William V. Maggipinto
Honorable Isaac Rubin
Honorable Felice K. Shea
Carroll L. Wainwright, Jr.

The respondent, James S. Jerome, a justice of the Town Court of Geddes, Onondaga County, was served with a Formal Written Complaint, setting forth 36 charges of misconduct relating to the improper assertion of influence in traffic cases. In his answer, dated November 30, 1978, respondent admitted the factual allegations but denied violating the ethical standards cited in the charges.

The administrator of the Commission, respondent and respondent's counsel entered into an agreed statement of facts on March 9, 1979, pursuant to Section 44, subdivision 5, of the Judiciary Law, waiving the hearing provided for by Section 44, subdivision 4, of the Judiciary Law and stipulating that the

Commission make its determination on the pleadings and the facts as agreed upon. The Commission approved the agreed statement of facts, as submitted, on March 21, 1979, determined that no outstanding issue of fact remained, and scheduled oral argument with respect to determining (i) whether to make a finding of misconduct and (ii) an appropriate sanction, if any. The administrator submitted a memorandum in lieu of oral argument. Respondent waived oral argument and did not submit a memorandum.

The Commission considered the record in this proceeding on May 22, 1979, and upon that record finds the following facts:

1. On March 6, 1973, respondent, or someone at his request, communicated with Justice James Hopeck of the Halfmoon Town Court, seeking special consideration on behalf of the defendant in People v. John J. Scambati, Jr., a case then pending before Judge Hopeck.

2. On November 4, 1974, respondent sent a letter to Justice Jack Schultz of the DeWitt Town Court, seeking special consideration on behalf of the defendant in People v. George D. Yost, Jr., a case then pending before Judge Schultz.

3. On January 23, 1976, respondent sent a letter to Justice Thomas Haberneck of the Newstead Town Court, seeking special consideration on behalf of the defendant in People v. Antonio L. Simao, Jr., a case then pending before Judge Haberneck.

4. On August 20, 1976, respondent sent a letter to Justice Jack Schultz of the DeWitt Town Court, seeking special consideration on behalf of the defendant in People v. Manuel M.

Martinez, a case then pending before Judge Schultz.

5. On November 4, 1976, respondent sent a letter to Justice Thomas O'Connell of the Brutus Town Court, seeking special consideration on behalf of the defendant in People v. Edward Funda, a case then pending before Judge O'Connell.

6. On February 5, 1973, respondent reduced a charge of failure to keep right to driving with insufficient head lamps in People v. Lynn E. Smith as a result of a communication he received from Trooper Visco, or someone at Trooper Visco's request, seeking special consideration on behalf of the defendant.

7. On April 16, 1973, respondent imposed an unconditional discharge in People v. Ludwig Steigerwald as a result of a written communication he received from Justice Helen Burnham of the Salina Town Court, seeking special consideration on behalf of the defendant.

8. On July 16, 1973, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. William J. O'Neill, Jr., as a result of a written communication he received, seeking special consideration on behalf of the defendant.

9. On October 1, 1973, respondent reduced a charge of passing a red light to driving with an inadequate muffler in People v. Ronald K. Sollars as a result of a communication he received from Trooper Jeffery, or someone at Trooper Jeffery's request, seeking special consideration on behalf of the defendant.

10. On October 15, 1973, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. Cheryl A. Brenner as a result of a communication he received from Trooper Donnelly, or someone at Trooper Donnelly's request, seeking special consideration on behalf of the defendant.

11. On October 29, 1973, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. Ronald R. Spadafora as a result of a communication he received seeking special consideration on behalf of the defendant.

12. On September 17, 1973, respondent reduced a charge of failing to stop for a school bus to driving with an unsafe tire in People v. Donald Gridley as a result of a communication he received from Justice J. H. Richardson of the Waterloo Village Court, or someone at Judge Richardson's request, seeking special consideration on behalf of the defendant.

13. On December 3, 1973, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. Ronald Sullivan as a result of a communication he received from Justice Harry Heath of the Clay Town Court, or someone at Judge Heath's request, seeking special consideration on behalf of the defendant.

14. On December 17, 1973, respondent reduced a charge of speeding to driving with an unsafe tire in People v. Donna L. Barry as a result of a communication he received from Trooper Kelley, or someone at Trooper Kelley's request, seeking special consideration on behalf of the defendant.

15. On September 9, 1974, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. Gerald L. Wall as a result of a written communication he received from Trooper "Jeff", seeking special consideration on behalf of the defendant.

16. On September 16, 1974, respondent imposed an unconditional discharge in People v. Mary A. Miller as a result of a communication he received from Matt Holms, or someone at Mr. Holms' request, seeking special consideration on behalf of the defendant.

17. On October 28, 1974, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. Thomas Cordaro as a result of a written communication he received from James Burke, Village and Town Court Case Screener in the Monroe County District Attorney's office, seeking special consideration on behalf of the defendant.

18. On August 11, 1975, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. Norene A. McClurg as a result of a written communication he received from Trooper Longtin, seeking special consideration on behalf of the defendant.

19. On November 17, 1975, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. Milton Klarsfeld as a result of a written communication he received from Marie Oakes, Clerk of the Bethlehem Town Court, seeking special consideration on behalf of the defendant.

20. On January 5, 1976, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. Jack Sansone as a result of a written communication he received from Barbara Rinaldo, seeking special consideration on behalf of the defendant.

21. On February 16, 1976, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. Paul S. Miller as a result of a written communication he received from Bob Howe, seeking special consideration on behalf of the defendant.

22. On February 20, 1976, respondent reduced a charge of failure to obey a stop sign to driving with an inadequate muffler in People v. Janice J. Bellucci as a result of a communication he received, seeking special consideration on behalf of the defendant.

23. On February 23, 1976, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. Joseph Cannestra as a result of a written communication he received from Justice Melvin Sitterly of the German Flatts Town Court, seeking special consideration on behalf of the defendant.

24. On February 23, 1976, respondent imposed an unconditional discharge in People v. John W. Nichols, Jr., as a result of a communication he received from Jim Reidy, the New York State Fair Business Manager, seeking special consideration on behalf of the defendant.

25. On March 1, 1976, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. James Barry as a result of a communication he received from Judge James Fahey of the Syracuse City Court, or someone at Judge Fahey's request, seeking special consideration on behalf of the defendant.

26. On March 1, 1976, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. Richard C. Palmer as a result of a communication he received from Trooper Angyle, or someone at Trooper Angyle's request, seeking special consideration on behalf of the defendant.

27. On March 15, 1976, respondent imposed an unconditional discharge in People v. Thomas R. Clere as a result of a communication he received from Bill Welch, seeking special consideration on behalf of the defendant.

28. On March 22, 1976, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. Ralph Mohr as a result of a written communication he received from State Senator Dale Volker, seeking special consideration on behalf of the defendant.

29. On March 26, 1976, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. William P. Commisso as a result of a written communication he received from Sergeant Chura, seeking special consideration on behalf of the defendant.

30. On August 2, 1976, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. James W. Hull as a result of a communication he received from Trooper Kelly, or someone at Trooper Kelly's request, seeking special consideration on behalf of the defendant.

31. On September 13, 1976, respondent reduced a charge of failure to obey a stop sign to driving with an inadequate muffler in People v. Robert T. Campagnoni as a result of a communication he received from Deputy Richards, or someone at Deputy Richards' request, seeking special consideration on behalf of the defendant.

32. On November 1, 1976, respondent imposed an unconditional discharge in People v. Kenneth Williams as a result of a written communication he received from Judge Patrick Cunningham of the Onondaga County Court, seeking special consideration on behalf of the defendant.

33. On November 29, 1976, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. Richard S. Miceli as a result of a communication he received from James Burke, Village and Town Court Case Screener in the Monroe County District Attorney's office, seeking special consideration on behalf of the defendant.

34. On November 29, 1976, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. William J. Ring, Jr., as a result of a communication he received

from Sergeant Quinn, or someone at Sergeant Quinn's request, seeking special consideration on behalf of the defendant.

35. On December 27, 1976, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. Sanford Kline as a result of a communication he received from Justice F. A. Josef of the Manlius Town Court, or someone at Judge Josef's request, seeking special consideration on behalf of the defendant.

36. On January 13, 1977, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. Mary J. Foster as a result of a written communication he received from Onondaga County Commissioner of Elections Frederick Buchanan, seeking special consideration on behalf of the defendant.

Based upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 33.1, 33.2, 33.3(a)(1) and 33.3(a)(4) of the Rules Governing Judicial Conduct, Canons 1, 2 and 3A of the Code of Judicial Conduct, and Canons 4, 5, 13, 14, 17 and 34 of the Canons of Judicial Ethics. Charges I through XXXVI of the Formal Written Complaint are sustained, and respondent is thereby guilty of misconduct.

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 ex parte requests of other judges for favorable dispositions for the defendants in traffic cases, 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 the appropriate sanction is censure.

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

All concur.

Mr. Kirsch concurs in accordance with the views expressed in his concurring opinion in the Commission's determination in Matter of Haberneck, filed in the Court of Appeals together with the determination in the instant proceeding.

Dated: July 10, 1979

APPEARANCES:

Bruce O. Jacobs for Respondent

Gerald Stern for the Commission (John W. Dorn, Judith Siegel-Baum, Of Counsel)