

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

ROBERT J. KEDDIE,

a Justice of the Sheridan Town Court,
Chautauqua County.

Determination

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

Respondent, a justice of the Town Court of Sheridan,
Chautauqua County, was served with a Formal Written Complaint
dated May 31, 1979, alleging eight charges of misconduct relating
to the improper assertion of influence in traffic cases. Respondent
filed an amended answer dated July 6, 1979.

By notice of motion dated August 2, 1979, the administra-
tor of the Commission moved for summary determination pursuant to
Section 7000.6(c) of the Commission's rules (22 NYCRR 7000.6[c]).
Respondent submitted an affidavit in opposition to the motion dated
September 1, 1979. The Commission granted the motion on September
26, 1979, deemed respondent's misconduct established with respect

to all eight charges in the Formal Written Complaint, and set a date for oral argument on the issue of an appropriate sanction. The administrator submitted a memorandum in lieu of oral argument. Respondent waived oral argument and submitted a memorandum on sanction.

The Commission considered the record in this proceeding on October 26 and November 13, 1979, and upon that record makes the following findings of fact.

1. As to Charge I, on December 15, 1976, respondent sent a letter to Justice Norman E. Kuehnel of the Town Court of Hamburg, seeking special consideration on behalf of the defendant in People v. Marcia E. Fabritius, a case then pending before Judge Kuehnel.

2. As to Charge II, on March 21, 1973, respondent reduced a charge of speeding to failing to stop for a stop sign in People v. Angel L. Carreras, as a result of a communication he received from Trooper Purcell, or someone at Trooper Purcell's request, seeking special consideration on behalf of the defendant.

3. As to Charge III, on April 5, 1977, respondent reduced a charge of speeding to driving with an unsafe tire in People v. Marilyn V. Collari, as a result of a communication he received from Deputy Kall of the Chautauqua County Sheriff's Department, or someone at Deputy Kall's request, seeking special consideration on behalf of the defendant.

4. As to Charge IV, on April 22, 1977, respondent reduced a charge of speeding to driving with an unsafe tire in People v. Gordon D. Gould, as a result of a communication he received from Patrolman Wisniewski of the Dunkirk Police Department, or someone at Patrolman Wisniewski's request, seeking special consideration on behalf of the defendant.

5. As to Charge V, on March 19, 1973, respondent reduced a charge of speeding to illegal parking in People v. John T. Heiyen, as a result of a communication he received from Patrolman Prince of the Sheridan Police Department, or someone at Patrolman Prince's request, seeking special consideration on behalf of the defendant.

6. As to Charge VI, on November 18, 1976, respondent reduced a charge of speeding to driving with an unsafe tire in People v. Phillip N. Lamantia, as a result of a communication he received from Trooper Gumhalter, or someone at Trooper Gumhalter's request, seeking special consideration on behalf of the defendant.

7. As to Charge VII, on March 9, 1973, respondent reduced a charge of passing in a no passing zone to illegal parking in People v. Lawrence Haynes because of the defendant's status as a Federal Narcotics Agent.

8. As to Charge VIII, on May 1, 1973, respondent reduced a charge of speeding to an equipment violation in People v. Warren R. Skinner, as a result of a communication he received from Trooper Kovacs, or someone at Trooper Kovacs' request, seeking special consideration on behalf of the defendant.

Upon the foregoing facts, 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 and Canons 1, 2 and 3A of the Code of Judicial Conduct. Charges I through VIII of the Formal Written Complaint are sustained, and respondent's misconduct is established.

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 from law enforcement personnel is guilty of favoritism, as is the judge who made the request. By making an ex parte request of another judge for a favorable disposition for a defendant in a traffic case, and by granting such requests from law enforcement officers, respondent violated the Rules enumerated above.

Courts in this state and other jurisdictions have found that favoritism is serious judicial misconduct and that ticket-fixing is a form of favoritism.

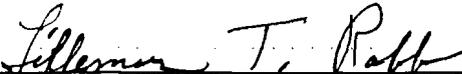
By reason of the foregoing, the Commission determines that the appropriate sanction is admonition.

All concur.

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.


Lillemor T. Robb, Chairwoman
New York State Commission on
Judicial Conduct

Dated: December 19, 1979
Albany, New York

APPEARANCES:

Foley & Foley (By Jeffrey G. Passafaro) for Respondent

Gerald Stern for the Commission (Lester C. Goodchild, Judith Siegel-Baum,
Of Counsel)