

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

Determination

KENNETH KREMENICK,

a Justice of the Milan Town Court,
Dutchess County.

THE COMMISSION:

Mrs. Gene Robb, Chairwoman
John J. Bower, Esq.
David Bromberg, Esq.
E. Garrett Cleary, Esq.
Dolores DelBello
Victor A. Kovner, Esq.
Honorable William J. Ostrowski
Honorable Isaac Rubin
Honorable Felice K. Shea
John J. Sheehy, Esq.

APPEARANCES:

Gerald Stern (Jean M. Savanyu, Of Counsel)
for the Commission

Honorable Kenneth Kremenick, pro se

The respondent, Kenneth Kremenick, a justice of the Milan Town Court, Dutchess County, was served with a Formal Written Complaint dated December 12, 1984, alleging that he drove an automobile while intoxicated and was convicted of Driving While Ability Impaired. Respondent filed an answer dated December 31, 1984.

By motion dated February 21, 1985, the administrator of the Commission moved for summary determination and a finding that respondent's misconduct was established. Respondent did not oppose the motion or file any papers in response thereto. By determination and order dated April 26, 1985, the Commission granted the administrator's motion and found respondent's misconduct established.

Both sides filed memoranda as to sanction. The administrator filed a reply to respondent's memorandum. Oral argument was waived. On May 30, 1985, the Commission considered the record of the proceeding and made the following findings of fact.

1. On April 11, 1984, while in an intoxicated condition, respondent drove an automobile on an entrance ramp to the Taconic State Parkway in the Town of Claverack, Columbia County.

2. Respondent's car came to rest partially off the entrance ramp, where it was discovered by a state trooper, Daniel B. Sweet.

3. Trooper Sweet arrested respondent for Driving While Intoxicated and took him into custody.

4. Respondent initially refused to accompany the trooper to the police barracks and said repeatedly, "I'm the judge. You can't do this to me," and, "I'll have your job."

5. At the barracks, respondent refused to produce a driver's license and identification, refused to take a

breathalyzer test and used abusive and profane language with Trooper Sweet.

6. Respondent was arraigned in the Taghkanic Town Court, where he repeatedly told the presiding judge, "I'm the judge, and you can't do this."

7. The charge was reduced to Driving While Ability Impaired; respondent was fined \$250, and his license was suspended for 90 days.

8. Respondent maintains that he was an alcoholic at the time of the incident, that he was in a "black out" and does not clearly remember what transpired.

9. On April 13, 1984, respondent admitted himself into a hospital detoxification program and, upon his hospital release, entered a rehabilitation program. He was released on May 9, 1984, and has since attended Alcoholics Anonymous and abstained from the use of alcohol.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1 and 100.2 of the Rules Governing Judicial Conduct and Canons 1 and 2 of the Code of Judicial Conduct. The charge in the Formal Written Complaint is sustained, and respondent's misconduct is established.

Although respondent has made valiant efforts to rehabilitate himself since this single incident of public intoxication, his actions were inconsistent with established

standards of proper judicial behavior and subjected the judiciary as a whole to disrespect. Matter of Kuehnel v. State Commission on Judicial Conduct, 49 NY2d 465, 469 (1980).

Respondent's attempts to invoke the prestige of his judicial office during his arrest and arraignment and his abusive treatment of the arresting officer are factors which make public sanction appropriate. However, respondent to date has conquered his addiction and deserves recognition of his efforts by a sanction less severe than censure.

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

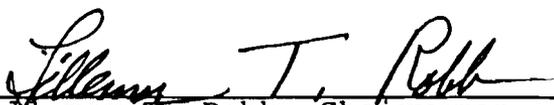
Mrs. Robb, Mr. Bromberg, Mr. Cleary, Mrs. DelBello, Judge Ostrowski, Judge Rubin, Judge Shea and Mr. Sheehy concur.

Mr. Bower and Mr. Kovner were 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 28, 1985


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