

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

PAULA L. LEONARD,

a Justice of the Ulster Town Court,
Ulster County.

DETERMINATION

THE COMMISSION:

Henry T. Berger, Esq., Chair
Honorable Frances A. Ciardullo
Stephen R. Coffey, Esq.
Lawrence S. Goldman, Esq.
Christina Hernandez, M.S.W.
Honorable Daniel F. Luciano
Mary Holt Moore
Honorable Karen K. Peters
Alan J. Pope, Esq.
Honorable Terry Jane Ruderman

APPEARANCES:

Gerald Stern (Cathleen S. Cenci, Of Counsel) for the Commission

DeGraff, Foy, Holt-Harris, Kunz & Devine, LLP (By David F. Kunz)
for Respondent

The respondent, Paula L. Leonard, a Justice of the Ulster Town Court,
Ulster County, was served with a Formal Written Complaint dated February 14, 2001,
containing three charges. Respondent filed an answer dated March 26, 2001.

On November 8, 2002, the Administrator of the Commission, respondent and respondent's counsel entered into an Agreed Statement of Facts pursuant to Judiciary Law §44(5), stipulating that the Commission make its determination based upon the agreed facts, jointly recommending that respondent be censured and waiving further submissions and oral argument.

On November 8, 2002, the Commission approved the Agreed Statement of Facts and made the following findings of fact.

1. Respondent has been a Justice of the Ulster Town Court since January 1, 1978. She is not a lawyer. She has attended and successfully completed all required training sessions for judges.

As to Charge I of the Formal Written Complaint:

2. The charge is not sustained and is, therefore, dismissed.

As to Charge II of the Formal Written Complaint:

3. On June 1, 1999, respondent went to her daughter's home while the police were there conducting a search pursuant to a search warrant, and she made her presence known to the police. There is no evidence that she went there because the police were there, and there is no evidence that she knew a search was being conducted. She knew that the police knew who she was.

4. Respondent asked Captain George Turner, who was in charge of the search, what the police were doing, what the basis was for the search, and why she had

not been given advance notice of the search. She objected to the participation of Sergeant Joseph Sinagra in the search and said that Sergeant Sinagra should not be participating in any facet of the search. Respondent and Sergeant Sinagra had a poor relationship.

5. When respondent's grandson arrived, respondent spoke privately with him, and related to Captain Turner that her grandson denied any knowledge of the theft that led to the search of the premises.

6. Although respondent's actions did not adversely affect the search and did not prevent the search, respondent recognizes that she should not have acted as an advocate for her grandson and should not have remained on the premises or said anything after she was advised initially of the reason for the police presence. She had a natural instinct to protect her grandson, but realizes now that she should avoid even the appearance of asserting her influence in such situations.

As to Charge III of the Formal Written Complaint:

7. On April 27, 2000, at the suggestion of the acting chief of the town's police force, respondent wrote a memorandum to the Ulster Town Police Commission Board, which oversees the Ulster Town Police Department, stating that she had dismissed a charge of Petit Larceny against Daniel Johnson because the arresting officer, Sergeant Joseph Sinagra, had released the defendant on an appearance ticket following an arrest on a bench warrant.

8. When a defendant is arrested on a bench warrant, it is required by Criminal Procedure Law Section 530.70(2) that the defendant appear before the court.

Sergeant Sinagra had improperly released the defendant on an appearance ticket.

9. Respondent actually dismissed the charge because of the defendant's poor health in the interests of justice. Respondent's statement to the Police Commission Board was intended to underscore the point that it was poor police practice for Sergeant Sinagra to have released the defendant. The statement was inaccurate, in that it gave as the sole reason for the dismissal the decision of Sergeant Sinagra to release the defendant. Respondent also failed to make a record of the reason for the dismissal as required by law.

10. The release of the defendant on an appearance ticket did not justify a dismissal of the charge, and respondent's statement to the Police Board, while not intentionally false, was misleading. Respondent also stated to the Police Board that she dismissed the charge to protect against a lawsuit by the defendant, which would not be an appropriate action by a judge. That statement also was intended to highlight the poor practice of releasing a defendant on an appearance ticket after the defendant has been arrested on a bench warrant.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.2(B), 100.2(C) and 100.3(B)(1) of the Rules Governing Judicial Conduct. Charges II and III of the Formal Written Complaint are sustained, and respondent's misconduct is established. Charge I is not sustained and is dismissed.

Respondent's conduct during the search of her daughter's home pursuant to a search warrant was an improper assertion of her judicial office. The ethical rules prohibit a judge from lending the prestige of judicial office to advance private interests (Section 100.2[C] of the Rules Governing Judicial Conduct). As the Court of Appeals has stated:

[N]o judge should ever allow personal relationships to color his conduct or lend the prestige of his office to advance the private interests of others. Members of the judiciary should be acutely aware that any action they take, whether on or off the bench, must be measured against exacting standards of scrutiny to the end that public perception of the integrity of the judiciary will be preserved. There must also be a recognition that any actions undertaken in the public sphere reflect, whether designedly or not, upon the prestige of the judiciary. [Citations omitted.]

Matter of Lonschein, 50 NY2d 569, 571-72 (1980)

Having arrived at her daughter's home during the search and having made her presence known to the police officers, who were aware of respondent's judicial status, respondent should have been especially careful to avoid any further conduct which might be construed as using her judicial influence to advance the interests of her relatives. Instead, respondent acted as an advocate for her grandson, questioning the officer who was in charge of the search, conveying her grandson's denial of wrongdoing to the officer, and objecting to the participation of one officer with whom she had a poor relationship. It was especially improper for respondent to ask why she had not been given advance notice of the search; by that question, respondent not only implicitly invoked her judicial status, but implied that because of her judicial status, she should be afforded special access to

confidential information concerning her relatives. As a judge since 1978, respondent should know that strict confidentiality is required in connection with the issuance and execution of search warrants. *See Matter of Gibbons*, 98 NY2d 448 (2002).

Regardless of her intent, respondent should have realized that her actions, even in the absence of a specific request for favorable treatment, would create an appearance of asserting the prestige of the judiciary to advance private interests, in violation of the ethical standards *See Matter of Edwards*, 67 NY2d 153, 155 (1986); *Matter of Ohlig*, 2002 Ann Rep 135 (Comm'n on Jud Conduct, Nov. 19, 2001).

Respondent's "natural instinct" to protect a family member does not justify a departure from the high standards expected of a judge.

By giving a misleading reason to the Police Commission Board for having dismissed a criminal charge against a defendant, respondent failed to observe high standards of conduct and failed to act in a manner that promotes "public confidence in the integrity and impartiality of the judiciary" (Sections 100.1 and 100.2[A] of the Rules). It was not only inaccurate but mean-spirited for respondent to attribute the dismissal to the improper conduct of a police sergeant, with whom she had a poor relationship, when the actual reason was the defendant's poor health. Respondent also failed to "respect and comply with the law" by failing to make a record of the reason for the dismissal, as required by Section 170.40(2) of the Criminal Procedure Law.

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

Mr. Berger, Judge Ciardullo, Mr. Coffey, Mr. Goldman, Ms. Hernandez, Judge Luciano, Mr. Pope and Judge Ruderman concur.

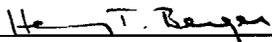
Judge Peters did not participate.

Ms. Moore was not present.

CERTIFICATION

It is certified that the foregoing is the determination of the State Commission on Judicial Conduct.

Dated: December 26, 2002


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