

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

ROBERT G. LEONARD,

a Justice of the Riverhead Town Court,
Suffolk County.

THE COMMISSION:

Mrs. Gene Robb, Chairwoman
John J. Bower, Esq.
David Bromberg, Esq.
Honorable Carmen Beauchamp Ciparick
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 (Alan W. Friedberg, Of Counsel) for the
Commission
Corwin & Matthews (By Charles T. Matthews) for
Respondent

The respondent, Robert G. Leonard, a justice of the
Riverhead Town Court, Suffolk County, was served with a Formal
Written Complaint dated December 7, 1984, alleging that he
failed to render timely decisions in 14 small claims cases.

Respondent filed an undated answer received on December 21, 1984.

By order dated December 28, 1984, the Commission designated Lawrence R. Bailey, Sr., Esq., as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on March 28 and 29, 1985, and the referee filed his report with the Commission on May 28, 1985.

By motion dated July 24, 1985, the administrator of the Commission moved to confirm in part and disaffirm in part the referee's report and for a finding that respondent be removed from office. Respondent opposed the motion on August 7, 1985. The administrator filed a reply on August 21, 1985. Oral argument was waived.

On September 12, 1985, the Commission considered the record of the proceeding and made the following findings of fact.

1. Respondent is a justice of the Riverhead Town Court and has been for 16 years.

2. On July 21, 1982, respondent presided over a trial in Darlene Webster-Sujecki v. 101 North Broadway Corp., a small claims case. The trial took 10 minutes. Respondent rendered a three-line decision on September 18, 1984. In the nearly 26 months between the trial and the decision, Ms. Webster-Sujecki contacted the court monthly to inquire about disposition of her

case. Twice she spoke to respondent personally. Ward A. Freese of the Suffolk County Department of Consumer Affairs wrote respondent on behalf of Ms. Webster-Sujecki on December 16, 1982, and October 19, 1983, and requested that the matter be decided. He never received a response. Respondent testified on September 6, 1984, that he had filed the papers and forgotten about the case.

3. On June 29, 1983, respondent presided over a trial in Michael Kaufmann v. Charles C. Cali, a small claims case. The trial took approximately 45 minutes. Respondent rendered a two-line decision on August 7, 1984. In the 13 months between the trial and decision, Mr. Kaufmann called the court about six times to inquire about disposition of his case. On June 30, 1984, Mr. Kaufmann wrote to respondent's administrative judge to complain about the delay. Respondent testified on September 6, 1984, that he had placed the papers in Kaufmann in a desk drawer and forgotten about the case.

4. On February 29, 1984, respondent presided over a trial in John W. Keller v. Edward and Victoria Swensen, a small claims case. The trial took approximately 90 minutes. Respondent rendered a three-line decision on September 18, 1984. In the nearly seven months between the trial and the decision, Mr. Keller contacted the court twice to inquire about disposition of his case, the second time speaking to respondent

personally. Respondent testified on September 6, 1984, that he had not decided the case because he had let it "lay there."

5. On August 17, 1983, respondent presided over a trial in Edward Waltz v. John and Daniel Keller, a small claims case. The trial took approximately one hour. Respondent rendered a one-line decision on September 18, 1984. In the 13 months between the trial and the decision, Mr. Waltz called the court monthly and visited the court twice to inquire about disposition of his case. Respondent testified on September 6, 1984, that he had filed the papers and forgotten about the case.

6. On July 21, 1982, respondent presided over a trial in John R. Ackermann v. Bay Shore Volkswagen, Inc., a small claims case. The trial took approximately one hour. Papers were filed by the parties on July 24, 1982, July 30, 1982, August 17, 1982, and August 23, 1982. Respondent rendered a two-line decision on October 25, 1983. In the 15 months between the trial and the decision, Mr. Ackermann called the court about three times to inquire about disposition of his case and wrote to respondent on August 12, 1983. Respondent testified on September 6, 1984, that he had put the papers in a desk drawer and forgotten about the case.

7. On April 27, 1983, respondent presided over a trial in Colleen Larsen v. Garsten Motors, a small claims case. The trial took approximately 30 minutes. Respondent rendered a one-line decision on September 18, 1984. In the nearly 17

months between the trial and the decision, Ms. Larsen called the court several times to inquire about disposition of her case. Respondent acknowledged that the delay was due to his "negligence."

8. On April 13, 1983, respondent presided over a trial in Diane Dowd v. 101 North Broadway Association, a small claims case. Respondent rendered a one-line decision on September 18, 1984. Respondent testified on September 6, 1984, that he had forgotten about the case for more than a year.

9. On May 9, 1984, respondent presided over a trial in Peter C. Milach v. Shirley Densieski, a small claims case. The trial took approximately 30 minutes. Respondent rendered a one-line decision on September 18, 1984. In the four months between the trial and the decision, Mr. Milach called the court twice to inquire about disposition of his case. On August 2, 1984, Mr. Milach wrote to respondent to request a decision in the case.

10. On February 29, 1984, respondent presided over a trial in Dennis Bernard v. Joseph P. Graffeo, a small claims case. Respondent rendered a three-line decision on September 18, 1984.

11. On October 27, 1982, respondent presided over a trial in Darlene M. Hunt v. Richard J. Lovett, a small claims case. On May 18, 1983, an attorney for one of the parties wrote

respondent to request a decision. Respondent rendered an eight-line decision on June 8, 1983.

12. On August 3, 1983, respondent presided over a trial in Wolfe and Steven Miller v. Estate of Paul Fischer, a small claims case. The trial took approximately 20 minutes. Respondent rendered a five-line decision on March 25, 1985. In the nearly 20 months between the trial and the decision, a representative of the estate called respondent to inquire about disposition of the case. Respondent told her that the matter was "tricky" and "could take years."

13. On July 6, 1983, respondent presided over a trial in Arthur Sarno v. Robert Mance, a small claims case. Respondent rendered a five-line decision on March 25, 1985.

14. On January 5, 1983, respondent presided over a trial in Roy Osman v. Sharon Fioto, a small claims case. The trial took approximately one hour. In October 1984, Ms. Fioto's father called respondent on her behalf to inquire about disposition of the case. Respondent told him that he would decide the matter shortly. Respondent testified on September 6, 1984, that he had forgotten about the Fioto case. Respondent rendered a three-line decision on March 22, 1985.

15. On January 19, 1985, respondent presided over a trial in Wolfe Miller v. Boris Zilberstein, a small claims case. The trial took half a day. On March 18, 1983, the defendant's attorney wrote to the court to inquire about disposition of the

case. The attorney also called the court several times. Respondent testified on September 6, 1984, that he had forgotten about the case. Respondent rendered a four-line decision on March 25, 1985.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2 and 100.3(a)(5) of the Rules Governing Judicial Conduct; Canons 1,2 and 3A(5) of the Code of Judicial Conduct, and Section 1304 of the Uniform Justice Court Act. The charge in the Formal Written Complaint is sustained, and respondent's misconduct is established.

Section 1304 of the Uniform Justice Court Act requires a judge to decide a case within 30 days of a non-jury trial. We reject respondent's argument that this provision does not apply to small claims cases. In any event, the delays respondent permitted amounted to an egregious neglect of his adjudicative responsibilities.

Respondent has no explanation for the delays. He acknowledges that he filed nine of the cases and forgot about them, delaying decision for as long as 27 months despite telephone calls and letters from many of the litigants.

While serious, the misconduct does not require removal. (See Matter of Rogers v. State Commission on Judicial

Conduct, 51 NY2d 224 [1980]; Matter of Rater, 3 Commission Determinations 36 [Com. on Jud. Conduct, May 6, 1982]; Matter of Dougherty, unreported [Com. on Jud. Conduct, Apr. 16, 1984]). Respondent has served for 16 years and has cooperated fully in the investigation of this matter. (See Matter of Sandburg, unreported [Com. on Jud. Conduct, June 6, 1985]).

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

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

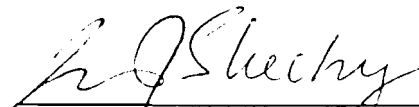
Mr. Bromberg was not present.

Judge Ciparick was not a member of the Commission at the time the vote in this proceeding was taken.

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: October 24, 1985



John J. Sheehy, Esq.
New York State
Commission on Judicial Conduct