

STATE OF NEW YORK  
COMMISSION ON JUDICIAL CONDUCT

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

ROGER C. MACLAUGHLIN,

**DETERMINATION**

a Justice of the Steuben Town Court, Oneida  
County.

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THE COMMISSION:

Honorable Eugene W. Salisbury, Chair  
Henry T. Berger, Esq.  
Jeremy Ann Brown, C.A.S.A.C.  
Stephen R. Coffey, Esq.  
Lawrence S. Goldman, Esq.  
Christina Hernandez, M.S.W.  
Honorable Daniel F. Luciano  
Honorable Frederick M. Marshall  
Honorable Karen K. Peters  
Alan J. Pope, Esq.  
Honorable Terry Jane Ruderman

APPEARANCES:

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

Brian Michael Miga for Respondent

The respondent, Roger C. Maclaughlin, a justice of the Steuben Town  
Court, Oneida County, was served with a Formal Written Complaint dated February 11,  
2000, containing two charges. Respondent filed an answer dated March 29, 2000.

By order dated April 6, 2000, the Commission designated Vincent D. Farrell, Esq., as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on June 14 and 15, 2000, in Utica, New York. The referee filed a report with the Commission on September 15, 2000, and a supplemental report on September 25, 2000.

The parties filed briefs and replies with respect to the referee's report. On December 14, 2000, the Commission heard oral argument, at which respondent appeared by counsel, and thereafter considered the record of the proceeding and made the following findings of fact.

1. Respondent has been a justice of the Steuben Town Court since January 1996.

As to Charge I of the Formal Written Complaint:

2. Between February and June 1997, respondent arraigned Lawrence Bizjak on various charges pertaining to Mr. Bizjak's livestock. During that period, respondent met with Sandra Deland, a mobile home tenant of Mr. Bizjak, who complained of violations at Mr. Bizjak's property. Respondent also contacted Robert Hoke, the local codes enforcement officer, and the Oneida County Department of Health and asked them to look into possible violations by Mr. Bizjak. Following these *ex parte*

contacts, Mr. Hoke issued three code violations to Mr. Bizjak related to the mobile home park.

3. On June 12, 1997, respondent, at a meeting of the Steuben Town Board, reported to the Board on the code violations by Mr. Bizjak pending before him and urged the Board not to approve Mr. Bizjak's application for a mobile home park until the code violations were corrected.

4. On June 17, 1997, respondent convicted Mr. Bizjak of several violations, without conducting a trial or obtaining a guilty plea. Respondent sentenced Mr. Bizjak to fines and "court costs" totaling \$750 and ordered him to correct the code violations within 15 days.

5. In his decision against Mr. Bizjak on June 17, 1997, respondent included an award of two months' rent for Ms. Deland, Mr. Bizjak's tenant, and ordered the return of her security deposit when she vacated the premises. Ms. Deland had not commenced any court action against Mr. Bizjak.

6. Respondent based his June 17, 1997, decision in part on information he had received *ex parte* from Ms. Deland and from the Oneida County Department of Health, without notifying Mr. Bizjak of any claim by Ms. Deland or affording him an opportunity to be heard.

7. On June 22, 1997, respondent wrote a letter to the Foothills Veterinary Clinic in Boonville, inquiring whether the clinic had performed an autopsy on

any of Mr. Bizjak's cattle; he received a written response in the negative.

8. On July 1, 1997, respondent issued a bench warrant for Mr. Bizjak's arrest and committed Mr. Bizjak to jail for 15 days on a charge of Criminal Contempt of Court for failing to correct the code violations, notwithstanding that the 15-day period to correct the violations had not yet expired. In committing Mr. Bizjak to jail, respondent failed to set bail as required by Section 530.20(1) of the Criminal Procedure Law; there was no underlying accusatory instrument forming the basis of a charge of Contempt; and respondent did not afford Mr. Bizjak notice or opportunity to be heard, as required by Section 751(1) of the Judiciary Law. Mr. Bizjak served 10 days in jail before being released by respondent when an attorney for Mr. Bizjak interceded on his behalf.

9. In September 1997, respondent disqualified himself from all cases involving Mr. Bizjak.

10. In September 1998, respondent met with Mr. Bizjak's tenants, including Donna Winters, discussed with them allegations of various code violations at Mr. Bizjak's properties, and advised the tenants that they did not have to pay rent while violations existed and that they could not be evicted.

11. Respondent directed the codes enforcement officer to investigate the tenants' allegations, which resulted in new charges against Mr. Bizjak. Respondent presided over the new charges on October 6, 1998.

12. On October 29, 1998, notwithstanding that he wrote to the District

Attorney on that date and disqualified himself from hearing Mr. Bizjak's cases due to a "conflict of interest," respondent granted a default judgment to Donna Winters, a tenant of Mr. Bizjak, in the amount of \$902.72. In December 1998 respondent signed a property execution against Mr. Bizjak for the amount of the judgment.

13. Respondent failed to keep complete and accurate dockets and records for several of the Bizjak cases, in violation of Sections 2019 and 2019-a of the Uniform Justice Court Act and Section 214.11 of the Uniform Civil Rules for the Justice Courts.

As to Charge II of the Formal Written Complaint:

14. On June 16, 1997, respondent wrote a letter on judicial stationery to Linna Grabowski, notifying her of code violations on her property and stating: "It is the desire of the Court to resolve this matter without having to institute further legal action." No charges had been filed against Ms. Grabowski in respondent's court.

15. On June 19, 1997, based on Ms. Grabowski's response to his letter, respondent wrote to the codes enforcement officer, Mr. Hoke, suggesting that he issue an appearance ticket to tenants of Ms. Grabowski.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.3(B)(1), 100.3(B)(4),

100.3(B)(6) and 100.3(E)(1) of the Rules Governing Judicial Conduct. Charges I and II of the Formal Written Complaint are sustained insofar as they are consistent with the above findings, and respondent's misconduct is established.

In a series of cases involving Lawrence Bizjak, respondent acted not only as judge, but as a self-appointed investigator and prosecutor. Respondent failed to follow the law, solicited and received *ex parte* information, and relied upon that information to Mr. Bizjak's detriment. Most seriously, he deprived Mr. Bizjak of his liberty without regard for his rights under the law.

Respondent's *ex parte* investigations, while charges against Mr. Bizjak were pending in his court, were improper and prejudiced the impartiality of the adjudicative process (Matter of VonderHeide, 72 NY2d 658 [1988]; Rules Governing Judicial Conduct, 22 NYCRR 100.3[B][6]). It was also improper that, after directing an inspection of Mr. Bizjak's property, which resulted in the issuance of additional violations, respondent presided over the violations and, based on *ex parte* information he had received, convicted Mr. Bizjak without a trial or guilty plea. Respondent imposed \$750 in fines, ordered Mr. Bizjak to correct the violations within 15 days, and even awarded two months' rent to Mr. Bizjak's tenant, although the tenant had not commenced any court action seeking such relief. Respondent's actions showed a complete disregard for fundamental principles of law and the rights of Mr. Bizjak.

Thereafter, one day before respondent's 15-day deadline had expired, respondent issued a warrant for Mr. Bizjak's arrest and summarily sentenced him to 15 days in jail for contempt of court for failing to complete the required repairs. In doing so, respondent failed to give Mr. Bizjak notice and an opportunity to be heard and failed to set bail as required by law. Respondent's actions, which resulted in Mr. Bizjak's spending ten days in jail, constitute a shocking abuse of judicial power and convey the impression of bias. Matter of Hamel, 88 NY2d 317 (1996). That impression was compounded a year later when respondent, having disqualified himself from Mr. Bizjak's cases, met with Mr. Bizjak's tenants and gave them legal advice, and continued to sit on cases involving Mr. Bizjak. Moreover, respondent's records of the Bizjak cases were inadequate, incomplete and often confusing.

Respondent's abuse of judicial authority and reliance on *ex parte* information were not limited to the Bizjak cases. Respondent sent a threatening letter to Linna Grabowski about code violations on her property, although no charges had been filed against her. Respondent's letter conveyed the appearance that he was acting as a prosecutor to enforce the law. As such, it undermined the integrity and impartiality of the judiciary (Rules Governing Judicial Conduct, 22 NYCRR 100.2[A]).

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

Judge Salisbury, Mr. Berger, Mr. Coffey, Mr. Goldman, Ms. Hernandez, Judge Luciano, Judge Marshall, Judge Peters, Mr. Pope and Judge Ruderman concur as to sanction.

Judge Salisbury and Mr. Berger vote to adopt an additional finding that, based upon *ex parte* communications, respondent called Mr. Bizjak a “pathological liar.”

Mr. Coffey dissents only as to Charge II and votes to dismiss the charge.

Ms. Brown was not present.

CERTIFICATION

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

Dated: February 8, 2001

  
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Hon. Eugene W. Salisbury, Chair  
New York State  
Commission on Judicial Conduct