

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 :

COMMISSION
DETERMINATION

PATRICK MANEY, :

a Justice of the Town Court of East :
Greenbush, Rensselaer County. :

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

The respondent, Patrick Maney, a justice of the Town Court of East Greenbush, Rensselaer County, was served with a Formal Written Complaint dated October 10, 1978, setting forth seven charges of misconduct relating to the assertion of influence in traffic cases. In his answer, received by the Commission on November 10, 1978, respondent admitted the material allegations with respect to all charges, with the exception of Charge VI.

The administrator of the Commission moved for summary determination on February 27, 1979, pursuant to Section 7000.6(c) of the Commission's Rules (22 NYCRR 7000.6[c]). The Commission

granted the motion, dismissing Charge VI and finding respondent guilty of misconduct with respect to the remaining six charges, and setting a date for oral argument on the issue of an appropriate sanction. The administrator and respondent submitted memoranda in lieu of oral argument.

The Commission finds as follows:

1. On or about March 27, 1974, respondent sent a letter to Justice James Davidson of the Queensbury Town Court, seeking special consideration on behalf of the defendant in People v. Michael Wacholder, a case then pending before Judge Davidson.
2. On or about October 11, 1974, respondent sent a letter to Justice Wayne Smith of the Plattekill Town Court, seeking special consideration on behalf of the defendant in People v. Donald S. Gould, a case then pending before Judge Smith.
3. On or about June 11, 1975, respondent, or someone at his request, communicated with Justice Arthur Reilly of the Ulster Town Court, seeking special consideration on behalf of the defendant in People v. Laura Servidone, a case then pending before Judge Reilly.
4. On or about July 31, 1975, respondent sent a letter to Justice Richard Lips of the Clifton Park Town Court, seeking special consideration on behalf of the defendant in People v. David S. Mankin, a case then pending before Judge Lips.
5. On or about December 11, 1975, respondent sent a letter to Justice George E. Carl of the Catskill Town Court, seeking special consideration on behalf of the defendant in

People v. Anthony J. Elacqua, a case then pending before Judge Carl.

6. On or about May 27, 1976, respondent sent a letter to Justice Harold Schultz of the New Scotland Town Court, seeking special consideration on behalf of the defendant in People v. Robert A. DeSantis, a case then pending before Judge Schultz.

7. By reason of the foregoing, 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.

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. By making ex parte requests of other judges for favorable dispositions for the defendants in traffic cases, respondent violated the Rules enumerated above, which read as follows:

Every judge...shall himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. [Section 33.1]

A judge shall respect and comply with the law and shall conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. [Section 33.2(a)]

No judge shall allow his family, social or other relationships to influence his judicial conduct or judgment. [Section 33.2(b)]

No judge...shall convey or permit others to convey the impression that they are in a special position to influence him....
[Section 33.2(c)]

A judge shall be faithful to the law and maintain professional competence in it....
[Section 33.3(a)(1)]

A judge shall...except as authorized by law, neither initiate nor consider ex parte or other communications concerning a pending or impending proceedings....
[Section 33.3(a)(4)]

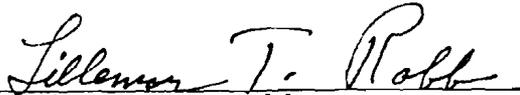
Courts in this state and other jurisdictions have found that favoritism is serious judicial misconduct and that ticket-fixing is a form of favoritism.

In Matter of Byrne, N.Y.L.J. April 20, 1978, vol. 179, p. 5 (Ct. on the Judiciary), the Court on the Judiciary declared that a "judicial officer who accords or requests special treatment or favoritism to a defendant in his court or another judge's court is guilty of malum in se misconduct constituting cause for discipline." In that case, ticket-fixing was equated with favoritism, which the court stated was "wrong and has always been wrong." Id.

By reason of the foregoing, the Commission determines that respondent should be censured.

This determination constitutes the findings of fact and conclusions of law required by Section 44, subdivision 7, of the Judiciary Law.

All concur.


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

Dated: May 29, 1979
Albany, New York

APPEARANCES:

Maney and McConville (By Edward P. McConville) for Respondent
Gerald Stern for the Commission (Edith Holleman, Judith Siegel-
Baum, Of Counsel)