

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

PATRICK T. MANEY,

a Justice of the East Greenbush Town
Court, Rensselaer 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 (Stephen F. Downs, Of Counsel) for the
Commission

Maney, McConville & Liccardi (By Edward P.
McConville) for Respondent

The respondent, Patrick T. Maney, a justice of the
East Greenbush Town Court, Rensselaer County, was served with a
Formal Written Complaint dated March 28, 1986, alleging that he
engaged in partisan political activities. Respondent filed an
answer dated April 30, 1986.

On June 23, 1986, the administrator of the Commission, respondent and respondent's counsel entered into an agreed statement of facts pursuant to Section 44, subdivision 5, of the Judiciary Law, waiving the hearing provided for in Section 44, subdivision 4, of the Judiciary Law and stipulating that the Commission make its determination based on the pleadings and the agreed upon facts. The Commission approved the agreed statement on July 16, 1986.

The administrator submitted a memorandum as to sanction. Respondent neither submitted a memorandum nor requested oral argument.

On August 7, 1986, the Commission considered the record of the proceeding and made the following findings of fact.

1. Respondent is a justice of the East Greenbush Town Court and has been since 1971.

2. Respondent, a Democrat, was elected to his fourth term of office in November 1983. His term expires on December 31, 1987.

3. In 1983, respondent sought to have a friend, William Malone, appointed a committeeman of the East Greenbush Town Democratic Committee in order to further respondent's chances of being nominated for reelection in 1987. Respondent knew that Mr. Malone would not oppose respondent's candidacy and

hoped that Mr. Malone would influence the town Democratic Committee to nominate respondent for reelection in 1987.

4. In October 1983, respondent introduced Mr. Malone to Jack Devine, then the chairman of the town Democratic Committee, and recommended that Mr. Devine appoint Mr. Malone to a vacancy as town committeeman. Mr. Devine subsequently did so.

5. At the end of 1983, Mr. Devine retired as town chairman and was replaced by Donald Leffler.

6. In 1984, Mr. Malone sought nomination to run for the town council, but Mr. Leffler backed another candidate.

7. Respondent heard rumors that Mr. Leffler might not support respondent for reelection in 1987. Respondent told certain of his legal clients, his close friends and Mr. Leffler himself that respondent was dissatisfied with the leadership of the party.

8. In the spring of 1985, Mr. Leffler; Mr. Malone; the Democratic town supervisor, Michael VanVoris, and others met with respondent in respondent's office to discuss plans for the town Democratic Committee.

9. Respondent told Mr. Leffler that he should resign as party chairman. Respondent repeated the statement to Mr. Leffler at a subsequent meeting between them. Mr. Leffler refused to resign.

10. Mr. VanVoris, Mr. Malone and respondent discussed on at least three subsequent occasions the possibility of removing Mr. Leffler and agreed to attempt to do so at a party caucus on August 5, 1985.

11. Respondent asked Mr. VanVoris to seek the party chair, but Mr. VanVoris declined.

12. Respondent subsequently discussed with Mr. Malone the possibility of his seeking the party chair, and Mr. Malone agreed to become a candidate. Respondent, Mr. VanVoris and others subsequently discussed with Mr. Malone the process by which Mr. Malone would be nominated party chairman at the caucus.

13. Before the caucus, respondent discussed the contemplated removal of Mr. Leffler with several friends and asked them to attend the caucus.

14. Respondent asked Robert Angelini whether he would accept the nomination as temporary chairman of the caucus, and he agreed.

15. On August 5, 1985, respondent attended the caucus. Respondent nominated Mr. Angelini as temporary chairman, and he was elected over a candidate nominated by Mr. Leffler.

16. During a debate, respondent told party members at the caucus that he was dissatisfied with Mr. Leffler's leadership.

17. Mr. Malone was nominated by Mr. VanVoris to replace Mr. Leffler. A question was raised as to the legality of the move. Respondent advised the party members to go forward with the election, that if the election were illegal, it would be voided, but that the opportunity to vote should not be foregone.

18. Respondent voted in favor of Mr. Malone, and he was elected party chairman, 46 to 9.

19. Respondent was not an announced candidate for reelection in 1987, and the caucus was not within nine months of the meeting or primary at which respondent would be nominated for reelection.

20. The election of Mr. Malone was subsequently determined invalid, and Mr. Leffler remained the party chairman.

21. On December 17, 1985, respondent gave testimony before a member of this Commission in connection with a duly-authorized investigation into his political activities. Respondent indicated that he was familiar with the prohibitions against political activity in the Rules Governing Judicial Conduct and testified that he anticipated when he attended the party caucus that he would be called before the Commission.

22. Respondent testified that he feels that the Rules prohibiting political activity by judges are wrong and said, "...I think my political campaign is every day of my life, in sitting as a judge or taking my wife out to a social event."

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2 and 100.7 of the Rules Governing Judicial Conduct and Canons 1, 2 and 7A of the Code of Judicial Conduct. The charge in the Formal Written Complaint is sustained, and respondent's misconduct is established.

Section 100.7 of the Rules Governing Judicial Conduct prohibits a judge from attending political affairs, from participating in political campaigns, from permitting the judge's name to be used in connection with political activity or from engaging in any other activity of a partisan political nature except his own campaign within nine months of his nomination.

Upon taking the bench, a judge relinquishes his First Amendment rights to participate in the political process. "...[I]t has been clearly established that courts do not belong in politics, that the independence of the judiciary depends upon that separation, and that political ties and debts and their accommodation would demean and degrade the courts and ultimately

corrupt them." Application of Gaulkin, 69 NJ 185, 351 A2d 740, 743 (1976).

A judge must avoid all partisan political activity so as to prevent "any suspicion that his judicial activities may be influenced by his political preferences." Matter of Hayden, 41 NJ 443, 197 A2d 353, 354 (1964).

Respondent knowingly ignored these principles and prohibitions. Years before the period in which he could properly campaign for reelection, respondent engaged in blatant political activity. He joined with others to plan the overthrow of the local leader of their political party and replace him with a supporter of respondent. Respondent met numerous times with political leaders and participated in a party caucus, publicly expressing his dissatisfaction with the party leadership and promoting new candidates for the office. Such activities by a judge are not permitted at anytime by the Rules and certainly not years before any campaign for reelection.

Respondent's callous disregard for the applicable ethical standards is evidenced by his statements that he anticipated that he would be called before the Commission to account for his political actions and that he feels that he is engaged in political campaigning at all times, on and off the bench.

It is of paramount importance that both in practice and in the public mind, our judicial processes be neutral, fair and free from improper influences. Respondent's excessive involvement in partisan political activities is inconsistent with the preservation of these values and as such mandate his removal from office.

Matter of Briggs, 595
SW2d 270, 277 (Mo. 1980).

Respondent has irretrievably impaired public confidence that his judicial actions will not be influenced by political considerations.

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


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

Mr. Bromberg and Mr. Sheehy 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: September 12, 1986


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