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

CARL E. MEACHAM,

a Justice of the Greene Town and Village Courts, Chenango County.

THE COMMISSION:

Henry T. Berger, Esq., Chair
Honorable Myriam J. Altman
Helaine M. Barnett, Esq.
Herbert L. Bellamy, Sr.
Honorable Carmen Beauchamp Ciparick
E. Garrett Cleary, Esq.
Dolores Del Bello
Lawrence S. Goldman, Esq.
Honorable Eugene W. Salisbury
John J. Sheehy, Esq.
Honorable William C. Thompson

APPEARANCES:

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

Hinman, Howard & Kattell (Thomas W. Cusimano, Jr., Of Counsel) for Respondent

The respondent, Carl E. Meacham, a justice of the Greene Town Court and the Greene Village Court, Chenango County, was served with a Formal Written Complaint dated August 10, 1992, alleging the mishandling of cases involving three defendants. Respondent filed an answer dated September 15, 1992.

By order dated September 25, 1992, the Commission designated Samuel B. Vavonese, Esq., as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on March 11, 1993, and the referee filed his report with the Commission on June 2, 1993.

By motion dated August 11, 1993, the administrator of the Commission moved to confirm the referee's report and for a determination that respondent be removed from office. Respondent opposed the motion on August 31, 1993. The administrator filed a reply dated September 2, 1993. Oral argument was waived.

On September 9, 1993, the Commission considered the record of the proceeding and made the following findings of fact.

As to Charge I of the Formal Written Complaint:

1. Respondent, who is not a lawyer, has been a justice of the Greene Village Court since 1985. He has been a justice of the Greene Town Court since 1990.

2. On August 5, 1986, Dale C. Price was arraigned before respondent in the Greene Village Court on charges of Driving While Ability Impaired, Unlicensed Operation and Inadequate Taillight.

3. Even though he intended to sentence Mr. Price to jail, respondent denied his request for assigned counsel and did not give him a financial affidavit to determine eligibility for assigned counsel based only on Mr. Price's representation that he was working and without making any other inquiry concerning his financial status, in violation of CPL 170.10(4)(a).

4. Mr. Price decided to plead guilty to all charges. Respondent fined him $280 and sentenced him to a weekend in jail.

5. Mr. Price paid $50 at the court session and served his jail time the following weekend. He paid the balance of the fine by personal checks dated August 17 and September 5, 1986.

6. The court subsequently sent an erroneous notice to Mr. Price, alleging that he had not paid the fine in full. He ignored it.

7. On February 21, 1989, Mr. Price was arrested on respondent's warrant and charged with Criminal Contempt for his alleged failure to pay the fine in full. Respondent issued the warrant after finding paperwork concerning the case in a folder reserved for overdue payments. Respondent checked his docket and found that it had not been marked "paid," but he did not check court receipts to determine whether the fine had been paid in full.

8. Respondent arraigned Mr. Price on the Criminal Contempt charge. Mr. Price produced a check register, carbon copies of his checks and bank statements, all reflecting that payments had been made and that the checks had cleared. The copies of the checks showed only that payments had been made to "Village Justice." Mr. Price did not have the returned checks or court receipts for the payments.

9. Respondent refused to accept Mr. Price's proffered proof of payment. He did not afford the defendant the right to a hearing or the right to assigned counsel.

10. Mr. Price pleaded guilty. Respondent fined him $50 with a $10 surcharge on the contempt charge and told him that he must pay a $100 balance on the original fine. He permitted Mr. Price to go immediately to a bank to obtain the cash under threat of another arrest warrant if he did not return shortly. Mr. Price returned in 15 minutes and paid $160, including a duplicate partial payment for the original fine.

11. Respondent acknowledged at the hearing that, before he issued the warrant, Mr. Price had, in fact, paid the fine in full and that respondent was "remiss" in failing to check court receipts. He also conceded that he misused his contempt power out of "ignorance" and that he denied Mr. Price a fair hearing.

As to Charge II of the Formal Written Complaint:

12. In 1989, Clifford Soules brought a small claims action in the Greene Village Court against Todd Furman, alleging failure to repay a loan.

13. On November 21, 1989, the parties appeared before respondent. Mr. Furman agreed to repay the money in monthly installments and signed an agreement, which was witnessed by respondent.

14. Respondent was later told outside of court that Mr. Furman was working but had not repaid the loan. On February 20, 1990, at respondent's direction, a police officer stopped Mr. Furman and told him that respondent wanted to speak with him.

15. Mr. Furman accompanied the police officer to respondent's court. Respondent asked him why he had not paid Mr. Soules. Mr. Furman said that he had spoken with Mr. Soules, who had no objection to the delay.

16. Respondent summarily sentenced him to ten days in jail for Criminal Contempt, 2d Degree, even though no such charge had been lodged and Mr. Furman had not been afforded a hearing or advised of any rights by respondent.

17. Mr. Furman's parents retained an attorney, who called respondent and argued that the incarceration was improper. Respondent ordered Mr. Furman, who had spent 24 hours in jail, released from custody.

18. On December 19, 1990, Mr. Furman was arrested on a charge of Driving While Intoxicated. Knowing that the defendant was intoxicated, respondent arraigned him in the Greene Village Court and committed him to jail in lieu of $1,000 bail. Respondent ordered that he be returned to court on January 15, 1991, 27 days later.

19. Mr. Furman's mother, Judith, called respondent, told him that her son had agreed to plead guilty and would enroll in a 28-day alcohol treatment program. Respondent agreed to release him in her custody, and the defendant was released after spending nine hours in jail.

20. Mr. Furman and his parents appeared before respondent on January 15, 1991. He was re-arraigned. He pleaded not guilty. Respondent had heard outside of court that Mr. Furman was contemplating moving to the Northwest and, he testified, "I had heard the word 'suicide' mentioned." On this basis, he recommitted Mr. Furman to jail in lieu of $1,000 bail.

21. His parents posted bail the following day and retained counsel. The charge was ultimately dismissed.

As to Charge III of the Formal Written Complaint:

22. On November 30, 1990, respondent arraigned Andrew B. in the Greene Village Court on a charge of Assault, 3d Degree. Andrew, who was 16 years old, was accused of shooting his 12-year-old brother in the neck with a pellet gun.

23. Andrew was accompanied by his mother; he was not represented by counsel. After being advised of the charge and his rights by respondent, Andrew conferred with his mother and pleaded guilty to the charge.

24. Respondent committed him to jail without setting bail, in violation of CPL 530.20(1), and forwarded to the jail a written request for a mental health evaluation.

25. On December 4, 1990, Robert M. Larkin, an assistant public defender who had been assigned to the case, and Assistant District Attorney Aaron Dean appeared before respondent. Mr. Larkin asked that Andrew be allowed to withdraw his plea; the prosecutor did not object. Respondent refused. Mr. Larkin then argued that the law required respondent to set

bail since the charge is a misdemeanor. Respondent also refused to set bail.

26. Mr. Larkin said that he would apply to county court to obtain Andrew's release. Respondent replied that he could sentence him to 89 days in jail without the necessity of a pre-sentence report.

27. Mr. Larkin applied to county court, and Andrew was released in his parents' custody on December 7, 1990.

28. By letter dated February 19, 1991, Mr. Larkin requested that respondent vacate the plea. Respondent did not reply. About a month later, Mr. Larkin spoke with respondent about the matter. Respondent asked him to file a written motion.

29. On March 13, 1991, Mr. Larkin filed a motion with respondent. The assistant district attorney consented in writing.

30. On May 14, 1991, respondent left a message with Mr. Larkin's secretary in which he indicated that he would not grant the motion unless Andrew was removed from his home.

31. On May 28, 1991, respondent denied the motion to vacate the plea, and, on June 4, 1991, he sentenced Andrew to three years probation and a conditional discharge.

32. On July 31, 1991, Mr. Larkin appealed. On August 10, 1991, respondent filed a Return in which he stated that Mr. Larkin had never filed a written motion. On April 30, 1992, Judge Kevin M. Dowd of the Chenango County Court ruled that the motion to withdraw the plea should have been granted. He dismissed the charge in the interest of justice.

33. Respondent testified that he had refused to set bail because he was concerned about the safety of Andrew's family. He would "rather lose sleep over keeping him in jail a few days too long rather than letting him out and having to arraign him on a murder charge," he said. He also testified that his statement to the county court that Mr. Larkin had never filed a motion was a mistake and that he did not intend to deceive the superior court.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated the Rules Governing Judicial Conduct, 22 NYCRR 100.1, 100.2(a), 100.3(a)(1) and 100.3(a)(4), and Canons 1, 2A, 3A(1) and 3A(4) of the Code of Judicial Conduct. Charges I, II and III of the Formal Written Complaint are sustained insofar as they are consistent with the findings herein, and respondent's misconduct is established.

Respondent's lack of training and proficiency in the law and legal procedures triggered a series of abuses of his powers as a judge. However, his actions, though misguided and harmful to the defendants, were not motivated by maliciousness or venality.

Misapprehending the contempt powers of a judge, respondent summarily convicted and jailed two men for Criminal Contempt for what he perceived as threats to the integrity of the court process. He did this without affording them procedural due process and without a factual or legal basis.

He arraigned an intoxicated defendant and incarcerated him for return to court for re-arraignment 27 days later. (See, Matter of Winegard, 1992 Ann Report of NY Commn on Jud Conduct, at 70, 73). After he agreed to release the defendant and the defendant had returned to court as scheduled, respondent re-committed him based on ex parte information. (See, Matter of Mullen, 1987 Ann Report of NY Commn on Jud Conduct, at 129).

Immediately after arraignment, respondent accepted a guilty plea from a 16-year-old unrepresented defendant whose mental stability he questioned, then refused to set bail as required by law (see, Matter of LaBelle v State Commission on Judicial Conduct, 79 NY2d 350, 356-8). He then denied repeated requests to allow the defendant to withdraw the plea and go to trial, even though the prosecutor consented.

It is a judge's responsibility to maintain professional competence in the law (Rules Governing Judicial Conduct, 22 NYCRR 100.3[a][1]), and a non-lawyer judge has an obligation to learn about and obey ethical rules (Matter of VonderHeide v State Commission on Judicial Conduct, 72 NY2d 658, 660). Respondent was negligent and perhaps even reckless in this regard. However, we consider in mitigation the fact that he lacks legal training (see, Matter of Kuehnel et al., 45 NY2d [y][Ct on the Judiciary]) and that, in the Bryce matter, his intentions were not selfish but that he was motivated by concern for the safety of the defendant's family (see, LaBelle, supra, at 363). Furthermore, respondent now recognizes the impropriety of his conduct, and he

has been candid and contrite in this proceeding. (See, Matter of Rath, 1990 Ann Report of NY Commn on Jud Conduct, at 150, 152).

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

Mr. Berger, Judge Altman, Ms. Barnett, Mr. Bellamy, Judge Ciparick, Mr. Goldman, Judge Salisbury, Mr. Sheehy and Judge Thompson concur.

Mr. Cleary and Mrs. Del Bello 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: October 28, 1993

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