

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

GERALD C. MOLNAR,

a Justice of the Madrid Town
Court, St. Lawrence County.

THE COMMISSION:

Mrs. Gene Robb, Chairwoman
Honorable Myriam J. Altman
Henry T. Berger, Esq.
John J. Bower, Esq.
Honorable Carmen Beauchamp Ciparick
E. Garrett Cleary, Esq.
Dolores Del Bello
Victor A. Kovner, Esq.
Honorable William J. Ostrowski
Honorable Isaac Rubin
John J. Sheehy, Esq.

APPEARANCES:

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

Duncan S. MacAffer (Peter B. Lekki and Michael C.
Crowe, Of Counsel) for Respondent

The respondent, Gerald C. Molnar, a justice of the
Madrid Town Court, St. Lawrence County, was served with a Formal
Written Complaint dated September 3, 1987, alleging that he
offered money to a defendant in his court in exchange for a

sexual act. Respondent filed an answer dated September 23, 1987.

By order dated September 30, 1987, the Commission designated H. Wayne Judge, Esq., as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on April 27, 1988, and the referee filed his report with the Commission on May 11, 1988.

By motion dated May 18, 1988, the administrator of the Commission moved to confirm the referee's report and for a finding that respondent be removed from office. By letter dated May 27, 1988, respondent's counsel indicated that he would not submit opposing papers and would not appear for oral argument.

On June 16, 1988, the Commission considered the record of the proceeding and made the following findings of fact.

1. Respondent was a justice of the Madrid Town Court from January 1987, until his resignation on April 26, 1988.

2. On April 7, 1987, Candace Carr was issued an appearance ticket returnable in respondent's court on a charge of Permitting A Dog To Run At Large.

3. On April 28, 1987, Ms. Carr appeared before respondent in court. She pled guilty to the charge, and respondent fined her \$10. Ms. Carr asked for additional time to pay the fine, and respondent gave her until May 1, 1987.

4. On May 1, 1987, Ms. Carr called respondent by telephone and told him that her baby was ill and that she could not come to court. She asked whether she could send a money order. Respondent rejected the suggestion and asked whether he could come to Ms. Carr's home to collect the fine. She consented.

5. About 15 minutes later, respondent arrived at Ms. Carr's home. She went outside with the fine money to meet him. Respondent asked her whether he could go inside to prepare a receipt. She consented.

6. As respondent was preparing a receipt at Ms. Carr's kitchen table, he asked her when her husband had been sent to jail and when he was scheduled to return. Ms. Carr, who had not previously mentioned to respondent that her husband was in jail, indicated that her husband had been incarcerated since February and would be released at the end of the month.

7. Respondent asked Ms. Carr how much money she received in public assistance, and she replied that she received \$89 biweekly.

8. Respondent suggested to Ms. Carr that it must be hard living without a man and asked whether she wanted to earn \$25. Ms. Carr responded that she would and asked what he wanted her to do.

9. Respondent said that he had a headache and wanted to relieve his frustrations. He asked Ms. Carr to engage in

oral sexual activity.

10. Ms. Carr became angry and upset. She refused, threw the \$10 bill at respondent and told him to leave her home.

11. Respondent told Ms. Carr that if she did not report the incident, he would fine her only \$5 for subsequent dog ordinance violations. If she did report it, he told her, her dog would be killed and her son taken from her custody.

12. Respondent left a receipt for the fine on the table and departed.

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)(3) of the Rules Governing Judicial Conduct and Canons 1, 2 and 3A(3) of the Code of Judicial Conduct. The charge in the Formal Written Complaint, as amended at the hearing, is sustained, and respondent's misconduct is established.

Respondent used his judicial office to gain entrance to a defendant's home, then solicited a sexual favor from her in exchange for money. When she refused, he promised her special consideration in future court cases if she did not report the incident and threatened to use his judicial authority to harm her if she did.

Such gross misconduct does not comply with the law and constitutes an abuse of judicial authority of the most serious kind. The public can have no confidence in a judge who commits such unconscionable acts. Respondent is not fit to be a judge and should be barred from future judicial office.

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

Mrs. Robb, Judge Altman, Mr. Berger, Mr. Bower, Judge Ciparick, Mr. Cleary, Mrs. Del Bello, Mr. Kovner, Judge Ostrowski and Mr. Sheehy concur.


Judge Rubin was not present.

This determination is rendered pursuant to Section 47 of the Judiciary Law in view of respondent's resignation from the bench.

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: July 18, 1988


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