

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

, PAUL MOULTON,

a Justice of the Ossian Town Court,
Livingston County.

Determination

THE COMMISSION:

Mrs. Gene Robb, Chairwoman
Honorable Fritz W. Alexander, II
John J. Bower, Esq.
David Bromberg, Esq.
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 (John J. Postel, Of Counsel)
for the Commission

The respondent, Paul Moulton, a justice of the Ossian Town Court, Livingston County, was served with a Formal Written Complaint dated October 26, 1983, alleging that he had failed to report cases and remit moneys to the state comptroller, notwithstanding that he had been previously cautioned by the Commission

concerning his recordkeeping habits. Respondent did not answer the Formal Written Complaint.

By motion dated January 13, 1984, the administrator of the Commission moved for summary determination and a finding that respondent's misconduct was established. Respondent did not oppose the motion or file any papers in response thereto.

By determination and order dated February 9, 1984, the Commission granted the administrator's motion for summary determination, found respondent's misconduct established and set a schedule for argument as to appropriate sanction. The administrator submitted a memorandum in lieu of oral argument. Respondent neither submitted a memorandum nor requested oral argument.

On March 8, 1984, 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. On November 3, 1982, respondent was served with a letter of dismissal and caution by this Commission, advising him to adhere to ethical standards which require a judge to dispose promptly of court business.

2. Despite the Commission's caution, respondent failed between February 14, 1983, and December 30, 1983, to file reports and remit moneys to the state comptroller, as required by law.

As to Charge II of the Formal Written Complaint:

3. Respondent failed to cooperate with a Commission investigation in that he:

(a) Failed to respond to letters from the Commission dated March 23, 1983; April 15, 1983; and April 29, 1983, notwithstanding that his response was requested in the letters; and,

(b) failed to appear for the purpose of testifying before a member of the Commission on June 10, 1983; August 1, 1983; and August 24, 1983, although duly requested to appear by letters dated May 25, 1983, June 27, 1983; and August 8, 1983.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(a) and 100.3(b)(1) of the Rules Governing Judicial Conduct; Canons 1, 2A and 3B(1) of the Code of Judicial Conduct; Sections 2020 and 2021(1) of the Uniform Justice Court Act; Section 27 of the Town Law, and Section 1803 of the Vehicle and Traffic Law. Charges I and II of the Formal Written Complaint are sustained, and respondent's misconduct is established.

Respondent is required to report to the state comptroller all cases he handles and remit any moneys he receives in connection

with those cases by the tenth day of the month following collection. Section 2021(1) of the Uniform Justice Court Act; Section 27 of the Town Law; Section 1803 of the Vehicle and Traffic Law. In eleven of the months of 1983, respondent failed to fulfill this important statutory obligation. Such neglect of administrative duties constitutes serious misconduct. Matter of Cooley, 53 NY2d 64 (1981); Matter of Petrie, 54 NY2d 807 (1981); Matter of Ralston, NYLJ, Aug. 8, 1979, p. 8, col. 5 (Com. on Jud. Conduct, July 2, 1979).

Respondent has exacerbated his negligence by ignoring a Commission caution that he improve his recordkeeping and by failing to cooperate with the Commission's investigation. His refusal to answer inquiries and to give testimony interferes with the Commission's discharge of its lawful mandate and demonstrates respondent's unfitness for judicial office. Matter of Cooley, *supra*; Matter of Osterman, 13 NY2d (a), (1) (Ct. on the Judiciary 1963); Matter of Jordan, 47 NY2d (xxx) (Ct. on the Judiciary 1979).

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

Mrs. Robb, Judge Alexander, Mr. Bower, Mr. Bromberg, Mr. Cleary, Mrs. DelBello, Judge Ostrowski, Judge Shea and Mr. Sheehy concur.

Mr. Kovner and Judge Rubin 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: April 13, 1984



John J. Sheehy, Esq., Member
New York State Commission
on Judicial Conduct