

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

CHARLES P. MYLES, JR.,

a Justice of the Esperance Town Court,
Schoharie County.

THE COMMISSION:

Raoul Lionel Felder, Esq., Chair
Honorable Thomas A. Klonick, Vice Chair
Stephen R. Coffey, Esq.
Colleen C. DiPirro
Richard D. Emery, Esq.
Paul B. Harding, Esq.
Marvin E. Jacob, Esq.
Honorable Jill Konviser
Honorable Karen K. Peters
Honorable Terry Jane Ruderman

APPEARANCES:

Robert H. Tembeckjian (Cathleen S. Cenci, Of Counsel) for the
Commission

Gaspar M. Castillo, Jr., for the Respondent

The respondent, Charles P. Myles, Jr., a Justice of the Esperance Town
Court, Schoharie County, was served with a Formal Written Complaint dated July 19,

2007, containing one charge. The Formal Written Complaint alleged that respondent tampered with the utility company meter measuring electricity to his home, resulting in his conviction of a felony and three misdemeanors. Respondent filed a verified answer dated August 1, 2007, admitting that he was convicted but denying the underlying criminal conduct and asserting that his conviction is not final because it is on appeal.

By motion dated August 31, 2007, the administrator of the Commission moved for summary determination, pursuant to Section 7000.6(c) of the Commission's operating procedures and rules (22 NYCRR §7000.6[c]), based on respondent's conviction of the criminal charges. Respondent did not file a response to the motion. By Decision and Order dated September 21, 2007, the Commission granted the motion and determined that the charge was sustained and that respondent's misconduct was established.

The Commission scheduled oral argument on the issue of sanctions for November 1, 2007. Oral argument was not requested and thereby was waived. Counsel to the Commission filed a memorandum recommending that respondent be removed from office. Respondent filed no papers on the issue of sanctions.

On November 1, 2007, the Commission considered the record of the proceeding and made the following findings of fact.

1. Respondent took office as a Justice of the Esperance Town Court in January 2004. He is not an attorney.
2. On or about November 23, 2005, respondent tampered with the

utility meter measuring the amount of electricity respondent was using at his home.

3. On or about November 16, 2006, as a result of his tampering with the utility company meter at his home, respondent was convicted by a jury of Falsifying Business Records, 1st Degree, a class E felony, and Petit Larceny, Theft of Services and Criminal Tampering, 2nd Degree, which are class A misdemeanors. On or about January 31, 2007, respondent was sentenced by the Schoharie County Court to a term of probation for five years.

4. Respondent resigned as Esperance Town Justice effective November 18, 2006. The Office of Court Administration was informed of respondent's resignation on July 6, 2007.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1 and 100.2(A) of the Rules Governing Judicial Conduct ("Rules") and should be disciplined for cause, pursuant to Article 6, Section 22, subdivision a, of the New York State Constitution and Section 44, subdivision 1, of the Judiciary Law. Charge I of the Formal Written Complaint is sustained, and respondent's misconduct is established.

Respondent's conduct, as established in the criminal matter resulting in his conviction of a felony and three class A misdemeanors, demonstrates his lack of fitness for judicial office. Such behavior is unacceptable in who holds a position of public trust and irreparably damages respondent's ability to serve as a judge. *See Matter of Bailey*, 67

NY2d 61 (1986) (judge convicted of a misdemeanor in connection with a scheme to illegally hunt deer); *Matter of Westcott*, 2001 Annual Report 123 (Comm on Judicial Conduct) (judge convicted of Endangering the Welfare of a Mentally Retarded Person); *see also*, Town Law §31(5) and Village Law §3-301(5) (providing that a person convicted of a felony is “permanently ineligible” to serve as a town or village justice). Accordingly, the sanction of removal, which bars respondent from holding judicial office in the future, is appropriate notwithstanding that he has resigned.

We note that, in this proceeding, respondent failed to respond to the motion for summary determination or to file any papers on the issue of sanctions. Such conduct may be construed as “an indifference to the attendant consequences” of the proceeding. *Matter of Nixon*, 53 AD2d 178, 180 (1st Dept 1976).

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

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

Judge Klonick, Mr. Coffey, Mr. Emery, Mr. Harding, Mr. Jacob, Judge Konviser, Judge Peters and Judge Ruderman concur.

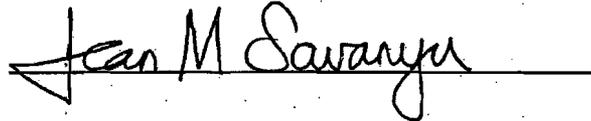
Mr. Felder and Ms. DiPirro were not present.

CERTIFICATION

It is certified that the foregoing is the determination of the State

Commission on Judicial Conduct.

Dated: November 1, 2007

A handwritten signature in cursive script that reads "Jean M. Savanyu". The signature is written over a solid horizontal line that extends across the width of the signature.

Jean M. Savanyu, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct