

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

ROBERT C. NEWMAN,

a Justice of the Arcade Town and Village
Courts, Wyoming County.

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, Robert C. Newman, a justice of the
Arcade Town Court and Arcade Village Court, Wyoming County, was
served with a Formal Written Complaint dated May 18, 1984,
alleging certain financial reporting, remittance and depositing

improprieties. Respondent did not answer the Formal Written Complaint.

On July 25, 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 August 21, 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 September 20, 1984, the Commission considered the record of the proceeding and made the following findings of fact.

1. Respondent was a part-time justice of the Arcade Town Court and Arcade Village Court, Wyoming County, from May 1982 to January 1, 1984. He notified the Chief Administrator of the Courts of his resignation on or about June 13, 1984.

2. Respondent is a lawyer and holds an undergraduate degree in business administration and accounting.

3. Between June 15, 1982, and December 31, 1983, respondent failed to deposit court moneys in his village court

account within 72 hours of receipt. As a result, respondent's court account was deficient in 41 of the 81 weeks during this period. For two weeks at the end of the period, the cumulative deficiency totaled \$7,382.75.

4. In 35 of the 81 weeks during this period, respondent made no deposits in his village court account, notwithstanding that he had received funds in his official capacity during each of these weeks. Several times during the period he made no deposits for several weeks and accumulated vast sums of court funds, which he kept among his court files. Specifically:

(a) Between January 25, 1983, and March 7, 1983, respondent made no deposits in his village court account, notwithstanding that he received \$170 during this period;

(b) between May 10, 1983, and June 16, 1983, respondent made no deposits in his village court account, notwithstanding that he received \$695.65 during this period;

(c) between June 28, 1983, and September 26, 1983, respondent made no deposits in his village court account, notwithstanding that he received \$2,497.10 during this period; and,

(d) between October 18, 1983, and December 27, 1983, respondent made no deposits in his village court account, notwithstanding that he received \$5,609.20 during this period.

5. As of December 14, 1983, respondent had not deposited in his village court account \$1,741.10 in cash

received in his official capacity prior to December 9, 1983, and which he kept filed among his village court receipts.

6. As of December 27, 1983, respondent had failed to deposit in his village court account \$4,889.55 in checks and money orders received in his official capacity between April 4, 1983, and December 16, 1983.

7. Respondent acknowledged, in testimony before a member of the Commission, that after a period of time in office, he developed a practice of putting court funds in his receipt book, placing it inside a bank bag and leaving them there undeposited for long periods.

8. Respondent was aware that he was obliged by law to deposit court funds in his official account, that he was not doing so promptly and that large amounts of undeposited funds were accumulating.

9. Respondent has no explanation for his failure to deposit court funds on time. Respondent testified before a member of the Commission that he was "not disciplined enough to do it."

10. From March 1983, until his resignation, respondent failed to report cases or remit funds received in his official capacity to the Department of Audit and Control, notwithstanding that his salary was stopped in June 1983, for failure to file the reports.

11. Respondent was aware that the law required him to report cases and remit funds by the tenth day of the month following their receipt.

12. Respondent has no excuse for his failure to file reports and remit moneys as required.

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 30.7(a) of the Uniform Justice Court Rules; Section 27 of the Town Law; Section 4-410(1) of the Village Law, and Section 1803 of the Vehicle and Traffic Law. The charge in the Formal Written Complaint is sustained, and respondent's misconduct is established.

Respondent has displayed wanton disregard of his ethical obligations to attend to the administrative duties of his office. His accumulation of undeposited court funds and his failure to turn them over to the proper authorities constitute reckless mishandling of thousands of dollars in public moneys. See Matter of Cooley v. State Commission on Judicial Conduct, 53 NY2d 64 (1981); Matter of Petrie v. State Commission on Judicial Conduct, 54 NY2d 807 (1981); Bartlett v. Flynn, 50 AD2d 401 (4th Dept. 1976); Matter of Dudley, unreported (Com. on Jud.

Conduct, March 5, 1979); Matter of New, unreported (Com. on Jud. Conduct, Dec. 8, 1982); Matter of Hutzky, unreported (Com. on Jud. Conduct, Nov. 4, 1983).

Respondent was aware of the obligations of his office, was trained in the law and in accounting and was able to offer no excuse for this gross neglect of his duties. He has demonstrated that he is not fit for judicial office and should be barred from ever seeking judicial office in the future.

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

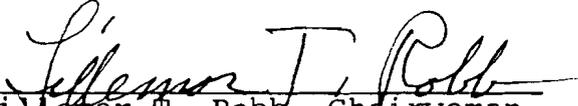
Mrs. Robb, Mr. Bower, Mr. Bromberg, Mr. Cleary, Mrs. DelBello, Mr. Kovner, Judge Shea and Mr. Sheehy concur.

Judge Alexander, Judge Ostrowski 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: September 28, 1984


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