

STATE OF NEW YORK
STATE COMMISSION ON JUDICIAL CONDUCT

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In the Matter :
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 - of - :
 : DETERMINATION
 Kenneth Petzold, :
 :
 A Justice of the Village of :
 Maybrook, County of Orange :
 :
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STATE COMMISSION ON JUDICIAL CONDUCT

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GERALD STERN, ESQ., Administrator
State Commission on Judicial Conduct
801 Second Avenue
New York, New York 10017

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DETERMINATION OF THE
STATE COMMISSION ON JUDICIAL CONDUCT
IN THE MATTER OF MAYBROOK
VILLAGE JUSTICE KENNETH PETZOLD

PRELIMINARY STATEMENT

This Determination of the State Commission on Judicial Conduct (hereinafter the "Commission") is submitted in accordance with Article VI, Section 22k, of the Constitution of the State of New York, and Article 2-A of the Judiciary Law, for transmittal by the Chief Judge of the Court of Appeals to the Honorable Kenneth Petzold.

Kenneth Petzold is a justice of the Village Court of Maybrook in Orange County. He first took office in December 1972. His current term expires in April 1980.

Pursuant to Section 43, subdivision 2, of the Judiciary Law, the present investigation of Judge Petzold commenced on June 29, 1977. In the course of its investigation, the Commission discovered four instances in which Judge Petzold made ex parte requests of other judges for favorable dispositions for defendants in traffic cases and three instances in which Judge Petzold granted favorable dispositions to defendants in traffic cases pursuant to requests from third parties.

JUSTICE PETZOLD'S REQUESTS FOR FAVORABLE
DISPOSITIONS FOR DEFENDANTS IN TRAFFIC CASES

On or about April 11, 1974, Judge Petzold sent a letter to Judge Angelo Darrigo of the Town Court of Newburgh on behalf of the defendant, who was charged with speeding, in People v. Edward W. Diller, a case then pending before Judge Darrigo. Judge Petzold referred in his letter to a prior telephone conversation he had held with Judge Darrigo regarding the Diller case in which he requested the charge be reduced to failure to signal.

On or about July 11, 1974, Judge Petzold sent a letter on official court stationery to the Wappingers Falls Village Court requesting favorable treatment for the defendant, who was charged with passing a red light, in People v. Thomas A. Cheshard, a case then pending in the Village Court of Wappingers Falls.

On or about February 17, 1976, Judge Petzold, or someone at his request, communicated with Judge Joseph Owen of the Town Court of Wallkill on behalf of the defendant, who was charged with speeding, in People v. Paul J. Amodio, a case then pending before Judge Owen.

On or about November 16, 1976, Judge Petzold, or someone at his request, communicated with Judge Edward Lahey of the Town Court of Windsor on behalf of the defendant, Judge Petzold's

son-in-law, who was charged with driving without a valid inspection certificate, in People v. Lawrence R. Marshall, a case then pending before Judge Lahey.

JUSTICE PETZOLD'S GRANTS OF FAVORABLE DISPOSITIONS
TO DEFENDANTS IN TRAFFIC CASES

On or about September 19, 1973, Judge Petzold reduced a charge of speeding to driving with a bald tire in People v. Theodore Dunn as a result of a letter he received on behalf of the defendant from Judge John R. Farley of the Town Court of Hamptonburgh.

On or about June 8, 1976, Judge Petzold dismissed a charge of speeding in People v. Florence Greenwald as a result of a letter he received on behalf of the defendant from someone at Bennett Enterprises of Fishkill, New York.

On or about July 13, 1976, Judge Petzold reduced a charge of speeding to driving with unsafe tires in People v Margaret M. Gurda as a result of a letter he received on behalf of the defendant from one "Al."

JUSTICE PETZOLD'S WAIVER OF A SCHEDULED
HEARING BEFORE THE COMMISSION

The Commission sent Judge Petzold letters dated July 8,

1977, and August 9, 1977, asking him to comment on his requests for favorable treatment in the Amodio and Marshall cases and his granting of favorable treatment in the Dunn, Greenwald and Gurda cases. In letters dated July 22, 1977, and September 14, 1977, Judge Petzold acknowledged making the requests and granting the dispositions in these cases.

Pursuant to Section 43, subdivision 5, of the Judiciary Law, the Commission determined that cause existed to conduct a hearing with respect to the judge's apparent conduct in the cases noted above and on his requests for favorable treatment in the Diller and Cheshard cases. On November 28, 1977, Judge Petzold was served with a Notice of Hearing and a Formal Written Complaint detailing the factual allegations in the seven cases noted above. In an Answer dated December 18, 1977, which was in the form of a letter to the Commission, Judge Petzold admitted all the factual allegations with the modification that in the Dunn case the reduction was made at the request of Maybrook Police Captain Shields and in the Greenwald and Gurda cases the reductions were made at the request of the Maybrook Chief of Police. In a telephone conversation with a Commission staff attorney on December 15, 1977, Judge Petzold waived his right to the scheduled hearing and confirmed his waiver by letter dated January 16, 1978, to the Commission.

CONCLUSION

By making ex parte requests of other judges for favor-

able dispositions for defendants in traffic cases and by granting favorable dispositions to defendants in traffic cases at the request of third parties, Judge Petzold was in violation of Sections 33.1, 33.2, 33.3(a) (1) and 33.3(a) (4) of the Rules Governing Judicial Conduct of the Administrative Board of the Judicial Conference, and Canons 1, 2 and 3A of the Code of Judicial Conduct, which read in part as follows:

Every judge...shall himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. [Section 33.1]

A judge shall respect and comply with the law and shall conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. [Section 33.2(a)]

No judge shall allow his family, social or other relationships to influence his judicial conduct or judgment. [Section 33.2(b)]

No judge...shall convey or permit others to convey the impression that they are in a special position to influence him.... [Section 33.2(c)]

A judge shall be faithful to the law and maintain professional competence in it.... [Section 33.3(a) (1)]

A judge shall...except as authorized by law, neither initiate nor consider ex parte or other communications concerning a pending or impending proceedings.... [Section 33.3 (a) (4)]

DETERMINATION

By reason of the foregoing, in accordance with Article VI, Section 22k, of the Constitution of the State of New York, and Section 43, subdivision 7, of the Judiciary Law, the State Commission on Judicial Conduct has determined that Judge Petzold should be publicly censured.

Respectfully submitted,

State Commission on Judicial
Conduct

Dated: February 16, 1978
New York, New York

APPEARANCES:

Gerald Stern (Barry M. Vucker, Of Counsel) for the Commission

Kenneth Petzold, *Pro Se*