

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

VICTOR E. PUTNAM,

a Justice of the Carlisle Town Court,
Schoharie County.

Determination

THE COMMISSION:

Henry T. Berger, Esq., Chair
Jeremy Ann Brown
Stephen R. Coffey, Esq.
Mary Ann Crotty
Lawrence S. Goldman, Esq.
Honorable Daniel F. Luciano
Honorable Frederick M. Marshall
Honorable Juanita Bing Newton
Alan J. Pope, Esq.
Honorable Eugene W. Salisbury
Honorable William C. Thompson

APPEARANCES:

Gerald Stern for the Commission

Gordon, Siegel, Mastro, Mullaney, Gordon & Galvin, P.C. (By John R. Seebold)
for Respondent

The respondent, Victor E. Putnam, a justice of the Carlisle Town Court, Schoharie County, was served with a Formal Written Complaint dated September 29, 1997, alleging that he used the prestige of his office to attempt to influence the outcome of a case before another judge. Respondent filed an answer dated October 17, 1997.

On December 11, 1997, the administrator of the Commission, respondent and respondent's counsel entered into an Agreed Statement of Facts pursuant to Judiciary Law §44(5), waiving the hearing provided by Judiciary Law §44(4), stipulating that the Commission make its determination based on the agreed upon facts, jointly recommending that respondent be admonished and waiving further submissions and oral argument.

Also on December 11, 1997, the Commission approved the agreed statement and made the following determination.

1. Respondent has been a justice of the Carlisle Town Court since 1996.
2. In the Spring of 1997, a custody proceeding was pending before a judge of Saratoga County. The opposing parties were a friend of respondent and the present husband of respondent's former wife. Respondent was not a party or a witness in the proceeding.
3. By letter dated May 7, 1997, respondent wrote to the presiding judge. No letter from respondent had been solicited by the court.
4. Respondent identified himself as a judge and put forth information about his former wife and her husband that was intended to influence the disposition of the case against the husband and in favor of respondent's friend.
5. Respondent said that his former wife had interfered with his own visitation rights, and he made other accusations against his former wife and her husband.

6. Respondent said that he would be in court on May 21, 1997, with his friend and offered to answer any of the presiding judge's questions.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated the Rules Governing Judicial Conduct, 22 NYCRR 100.1, 100.2(A), 100.2(C) and 100.3(B)(6). Charge I of the Formal Written Complaint is sustained insofar as it is consistent with the findings herein, and respondent's misconduct is established.

It was improper for respondent to intervene in a case to which he was not a party and use the prestige of his office in order to attempt to influence the decision of another judge. (See, Matter of Kiley, 74 NY2d 364; Matter of Engle, unreported, NY Commn on Jud Conduct, Feb. 4, 1997; see also, Matter of Wright, 1989 Ann Report of NY Commn on Jud Conduct, at 147).

"A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others..." (Rules Governing Judicial Conduct, 22 NYCRR 100.2[C]) and "shall not initiate... ex parte communications... concerning a pending or impending proceeding...." (22 NYCRR 100.3[B][6]).

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

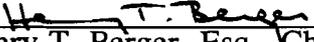
Mr. Berger, Ms. Brown, Mr. Coffey, Ms. Crotty, Mr. Goldman, Judge Luciano, Judge Marshall, Judge Newton and Judge Thompson concur.

Mr. Pope and Judge Salisbury 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: February 6, 1998



Henry T. Berger, Esq., Chair
New York State
Commission on Judicial Conduct