

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

JAMES H. REEDY,

a Justice of the Galway Town Court and
Galway Village Court, Saratoga 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 (Henry S. Stewart, Of Counsel) for the
Commission

Ralph A. Nocera, Morris D. Strauss and Thomas F.
Scaringe for Respondent

The respondent, James H. Reedy, a justice of the
Galway Town Court and Galway Village Court, Saratoga County, was
served with a Formal Written Complaint dated April 20, 1983,
alleging certain improprieties with respect to a traffic case

pending against his son. Respondent filed an answer on May 13, 1983.

By order dated May 20, 1983, the Commission designated the Honorable Morris Aarons as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on September 27 and October 19, 1983, and the referee filed his report with the Commission on February 13, 1984.

By motion dated March 20, 1984, the administrator of the Commission moved to confirm the referee's report, to adopt additional findings of fact and for a finding that respondent be removed from office. Respondent opposed the motion by cross motion on April 10, 1984. The administrator filed a reply dated April 25, 1984. The Commission heard oral argument on the motions on May 10, 1984, at which respondent and his counsel appeared, and thereafter considered the record of the proceeding and made the following findings of fact.

1. Respondent is a justice of the Galway Town Court and Galway Village Court, Saratoga County, and was in April 1982.

2. On April 2, 1982, respondent's son, John G. Reedy, and a friend of respondent's son, Charles J. Vroman, were ticketed in the Village of Galway on charges of Speeding by Trooper Richard W. Wieland of the State Police.

3. The tickets were returnable before respondent on April 8, 1982.

4. On April 3, 1982, Trooper Wieland delivered the tickets to respondent's home. When they were delivered, the tickets read, in Trooper Wieland's hand, that each defendant was charged with a violation of Section 1180(d) of the Vehicle and Traffic Law, driving 50 miles per hour in a 35 mile-per-hour zone.

5. After receiving the tickets, respondent called Thomas J. McNamara, an assistant district attorney in Saratoga County assigned to the Town of Galway.

6. Respondent told Mr. McNamara that his son had received a ticket returnable in respondent's court. Respondent acknowledged that it would be improper for him to handle his son's case. The two men agreed that the case should be transferred to the court in the adjoining Town of Providence.

7. Respondent discussed with Mr. McNamara the possible disposition of John Reedy's case. Mr. McNamara did not consent to a reduction of the charge in respondent's court since the case was to be transferred to another court. Mr. McNamara never discussed the case with attorney Morris Strauss.

8. Respondent then called Judge Norman R. Neahr of the Providence Town Court.

9. Respondent told Judge Neahr that respondent's son and the son's friend had received tickets for Speeding

returnable in respondent's court. Respondent said that he could not handle the cases and asked whether he could transfer them to Judge Neahr.

10. Judge Neahr agreed to take the cases.

11. About a week later, respondent again called Judge Neahr. Respondent told Judge Neahr that Morris Strauss was representing the defendants and that an agreement had been made with an assistant district attorney to reduce the charges from Speeding to Illegal Parking.

12. Respondent asked Judge Neahr whether he would agree to the reduction, and Judge Neahr said that he would.

13. Respondent asked what the fine would be, and Judge Neahr responded, "\$25 each."

14. About a week after the second call from respondent, Judge Neahr called John A. Simone, Jr., an assistant district attorney in Saratoga County assigned to the Town of Providence.

15. Judge Neahr asked Mr. Simone the procedure for transferring the cases from one court to another and asked whether it was proper for him to handle a case involving another judge's son. Mr. Simone said that it was proper for Judge Neahr to hear the case if he had not prejudged it and indicated that the case should be transferred directly from one judge to another.

16. Mr. Simone did not consent to a reduction of the charges against John Reedy and Charles Vroman. He never spoke

with respondent or Morris Strauss concerning the cases against John Reedy and Charles Vroman.

17. After his conversation with Mr. Simone, Judge Neahr went to respondent's home at his request to pick up the papers concerning the cases of respondent's son and Charles Vroman.

18. Judge Neahr received the papers in a large envelope. Inside the envelope, he found two simplified traffic informations, two uniform traffic tickets and \$50 cash.

19. On each of the informations, Judge Neahr found that lines indicating a violation of Section 1180(d) of the Vehicle and Traffic Law, speeding 50 miles per hour in a 35 mile-per-hour zone, had been crossed out. The line indicating the conviction had been marked "1202A1" (Illegal Parking).

20. Respondent or someone under his direction or control made the alterations on the tickets.

21. The alterations were made without the permission, consent or knowledge of Trooper Wieland.

22. On the back of the tickets, the defendants entered guilty pleas in the space provided for mail pleas and signed their names.

23. Several days after Judge Neahr had received the tickets, Trooper Wieland inquired about the cases. Judge Neahr showed the trooper the papers and told him that an assistant

district attorney had agreed to a reduction of the speeding charges. Trooper Wieland did not respond.

24. On May 5, 1982, based on Trooper Wieland's silence and respondent's representations, Judge Neahr entered in his docket that John Reedy and Charles Vroman had pled guilty to Illegal Parking and paid fines of \$25 each.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2 and 100.3(a)(1) of the Rules Governing Judicial Conduct and Canons 1, 2 and 3A(1) of the Code of Judicial Conduct. The charge in the Formal Written Complaint is sustained, and respondent's misconduct is established. Respondent's cross motion is denied.

Respondent properly disqualified himself from his son's case and transferred it to another judge. See, Section 100.3(c)(1) of the Rules Governing Judicial Conduct. Having done that, he should have had no contact with the case. Instead, respondent called an assistant district attorney and discussed possible plea bargains. He also called Judge Neahr, represented to him that the prosecution had agreed to a reduction of the charge, asked Judge Neahr to agree to the reduction and discussed the sentence. Respondent then altered

or had altered the charging instruments to reflect a lesser charge.

In doing so, respondent sought to use his judicial position to obtain special consideration for his son. In effect, respondent disposed of the case himself and passed it to Judge Neahr only to conceal his own involvement.

Respondent's actions constitute malum in se misconduct. Matter of Byrne, 47 NY2d (b), (c) (Ct. on the Judiciary, 1978). Such misconduct has been repeatedly condemned by this Commission and the courts. Matter of Dixon v. State Commission on Judicial Conduct, 47 NY2d 523 (1979); Matter of Bulger v. State Commission on Judicial Conduct, 48 NY2d 32 (1979); Bartlett v. Enea, 45 AD2d 471 (4th Dept. 1974); Matter of LaCarrubba, 49 NY2d (p) (Ct. on the Judiciary, 1980); Matter of Lombardi, 49 NY2d (v) (Ct. on the Judiciary, 1980); Matter of Harold H. Schultz, unreported (Com. on Jud. Conduct, May 29, 1979).

Respondent's conduct in the matter before us is indefensible and warrants severe sanction. Respondent has been censured in the past by this Commission for repeated attempts to influence other judges on behalf of defendants in their courts. Matter of Reedy, unreported (Com. on Jud. Conduct, May 29, 1979).

His refusal to abide by ethical standards in the face of previous discipline for similar conduct further demonstrates his unfitness for judicial office.

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

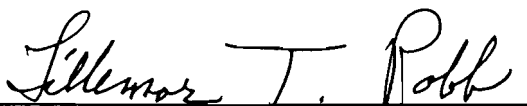
Mrs. Robb, Judge Alexander, Mr. Bromberg, Mr. Cleary, Mrs. DelBello, Mr. Kovner, Judge Ostrowski, Judge Rubin, Judge Shea and Mr. Sheehy concur.

Mr. Bower was 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: June 29, 1984


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