

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

KATHLEEN L. ROBICHAUD,

a Judge of the Rensselaer City Court,
Rensselaer 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

Larry J. Rosen for the Respondent

The respondent, Kathleen L. Robichaud, a Judge of the Rensselaer City
Court, Rensselaer County, was served with a Formal Written Complaint dated March 5,
2007, containing two charges. The Formal Written Complaint alleged that respondent

delayed rendering judgments in ten cases, delayed rendering decisions on motions in 12 cases, and failed to report the delayed cases as required on her reports to her administrative judge. Respondent filed a Verified Answer dated March 23, 2007.

On June 15, 2007, the Administrator of the Commission, respondent's counsel and respondent entered into an Agreed Statement of Facts pursuant to Judiciary Law §44(5), stipulating that the Commission make its determination based upon the agreed facts, recommending that respondent be admonished and waiving further submissions and oral argument.

On July 12, 2007, the Commission accepted the Agreed Statement and made the following determination.

1. Respondent was admitted to the practice of law in New York in 1990. She has been a Judge of the Rensselaer City Court since 1996, serving quarter-time. She also maintains a private law practice in Rensselaer.

As to Charge I of the Formal Written Complaint:

2. In the nine small claims and one civil claim set forth on Schedule A annexed to the Agreed Statement of Facts, respondent failed to render judgments within 30 days of the hearings, as required by Section 1304 of the Uniform City Court Act. Respondent delayed in issuing her decisions for up to 23 months.

3. In the 11 commercial claims and one civil claim set forth on Schedule B annexed to the Agreed Statement of Facts, respondent failed to render decisions on

submitted motions within 60 days, as required by Section 1001 of the Uniform City Court Act and Section 4213(c) of the Civil Practice Law and Rules. Respondent failed to issue decisions for up to 20 months after final submission.

As to Charge II of the Formal Written Complaint:

4. From in or about April 2005 to in or about April 2006, respondent signed and submitted five quarterly reports to her administrative judge, as required by Section 4.1 of the Rules of the Chief Judge, in which she represented that she had no matters pending decision longer than 60 days after final submission, notwithstanding that respondent had numerous such matters pending decision, as set forth in Charge I, *supra*.

5. There is no evidence to indicate that respondent's delays in the cases at issue were deliberate or the result of anything other than poor management. Respondent appears to have lost track of the cases, did not realize they were pending, and therefore did not realize that her quarterly reports were inaccurate.

6. As a result of the Commission's inquiry, respondent has instituted better calendar controls and administrative oversight to ensure that in the future her decisions will be timely and her reports to her administrative judge will be accurate. The court has added administrative staff; the chief clerk now compiles a monthly report as to all civil matters pending decision; and the Office of Court Administration has provided a part-time law clerk to assist respondent.

Upon the foregoing findings of fact, the Commission concludes as a matter

of law that respondent violated Sections 100.1, 100.2(A), 100.3(B)(1), 100.3(B)(7) and 100.3(C)(1) 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. Charges I and II of the Formal Written Complaint are sustained, and respondent’s misconduct is established.

Respondent’s delays in issuing decisions in 22 matters, coupled with her failure to report the delayed cases as required to court administrators, constitute a dereliction of her responsibilities as a judge.

The ethical standards require every judge to dispose of court matters “promptly, efficiently and fairly,” and further provide that “the judicial duties of a judge take precedence over all the judge’s other activities” (Rules, §§100.3[B][7], 100.3[A]). Here, over a 26-month period, respondent failed to render timely decisions in 22 matters, including small claims, civil claims and commercial claims. In ten matters (nine small claims and one civil claim), respondent failed to render judgments within 30 days, as required by law (Uniform City Court Act §1304), and in 12 civil matters she failed to issue decisions on motions within the required 60 days (CPLR §4213[c]). The delays ranged from two months up to two years; in eleven matters the delays were over one year.

Respondent compounded her misconduct by failing to list the undecided matters on five consecutive quarterly reports filed with her administrative judge. *See Matter of Washington*, 100 NY2d 873 (2003); *cf.*, *Matter of Greenfield*, 76 NY2d 293 (1990). On those reports, which are required to be filed on a quarterly basis by Section

4.1 of the Rules of the Chief Judge, respondent represented that she had no matters pending decision longer than 60 days after submission, when in fact there were numerous such matters pending decision. Filing reports that are inaccurate or incomplete is extremely serious, since it prevents court administrators from “assess[ing] the reasons for the delay and tak[ing] appropriate action.” *Matter of Greenfield, supra*, 76 NY2d at 299.

It has been stipulated that, due to poor management, respondent was unaware of the delayed matters and did not intentionally omit them from her reports. Such negligence is inexcusable and constitutes a serious neglect of her administrative responsibilities (Rules, §100.3[C][1]).

We view such delays as serious misconduct because of the adverse consequences on individual litigants, who are deprived of the opportunity to have their claims heard in a timely manner, and on public confidence in the administration of justice. Our decision in this case and in *Matter of Scolton* (decision issued today) should not be interpreted to suggest that delays can never rise to a level warranting removal. We will not hesitate to impose sanctions in such cases to ensure that the public is protected from the deleterious effects of unwarranted delays.

In considering an appropriate sanction, we note that respondent, who has served as a judge since 1996, has acknowledged her misconduct and has instituted numerous administrative improvements to ensure that in the future her decisions will be timely and her quarterly reports will be accurate.

By reason of the foregoing, the Commission determines that the appropriate

disposition is admonition.

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: August 1, 2007

A handwritten signature in black ink that reads "Jean M. Savanyu". The signature is written in a cursive style and is positioned above a solid horizontal line.

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