

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

KENNETH S. RONES,

a Justice of the Clarkstown Town Court,
Rockland County.

THE COMMISSION:

Henry T. Berger, Esq., Chair
Helaine M. Barnett, Esq.
Honorable Evelyn L. Braun
E. Garrett Cleary, Esq.
Lawrence S. Goldman, Esq.
Honorable Juanita Bing Newton
Honorable Eugene W. Salisbury
John J. Sheehy, Esq.
Honorable William C. Thompson

APPEARANCES:

Gerald Stern (Robert H. Tembeckjian, Of Counsel)
for the Commission

Honorable Kenneth S. Rones, pro se

The respondent, Kenneth S. Rones, a justice of the Clarkstown Town Court, Rockland County, was served with a Superseding Formal Written Complaint dated March 8, 1994, alleging eight instances in which he confronted motorists on the roadways. Respondent did not answer the Formal Written Complaint.

On April 22, 1994, the administrator of the Commission and respondent entered into an agreed statement of facts pursuant

to Judiciary Law §44(5), waiving the hearing provided by Judiciary Law §44(4) and stipulating that the Commission make its determination based on the agreed upon facts. The Commission approved the agreed statement by letter dated June 10, 1994.

The administrator submitted a memorandum as to sanction. Respondent waived the opportunity to submit papers.

On July 21, 1994, the Commission heard oral argument, at which respondent appeared, and thereafter considered the record of the proceeding and made the following determination.

As to Charge I of the Superseding Formal Written Complaint:

1. Respondent has been a justice of the Clarkstown Town Court since January 1984.

2. On June 3, 1990, while driving on the Palisades Interstate Parkway, respondent was tailgated and passed by a speeding car driven by Randy K. Respondent repeatedly flashed his headlights at the driver and followed his car as he left the parkway. When respondent and Randy K. stopped side by side at a red light, respondent identified himself as a judge and directed the driver to pull over to the side of the road. When Randy K. refused, respondent followed him to a driveway on Cooper Drive in Clarkstown. Respondent partially blocked the driveway with his car. Randy K. backed out of the driveway; his car hit respondent's, and he drove away. Thereafter, both respondent and Randy K. reported the incident to the Clarkstown Police Department.

3. On June 4, 1990, respondent filed Vehicle and Traffic Law charges and a small claims action against Randy K. in respondent's court. The small claims case was settled, and the Vehicle and Traffic Law charges were dismissed by another judge.

As to Charge II of the Superseding Formal Written Complaint:

4. On February 19, 1991, while driving in Clarkstown, respondent followed a speeding car driven by Audra K. on Strawtown Road and flashed his headlights in an effort to signal her to pull over. When she failed to do so, respondent passed in front of her and directed her to stop. She drove away. Thereafter, both respondent and Audra K. reported the incident to the Clarkstown police.

As to Charge III of the Superseding Formal Written Complaint:

5. On March 25, 1991, while driving in Clarkstown on a snowy day, respondent was tailgated on West Clarkstown Road by a vehicle driven by Harvey F. When the two vehicles stopped at a red light, respondent identified himself as a judge and displayed an engraved, raised shield which also identified him as a judge. He directed Harvey F. to pull to the side of the road and criticized his driving. After he had ascertained that Harvey F.'s vehicle was registered to his employer, respondent called the employer by telephone, identified himself as a judge and complained about Harvey F.'s driving.

As to Charge IV of the Superseding Formal Written Complaint:

6. On June 14, 1991, while driving in Clarkstown, respondent was tailgated by a car driven by Tara M., a minor. Tara M.'s car passed respondent, crossing over a double yellow line while they proceeded around a sharp curve. When the vehicles came to a stop sign, respondent approached Tara M., identified himself as a judge, displayed his shield, criticized Tara M.'s driving and told her that he was going to call her parents. On June 15, 1991, Tara M.'s father reported the incident to the Clarkstown Police Department. Thereafter, respondent called the father, identified himself as a judge and complained about Tara M.'s driving.

As to Charge V of the Superseding Formal Written Complaint:

7. On May 26, 1992, while driving, respondent encountered a car being driven erratically on Route 304 by Drew B. Respondent flashed his headlights, attempting to signal the driver to pull over. Respondent followed Drew B. to his home, displayed the shield, identified himself as a judge and complained about Drew B.'s driving. Drew B. called the Clarkstown police.

As to Charge VI of the Superseding Formal Written
Complaint:

8. On December 8, 1992, while driving on Route 304 in Clarkstown, respondent saw a car being driven erratically by Dawn F. He signalled her to pull over, displayed his shield, identified himself as a judge, took her license and registration to his car, returned them to her and advised her that he would file charges against her. Dawn F. reported the incident to the Clarkstown police.

9. On December 11, 1992, respondent filed Vehicle and Traffic Law charges against Dawn F. in his court. The matter was transferred to Rockland County Court, where the prosecution withdrew one of the charges against Dawn F. Thereafter, respondent withdrew the remaining charges.

As to Charge VII of the Superseding Formal Written
Complaint:

10. In September 1992, while driving on Route 304 in Clarkstown, respondent followed a car driven by Kerry S. Respondent passed in front of the other car, motioned to the driver to pull over, displayed his shield, identified himself as a judge, complained to Kerry S. and a passenger about the speed at which Kerry S. was driving, took Kerry S.'s license and told him to report to respondent's court the following week to get his license and a traffic citation.

11. Kerry S. appeared in court as directed and retrieved his license. No traffic citation was ever issued.

As to Charge VIII of the Superseding Formal Written Complaint:

12. On April 2, 1990, on Main Street in Clarkstown, respondent approached Steven O., whose car was parked in a "No Standing-Fire Zone" with the motor running. Respondent identified himself as a judge, advised Steven O. that he had left his car running and unattended in a fire zone, took his driver's license and told him to retrieve it the following day at respondent's court.

13. On April 3, 1990, Steven O. appeared at court. Respondent told him to see Officer H.A. Baumann, who was assigned to the court for the purpose of prosecuting traffic offenses. Officer Baumann issued Steven O. a ticket for Unattended Motor Vehicle.

14. Respondent then accepted Steven O.'s plea of guilty to the charge, fined him \$25 and returned his driver's license.

Supplemental finding:

15. Respondent now acknowledges that his conduct was improper, regrets his actions and has pledged to avoid such conduct in the future.

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 and 100.3(c)(1)(i), and Canons 1, 2 and 3C(1)(a) of the Code of Judicial Conduct. Charges I, II, III, IV, V, VI, VII and VIII of the Superseding Formal Written Complaint are sustained insofar as they are consistent with the findings herein, and respondent's misconduct is established.

A judge in a town court must be an impartial arbiter of traffic cases in which law enforcement personnel are the complaining witnesses and often the prosecuting authority. A judge cannot be considered neutral and detached if he or she acts as a police officer. The law prohibits a judge from being a peace officer of any kind. (UJCA 105[c]; Rules Governing Judicial Conduct, 22 NYCRR 100.5[h]). Traffic and crowd control activities are incompatible with judicial office. (Matter of Straite, 1988 Ann Report of NY Commn on Jud Conduct, at 226, 232-33).

Over a period of more than two years in eight instances, respondent undertook unofficial law enforcement duties. His conduct could only have bewildered motorists and endangered public safety. In one instance, he caused a minor accident when a driver was forced to hit respondent's car in order to escape. In three instances, respondent demanded that drivers produce their licenses; on two of these occasions, he

kept the licenses and required the defendants to retrieve them from his court, temporarily denying them their driving privileges without authority and without due process of law.

Especially egregious was respondent's conduct in the Steven O. incident, in which respondent disposed of the charge which he had initiated. A litigant can have no faith that his case will be handled fairly when the chief witness against him is the presiding judge. (See, Matter of Ross, 1990 Ann Report of NY Commn on Jud Conduct, at 153, 156; Matter of Tobey, 1986 Ann Report of NY Commn on Jud Conduct, at 163, 165; see also, Matter of Vonder Heide v State Commission on Judicial Conduct, 72 NY2d 658, 659).

"A Judge must conduct his everyday affairs in a manner beyond reproach. Any conduct, on or off the Bench, inconsistent with proper judicial demeanor subjects the judiciary as a whole to disrespect and impairs the usefulness of the individual Judge to carry out his or her constitutionally mandated function." (Matter of Kuehnel v State Commission on Judicial Conduct, 49 NY2d 465, 469). Off the bench, a judge remains "cloaked figuratively, with his black robe of office...." (Supra).

We accept respondent's contention that he thought that he was acting in the public interest, but he should have realized that the roles of traffic enforcer and judge are incompatible. In mitigation, we note that he now realizes that his conduct was wrong and that he has been cooperative and candid in this proceeding. (See, Matter of Rath, 1990 Ann Report of NY Commn on Jud Conduct, at 150, 152).

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


Mr. Berger, Ms. Barnett, Judge Braun, Mr. Cleary, Mr. Goldman, Judge Newton, Judge Salisbury and Mr. Sheehy concur.

Judge Thompson 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: September 30, 1994



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