

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

ANGELO ROOT,

Determination

a Justice of the Bolton Town Court,
Warren County.

BEFORE: Mrs. Gene Robb, Chairwoman
Honorable Fritz W. Alexander, II
David Bromberg
Honorable Richard J. Cardamone
Dolores DelBello
Michael M. Kirsch
Victor A. Kovner
William V. Maggipinto
Honorable Isaac Rubin
Honorable Felice K. Shea
Carroll L. Wainwright, Jr.

Respondent, Angelo Root, a justice of the Town Court of Bolton, Warren County, was served with a Formal Written Complaint dated June 1, 1979, setting forth six charges relating to the improper assertion of influence in traffic cases. Respondent filed an answer dated June 14, 1979.

By notice dated October 22, 1979, the administrator of the Commission moved for summary determination pursuant to Section 7000.6(c) of the Commission's rules (22 NYCRR 7000.6[c]). Respondent did not oppose the motion. The Commission granted the motion on November 13, 1979, found respondent's misconduct established with respect to all six charges in the Formal Written Complaint,

and set a date for oral argument on the issue of an appropriate sanction. The administrator submitted a memorandum in lieu of oral argument. Respondent waived oral argument but submitted letters on the issue of sanction.

The Commission considered the record in this proceeding on December 13, 1979, and upon that record makes the following findings of fact.

1. As to Charge I, on April 16, 1975, respondent communicated with Justice James Corkland of the Town Court of Lake George, seeking special consideration on behalf of the defendant in People v. Raymond J. Ciccarelli, a case then pending before Judge Corkland.

2. As to Charge II, on August 27, 1974, respondent sent a letter to Justice John S. Carusone of the Town Court of Queensbury, seeking special consideration on behalf of the defendant in People v. Sheldon Diamond, a case then pending before Judge Carusone.

3. As to Charge III, on July 30, 1974, respondent sent a letter to Justice John Carusone of the Town Court of Queensbury, seeking special consideration on behalf of the defendant in People v. William T. Pfau, a case then pending before Judge Carusone.

4. As to Charge IV, on February 2, 1977, respondent reduced a charge of speeding to driving with unsafe tires in People v. Walter Chapman as a result of a written communication he received from Justice James H. West of the Town Court of Newcomb, seeking special consideration on behalf of the defendant.

5. As to Charge V, on March 9, 1977, respondent reduced a charge of speeding to parking on the pavement in People v. Robert M. Garrow as a result of a written communication he received from Justice Joseph Johnson of the Town Court of North Hudson, seeking special consideration on behalf of the defendant.

6. As to Charge VI, on January 26, 1977, respondent reduced a charge of speeding to driving with unsafe tires in People v. Lawrence Capozzi as a result of a written communication he received from Peter J. Savago, Ulster County Legislature Chairman, seeking special consideration on behalf of the defendant.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 33.1, 33.2, 33.3(a)(1) and 33.3(a)(4) of the Rules Governing Judicial Conduct and Canons 1, 2 and 3A of the Code of Judicial Conduct. Charges I through VI of the Formal Written Complaint are sustained, and respondent's misconduct is established.

It is improper for a judge to seek to persuade another judge, on the basis of personal or other special influence, to alter or dismiss a traffic ticket. A judge who accedes to such a request is guilty of favoritism, as is the judge who made the request. By making ex parte requests of other judges for favorable dispositions for defendants in traffic cases, and by granting such requests from judges and another person of influence, respondent violated the Rules enumerated above.

In one of his letters to another judge, respondent also indicated his willingness to accomodate a request for consideration similar to the one he himself was making. Such an offer of reciprocity only compounds respondent's misconduct.

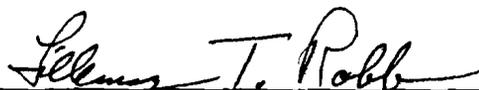
Courts in this state and other jurisdictions have found that favoritism is serious judicial misconduct and that ticket-fixing is a form of favoritism.

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

All concur.

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.


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

Dated: March 11, 1980
Albany, New York

APPEARANCES:

Gerald Stern (Jeanne A. O'Connor, Of Counsel) for the Commission

William W. Millington for Respondent