

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

EDWIN W. SANFORD,

a Justice of the Altamont Village
Court, Albany County.

Determination

BEFORE: Mrs. Gene Robb, Chairwoman
Dolores DelBello
Michael M. Kirsch
Victor A. Kovner
William V. Maggipinto
Honorable Isaac Rubin
Honorable Felice K. Shea
Carroll L. Wainwright, Jr.

The respondent, Edwin W. Sanford, a justice of the Village Court of Altamont, Albany County, was served with a Formal Written Complaint dated July 27, 1978, setting forth 15 charges of misconduct relating to the improper assertion of influence in traffic cases. Respondent filed an answer dated September 1, 1978.

The administrator of the Commission, respondent and respondent's counsel entered into an agreed statement of facts on February 26, 1979, pursuant to section 44, subdivision 5, of the Judiciary Law, waiving the hearing provided for by section 44, subdivision 4, of the Judiciary Law and stipulating that the Commission make its determination on the pleadings and the facts as agreed upon. The Commission approved the agreed statement of

facts, as submitted, on July 19, 1979, determined that no outstanding issue of fact remained, and scheduled oral argument with respect to determining (i) whether the facts establish misconduct and (ii) an appropriate sanction, if any. The administrator submitted a memorandum on the issues herein. At oral argument on August 16, 1979, respondent's counsel introduced additional factual data in the record before the Commission, which was received by the Commission with the consent of the administrator. Thereafter, the Commission considered the record in this proceeding, and upon that record makes the following findings of fact.

1. As to Charge I, on February 11, 1976, respondent reduced a charge of speeding to driving with unsafe tires in People v. Emilio Salvatore, as a result of a written communication he received from Justice Edward Longo of the Town Court of Rotterdam, seeking special consideration on behalf of the defendant.

2. As to Charge II, on August 25, 1976, respondent reduced a charge of speeding to illegal parking in People v. W. Bednarowski, Jr., as a result of a written communication he received from Justice Edward Longo of the Town Court of Rotterdam, seeking special consideration on behalf of the defendant.

3. As to Charge III, on December 17, 1976, respondent reduced a charge of speeding to illegal parking, then dismissed the charge, in People v. Louis F. Martin, as a result of a written communication he received from Justice Edward Longo of the Town Court of Rotterdam, seeking special consideration on behalf of

the defendant.

4. As to Charge IV, on April 7, 1976, respondent reduced a charge of speeding to driving with unsafe tires, then dismissed the charge, in People v. Peter M. Bolton, as a result of a written communication he received from Justice Matthew Mattaraso of the Town Court of Guilderland, seeking special consideration on behalf of the defendant.

5. As to Charge V, on August 31, 1976, respondent reduced a charge of speeding to illegal parking in People v. Edward H. Beck, as a result of a written communication he received from Justice Edward F. Jones of the Town Court of Coeymans, seeking special consideration on behalf of the defendant.

6. As to Charge VI, on April 27, 1976, respondent reduced a charge of speeding to illegal parking in People v. Kathleen M. Ruecker, as a result of a written communication he received from Justice Harold Schultz of the Town Court of New Scotland, seeking special consideration on behalf of the defendant.

7. As to Charge VII, on September 28, 1976, respondent reduced a charge of speeding to illegal parking in People v. David H. Bulman, as a result of a written communication he received from Justice Richard Lips of the Town Court of Clifton Park, seeking special consideration on behalf of the defendant.

8. As to Charge VIII, on February 19, 1976, respondent reduced a charge of speeding to illegal parking in People v. Charles E. Lockrow, as a result of a written communication he received from Justice Robert E. Murphy of the Village Court of

Voorheesville, seeking special consideration on behalf of the defendant.

9. As to Charge IX, on April 18, 1975, respondent imposed an unconditional discharge in People v. Vincent F. Stramiello, as a result of a written communication he received from Justice Harry D'Agostino of the Town Court of Colonie, seeking special consideration on behalf of the defendant.

10. As to Charge X, on July 5, 1976, respondent imposed an unconditional discharge in People v. Eugene Audi, as a result of a communication he received from Justice Harold Schultz of the Town Court of New Scotland, or someone at Judge Schultz's request, seeking special consideration on behalf of the defendant.

11. As to Charge XI, on May 4, 1973, respondent reduced a charge of speeding to driving with unsafe tires in People v. Linda Knopp, as a result of a communication he received from Justice Duncan MacAffer of the Village Court of Menands, or someone at Judge MacAffer's request, seeking special consideration on behalf of the defendant.

12. As to Charge XII, on July 21, 1976, respondent imposed an unconditional discharge in People v. Donald Albright, as a result of a communication he received from Acting Village Justice John Welsh of the Village Court of Altamont, or someone at Judge Welsh's request, seeking special consideration on behalf of the defendant.

13. As to Charge XIII, on April 14, 1976, respondent dismissed a charge of driving with ability impaired in People v. Gary J. DiCocco, as a result of a communication he received from Justice Edward Longo of the Town Court of Rotterdam, seeking special consideration on behalf of the defendant, who is Judge Longo's nephew.

14. As to Charge XIV, on December 20, 1975, respondent dismissed a charge of speeding in People v. C.A. Tessitore, as a result of a communication he received from Joe Frangella, or someone at Mr. Frangella's request, on behalf of the defendant.

15. As to Charge XV, on June 9, 1976, respondent reduced a charge of speeding to illegal parking in People v. George Spiliotis, as a result of a communication he received, 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 XV of the Formal Written Complaint are sustained, and respondent is thereby guilty of misconduct.

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 granting ex parte requests from other judges for favorable dispositions for the defendants in traffic cases,

respondent violated the Rules enumerated above, which read in part as follows:

Every judge...shall himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. [Section 33.1]

A judge shall respect and comply with the law and shall conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. [Section 33.2(a)]

No judge shall allow his family, social or other relationships to influence his judicial conduct or judgment. [Section 33.2(b)]

No judge...shall convey or permit others to convey the impression that they are in a special position to influence him... [Section 33.2(c)]

A judge shall be faithful to the law and maintain professional competence in it.... [Section 33.3(a)(1)]

A judge shall...except as authorized by law, neither initiate nor consider ex parte or other communications concerning a pending or impending proceedings.... [Section 33.3(a)(4)]

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

In Matter of Byrne, N.Y.L.J. Apr. 20, 1978, p. 5 (Ct. on the Judiciary, Apr. 18, 1978), the court declared that a "judicial officer who accords or requests special treatment or favoritism to a defendant in his court or another judge's court is guilty of malum in se misconduct constituting cause for discipline." In that case, ticket-fixing was equated with favoritism, which the

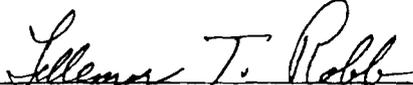
court stated was "wrong and has always been wrong." Id.

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

All concur.

CERTIFICATION

It is certified that the foregoing is the determination of the State Commission of 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: October 11, 1979
Albany, New York

APPEARANCES:

DeGraff, Foy, Conway & Holt-Harris (By John Carter Rice) for Respondent
Gerald Stern for the Commission (Stephen F. Downs, Judith Siegel-Baum,
Of Counsel)