

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

HAROLD SASHIN,

Determination

a Justice of the Town Court of
Wawarsing, Ulster 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.

The respondent, Harold Sashin, was a justice of the Town Court of Wawarsing, Ulster County. He was served with a Formal Written Complaint dated August 3, 1979, alleging in two charges of misconduct that respondent failed to cooperate with an inquiry of the Ulster County Grand Jury in April and May 1979 and was subsequently convicted of perjury. Respondent admitted in part and denied in part the allegations in his answer dated August 29, 1979.

By order dated September 10, 1979, the Commission appointed the Honorable Harold A. Felix as referee to hear and report to the Commission with respect to the issues herein. A

hearing was conducted on October 10, 1979, and the referee filed his report dated October 27, 1979.

By notice dated October 30, 1979, the administrator of the Commission moved for a determination that the referee's report be confirmed and that respondent be removed from office. Respondent opposed the motion in papers dated November 6, 1979, and waived oral argument before the Commission.

On November 14, 1979, the Commission considered the record in this proceeding, and upon that record makes the following findings of fact.

As to Charge I of the Formal Written Complaint:

1. Respondent, a part-time justice of the Town Court of Wawarsing, is a poultry farmer.

2. For approximately a two-year period ending in October 1978, respondent purchased substantial quantities of eggs for resale from William Palomaki of Van Etten, New York (Chemung County).

3. In October 1978, respondent owed Mr. Palomaki approximately \$29,000 for eggs and for dishonored checks in the amount of \$8,800.

4. On October 26, 1978, respondent met with Mr. Palomaki and gave him a list of respondent's accounts receivable. The list included 11 institutions or businesses which were listed as owing respondent \$8,000 to \$10,000. In truth, however, these institutions and businesses owed respondent \$1,100 to \$1,200.

5. Respondent told Mr. Palomaki that he would pay him the amounts received from the accounts receivable.

6. On April 10, 1979, respondent appeared before the April 1979 term of the Ulster County Grand Jury and testified (i) that the list he had given Mr. Palomaki represented a list of accounts receivable due Sashin Poultry Farm, (ii) that Sashin Poultry Farm was owed between \$17,000 and \$20,000 on October 26, 1978, and (iii) that the 11 institutions and businesses listed on the bottom of that list collectively owed him \$8,000 to \$10,000 on October 26, 1978. In fact, respondent knew such statements to be false. Respondent thereby failed to cooperate with the Grand Jury.

7. In his appearance before the Grand Jury on April 10, 1979, respondent further testified that he had informed Mr. Palomaki of his accounts receivable so that the latter would continue to deliver eggs to him.

8. On June 20, 1979, after a jury trial in County Court, Ulster County, respondent was convicted of one count of perjury in the third degree (Penal Law Section 210.05) for making the statements referred to in paragraph 6 above.

As to Charge II of the Formal Written Complaint:

9. On May 3, 1979, at a second appearance before the Grand Jury, respondent testified that when he gave Mr. Palomaki the list on October 26, 1978, he never stated that it was a list of monies owed to him. Respondent testified that he had told Mr. Palomaki the list was a "customer list."

10. On May 3, 1979, respondent further testified before the Grand Jury that he had not informed Mr. Palomaki that the 11 institutions and businesses listed on the bottom of the document on October 26, 1978, owed him between \$8,000 and \$10,000.

11. On June 20, 1979, after a jury trial in County Court, Ulster County, respondent was convicted of one count of perjury in the third degree (Penal Law Section 210.05) for giving inconsistent statements which he knew to be false to the Grand Jury of Ulster County on April 10, 1979, and May 3, 1979.

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

There is no dispute in this case that portions of respondent's Grand Jury testimony were false. At the hearing before the referee appointed by the Commission, respondent was read portions of his testimony of April 10, 1979, and when asked if that testimony had been correct or false, replied: "Part of it was right and part of it was false. That's the reason I went back in May" (Tr. 54). The colloquy continued as follows:

- Q. Was it false that the eleven businesses listed on the bottom of the list owed you eight to ten thousand dollars? Was that false or correct?
- A. That was false.

- Q. Was it false when you said that you represented to Mr. Palomaki that fact?
- A. I never represented that to Mr. Palomaki.
- Q. Was it false when you said you represented it to Mr. Palomaki at the grand jury?
- A. You want to repeat that again?
- Q. Let me read you the question, lines 11 and 12, page 20 from that transcript. "Question: And you represented to Mr. Palomaki that fact, right? Answer: Right."
- A. That was wrong [Tr. 54].

Respondent failed to cooperate with a grand jury, and testified falsely while under oath before the grand jury. Such conduct violates his obligations to uphold the integrity of the judiciary, to avoid impropriety and the appearance of impropriety, and to be faithful to the law (Sections 33.1, 33.2 and 33.3[a][1] of the Rules Governing Judicial Conduct). Even in the absence of promulgated ethical standards, a judge would have an obligation to be truthful under oath. The very essence of judicial office in the administration of justice is corrupted by a judge who lies under oath. The consequent ebb of public confidence in the integrity of the judicial system is immeasurable. As the Appellate Division held in Matter of Perry:

[T]he giving of false testimony, particularly by a member of the judiciary, is inexcusable. Such conduct on the part of a judicial officer, whose responsibility is to seek out the truth and evaluate the credibility of those who appear before him is not conducive to the efficacy of our judicial process and is destructive of his usefulness on the bench. Matter of Perry, 53 AD 2d 882 (2d Dept. 1976).

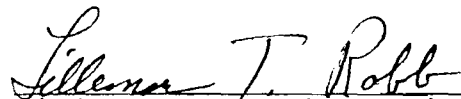
The Commission makes its determination upon the found misconduct, independent of respondent's two convictions for perjury.

By reason of the foregoing, the Commission determines that the appropriate sanction is removal from office. This determination is filed pursuant to Section 47 of the Judiciary Law, in view of respondent's resignation from judicial office effective July 31, 1979.

All concur.

CERTIFICATION

It is certified that that 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: November 20, 1979
Albany, New York

APPEARANCES:

Gerald Stern for the Commission (Alan W. Friedberg, Of Counsel)

Kalter & Gottlieb (Jeffrey Kaplan, Of Counsel) for Respondent