

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

FRED H. SCHRADER,

a Justice of the Canajoharie Town
Court, Montgomery County.

Determination

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, a justice of the Town Court of Canajoharie, Montgomery County, was served with a Formal Written Complaint dated August 16, 1979, setting forth five charges relating to the improper assertion of influence in traffic cases. Respondent, in a letter from his counsel dated August 21, 1979, waived his opportunity to file an answer.

By notice dated October 11, 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 submitted an affidavit in opposition to the motion. The Commission granted the motion on October 25, 1979, found

respondent's misconduct established with respect to all five 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 a letter from his attorney 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 June 27, 1975, respondent sent a letter to Justice Richard Lips of the Town Court of Clifton Park, seeking special consideration on behalf of the defendant in People v. Barbara F. Gisinger, a case then pending before Judge Lips.

2. As to Charge II, on December 26, 1974, respondent sent a letter to Justice Andre Bergeron of the Town Court of Lewis, seeking special consideration on behalf of the defendant in People v. Anthony D. Gisondi, a case then pending before Judge Bergeron.

3. As to Charge III, on April 5, 1976, respondent sent a letter to Judge George Mulligan of the Johnstown City Court, seeking special consideration on behalf of the defendant in People v. Maude Van Arsdal, a case then pending before Johnston City Court Judge Mario Costa.

4. As to Charge IV, on November 18, 1975, respondent reduced a charge of speeding to driving with unsafe tires in People v. Arthur R. Smith as a result of a written communication he received from Marie Oakes, Bethlehem Town Court Clerk, seeking special consideration on behalf of the defendant.

5. As to Charge V, on September 20, 1975, respondent reduced a charge of speeding to driving with unsafe tires in People v. Stanley J. Potrzeba as a result of a communication he received from Justice Michael Cienava of the Village Court of New York Mills, 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 V 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 a judge and another person of influence, respondent violated the Rules enumerated above.

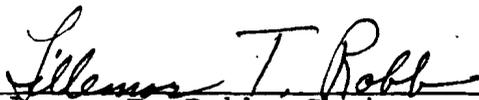
Courts in this state and other jurisdictions have found that favoritism is serious judicial misconduct and that ticket-fixing is a form of favoritism.

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

Charles H. Clark for Respondent