

**State of New York**  
**Commission on Judicial Conduct**

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In the Matter of the Proceeding Pursuant to Section 44,  
subdivision 4, of the Judiciary Law in Relation to

**Determination**

WILLIAM W. SEIFFERT,

a Judge of the District Court,  
Nassau County.

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THE COMMISSION:

Mrs. Gene Robb, Chairwoman  
Honorable Fritz W. Alexander, II  
John J. Bower, Esq.  
David Bromberg, Esq.  
E. Garrett Cleary, Esq.  
Dolores DelBello  
Victor A. Kovner, Esq.  
Honorable William J. Ostrowski  
Honorable Isaac Rubin  
Honorable Felice K. Shea  
John J. Sheehy, Esq.

APPEARANCES:

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

Stephen P. Scaring, P.C. (Richard P. Broder, Of Counsel)  
for Respondent

The respondent, William W. Seiffert, a judge of the  
District Court, Nassau County, was served with a Formal Written  
Complaint dated November 30, 1983, alleging that he sought special

consideration on behalf of three defendants. Respondent filed an answer dated December 19, 1983.

By order dated January 9, 1984, the Commission designated Gilbert A. Holmes, Esq., as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on March 12, 13 and 14, 1984, and the referee filed his report with the Commission on July 2, 1984.

By motion dated August 7, 1984, the administrator of the Commission moved to confirm in part and disaffirm in part the referee's report and for a finding that respondent be removed from office. Respondent opposed the motion on August 28, 1984. The administrator filed a reply on August 30, 1984.

On September 20, 1984, the Commission heard oral argument, at which respondent appeared by counsel, and thereafter considered the record of the proceeding and made the following findings of fact.

As to Charge I of the Formal Written Complaint:

1. Respondent, an attorney, is a full-time judge of the District Court, Nassau County, and has been for eleven years.

2. In December 1982 or January 1983, respondent met Peter Lucey, an assistant superintendent at Belmont State Park. Respondent had experienced trouble with some wood he was carrying on top of his car and pulled into the park, where Mr. Lucey came to his aid. Mr. Lucey stored the wood for respondent and later delivered it to respondent's home.

3. During a later contact with respondent, Mr. Lucey learned that respondent is a judge.

4. In appreciation of his assistance, respondent told Mr. Lucey, "If you ever have a problem, come to me. If you ever have a problem, and I can give you a hand with anything, give me a call."

5. Mr. Lucey told respondent that he had two outstanding traffic tickets. Respondent said that perhaps he could help Mr. Lucey with the tickets and suggested that Mr. Lucey call him at a later time.

6. Mr. Lucey had received two tickets on October 2, 1982, for Speeding and Driving With A Suspended License.

7. On March 1, 1983, Mr. Lucey called respondent, and respondent told him to come to court the following day. Respondent told Mr. Lucey to see him and not to go to the traffic part.

8. Mr. Lucey indicated during the telephone conversation that he had not been speeding as alleged.

9. Respondent then obtained a computer print-out of Mr. Lucey's driving record.

10. Respondent approached Stuart Birk, a paralegal for the Nassau County District Attorney's Office who conferences cases in the traffic part.

11. Respondent told Mr. Birk of the charges against Mr. Lucey and asked Mr. Birk what disposition of the matter the District Attorney's Office would offer.

12. Mr. Birk told respondent that he would discuss a possible disposition when the case came up on the court calendar.

13. On March 2, 1983, Mr. Lucey came to respondent's courtroom, where respondent was assigned to criminal cases.

14. During a break in the courtroom proceedings, respondent met with Mr. Lucey in chambers.

15. Respondent approached Robert DeHaven, another paralegal in the District Attorney's Office.

16. Respondent showed Mr. DeHaven the computer print-out and Mr. Lucey's copies of the traffic tickets. Mr. DeHaven indicated that the Driving With A Suspended License charge could be reduced to a traffic infraction and that the Speeding charge could be reduced to Tailgating, which carries three points on a driver's license.

17. Respondent told Mr. DeHaven that Mr. Birk had offered to reduce the Speeding charge, which also carries three points, to Failure To Obey A Stop Sign, a two-point violation. Respondent also indicated that Mr. Lucey had a clean driving record.

18. Mr. DeHaven insisted that he could offer a reduction of the charge only to Tailgating.

19. Respondent repeated that he wanted a reduction to a two-point violation.

20. Respondent then spoke in chambers to Perri Fitterman, an assistant district attorney in Nassau County. A court stenographer and other court personnel were also present.

21. Respondent indicated that he was going to dispose of Mr. Lucey's cases. He said that the Speeding charge was to be reduced to a two-point violation.

22. Ms. Fitterman said that she could not consent to such a reduction because it was beyond the guidelines established by her office and would have to consult with her bureau chief.

23. Respondent said, "What do you mean we can't do this disposition," and ordered everyone but Ms. Fitterman out of chambers. They continued to argue for several minutes about the disposition of the case.

24. Respondent then told Mr. Lucey that the Speeding charge could be reduced only to Tailgating and asked whether he would accept it.

25. Mr. Lucey accepted the offer and pled guilty in open court before respondent to Driving Without License and Tailgating. Respondent fined Mr. Lucey \$25 on the first charge and gave him an unconditional discharge on the Tailgating charge.

26. Respondent told Mr. Lucey that he was giving him a "break."

27. Respondent acknowledged that he handled the case as "a courtesy" to Mr. Lucey in order to expedite the matter. He

acknowledged that in doing so, he created the appearance that he was seeking special consideration for Mr. Lucey.

As to Charge II of the Formal Written Complaint:

28. On November 30, 1979, respondent's stepson, Russell Miller, was ticketed on a charge of Speeding.

29. Mr. Miller called respondent, told him about the ticket and asked for help. Respondent told his stepson to come to his court.

30. Mr. Miller went to respondent's chambers. Respondent said that he would discuss a reduction of the charge with the District Attorney's Office.

31. Respondent and Mr. Miller went to a courtroom and approached Assistant District Attorney Susan Katz Richman, who was assigned to the traffic part of the District Court.

32. Respondent asked Ms. Richman about a reduction in his stepson's case.

33. Ms. Richman offered to reduce the charge to Tailgating.

34. Respondent asked for a reduction to a two-point violation.

35. Ms. Richman refused to offer such a reduction on the grounds that it was beyond the guidelines established by the District Attorney's Office.

36. Respondent and Ms. Richman argued over the disposition of the case. Respondent told Ms. Richman, "If you won't do it, I will get somebody else, another assistant D.A., who will." Ms. Richman responded, "No, you won't," and left the courtroom.

37. On July 28, 1980, Mr. Miller pleaded guilty before another judge to Tailgating, a three-point violation.

38. Respondent acknowledged that by seeking a reduction from Ms. Richman, he created the appearance that he was seeking special consideration for his stepson.

As to Charge III of the Formal Written Complaint:

39. On May 11, 1983, John H\_\_\_\_\_ appeared in District Court, Nassau County, with his son, James, who had been charged with a criminal violation of the Civil Rights Act.

40. The elder Mr. H\_\_\_\_\_ met respondent in a courthouse hallway. Respondent and Mr. H\_\_\_\_\_ were acquainted through a fire company in which both men were volunteers. Respondent had also done legal work for Mr. H\_\_\_\_\_ before taking the bench.

41. Mr. H\_\_\_\_\_ approached respondent at the courthouse and asked for help in finding an assistant district attorney he was to see regarding his son's case.

42. Respondent was with his son, Robert Seiffert, who is an attorney.

43. Respondent and his son went to the office of Thomas Egan, an assistant district attorney in Nassau County. Respondent asked Mr. Egan what could be done about the H\_\_\_\_\_ case.

44. Respondent made light of the accusation against James H\_\_\_\_\_, who had been accused of making an ethnic slur. Respondent questioned the character of the complaining witness.

45. Mr. Egan referred respondent to Samuel Rieff, the Chief of the Civil Rights Unit in the District Attorney's Office.

46. Respondent told Mr. Rieff that he was acquainted with Mr. H\_\_\_\_\_ and indicated that the crime with which James H\_\_\_\_\_ was charged was not serious. Respondent said, "What are you going to do? String him up?"

47. Respondent's son then asked Mr. Rieff whether he would offer to reduce the charge. Mr. Rieff said no offer would be made.

48. Respondent's son was subsequently retained to represent James H\_\_\_\_\_. The case was tried before another judge, and the defendant was convicted.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2 and 100.3(a) of the Rules Governing Judicial Conduct and Canons 1, 2 and 3A of the Code of Judicial Conduct. Charges I through III of the Formal Written Complaint are sustained, and respondent's misconduct is established.

Respondent intervened on three occasions in matters not before him to seek special consideration for defendants with whom he had personal relationships.

In two cases, he went to extraordinary lengths to pressure prosecutors to agree to charge reductions not available to other defendants, in one case on behalf of his stepson and in the second on behalf of an acquaintance who had done respondent a favor that he had promised to return. Respondent acted as an adversary in these matters, proposing dispositions to the prosecutors, persisting when they refused his suggestions and exhibiting impatience when they refused to yield.

Such requests for favoritism constitute malum in se misconduct (Matter of Byrne, 47 NY2d (b) (Ct. on the Judiciary [1979]) and have long been condemned by the courts and this Commission. Matter of Dixon v. State Commission on Judicial Conduct, 47 NY2d 523 (1979); Matter of Bulger v. State Commission on Judicial Conduct, 48 NY2d 32 (1979); "Ticket-Fixing: The Assertion of Influence in Traffic Cases," Interim Report by the State Commission on Judicial Conduct (June 20, 1977).

In the Lucey matter, respondent's misconduct was exacerbated by the fact that he reached out to another part of the court to bring the case before him and, after bargaining on behalf of the defendant, disposed of the matter himself.

Although less serious, respondent's discussion with the prosecutors about the merits of the James H\_\_\_\_\_ case was also

improper. See Matter of Montaneli, unreported (Com. on Jud. Conduct, Sept. 10, 1982); Matter of Calabretta, unreported (Com. on Jud. Conduct, April 11, 1984); Matter of Hansel L. McGee, unreported (Com. on Jud. Conduct, April 12, 1984).

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

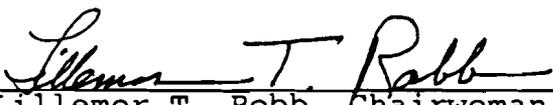
Mrs. Robb, Mr. Bower, Mr. Bromberg, Mr. Cleary, Mrs. DelBello, Mr. Kovner, Judge Ostrowski, Judge Shea and Mr. Sheehy concur, except that Mr. Cleary, Judge Ostrowski and Mr. Sheehy dissent as to Charge III only and vote that the charge be dismissed.

Judge Alexander and Judge Rubin were 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: October 26, 1984

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