

STATE OF NEW YORK
STATE COMMISSION ON JUDICIAL CONDUCT

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In the Matter :
- of - :
Charles J. Shaughnessy, : DETERMINATION
A Justice of the Town of :
Chester, County of Orange. :
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STATE COMMISSION ON
JUDICIAL CONDUCT

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DETERMINATION OF THE
STATE COMMISSION ON JUDICIAL CONDUCT
IN THE MATTER OF CHESTER
TOWN JUSTICE CHARLES SHAUGHNESSY

PRELIMINARY STATEMENT

This Determination of the State Commission on Judicial Conduct (hereinafter the "Commission") is submitted in accordance with Article VI, Section 22k, of the Constitution of the State of New York, and Article 2-A of the Judiciary Law, for transmittal by the Chief Judge of the Court of Appeals to the Honorable Charles Shaughnessy.

Charles Shaughnessy is a justice of the Town Court of Chester in Orange County. He is not an attorney. He first took office in January 1963. His current term of office expires on December 31, 1979.

Pursuant to Section 43, subdivision 2, of the Judiciary Law, the present investigation of Judge Shaughnessy commenced on May 25, 1977. In the course of its investigation, the Commission discovered one instance in which Judge Shaughnessy made an ex parte request of another judge for a favorable disposition for the defendant in a traffic case, and 18 instances in which he granted favorable dispositions to defendants in traffic cases pursuant to requests from third parties.

JUSTICE SHAUGHNESSY'S REQUEST FOR A FAVORABLE
DISPOSITION FOR THE DEFENDANT IN A TRAFFIC CASE

On or about January 8, 1976, Judge Shaughnessy sent a letter to Judge Joseph Thomson of the Town Court of Cornwall,

requesting a favorable disposition for the defendant, who was charged with speeding, in People v. John J. Gray, Jr., a case then pending before Judge Thomson. Judge Shaughnessy referred in his letter to a prior telephone conversation he had held with Judge Thomson regarding the Gray case.

JUSTICE SHAUGHNESSY'S GRANTS OF FAVORABLE DISPOSITIONS TO DEFENDANTS IN TRAFFIC CASES

On or about January 24, 1974, Judge Shaughnessy reduced a charge of speeding to parking on the highway in People v. Michael D. Altman as a result of a letter he received from the defendant, who is a justice of the Town of Fallsburg, on the official stationery of the Town Court of Fallsburg.

On or about February 4, 1974, Judge Shaughnessy reduced a charge of speeding to driving with unsafe tires in People v. Bernard L. Levine as a result of a letter he received on behalf of the defendant from Judge Kenneth F. Fisk of the Town Court of Liberty.

On or about June 18, 1974, Judge Shaughnessy reduced a charge of speeding to driving with unsafe tires in People v. Robert B. Walker as a result of a letter he received on behalf of the defendant from Judge Horace Sawyer of the Town Court of Goshen.

On or about July 15, 1974, Judge Shaughnessy reduced a charge of speeding to parking on the highway in People v. Michael F. Craft as a result of a letter he received on behalf of the defendant from Judge Joseph Polonsky of the Town Court of Wawarsing.

On or about September 30, 1974, Judge Shaughnessy reduced a charge of speeding to parking on the highway in People v. Michael Freiser as a result of a letter he received on behalf of the defendant from Judge Robert Van Etten of the Town Court of Woodbury.

On or about October 7, 1974, Judge Shaughnessy reduced a charge of speeding to parking on the highway in People v. James C. Van Etten as a result of a letter he received from Judge Edward Lahey of the Town Court of New Windsor.

On or about November 7, 1974, Judge Shaughnessy reduced a charge of speeding to driving with unsafe tires in People v. Norma E. Moshinski as result of a letter he received on behalf of the defendant from Judge John O'Connor of the Town Court of Wawayanda.

On or about November 18, 1974, Judge Shaughnessy reduced a charge of speeding to driving with an inadequate muffler in People v. Westley J. Williamson as a result of a letter he received on behalf of the defendant from Judge Joseph Owen of the Town Court of Wallkill, or someone at Judge Owen's request.

On or about November 26, 1974, Judge Shaughnessy reduced a charge of speeding to parking on the highway in People v. Michael J. Guarino as a result of a letter he received on behalf of the defendant from Mr. Dick Mender of the Motor Vehicle Bureau in Orange County.

On or about December 4, 1974, Judge Shaughnessy reduced a charge of speeding to parking on the highway in People v. Daniel Aversano as a result of a letter he received on behalf of the defendant from Judge Harold Lipton of the Town Court of Rochester.

On or about December 27, 1974, Judge Shaughnessy reduced a charge of speeding to driving with unsafe tires in People v. Victor Einhorn as a result of a letter he received on behalf of the defendant from Judge Robert Bronner of the Town Court of Mamakating.

On or about January 28, 1975, Judge Shaughnessy reduced a charge of speeding to driving with unsafe tires in People v. Alan B. Sullivan as a result of a letter he received on behalf of the defendant from Judge P.H. McFarlane of the Town Court of Rockland.

On or about February 11, 1976, Judge Shaughnessy reduced a charge of speeding to failure to keep right in People v. Richard I. Zimmerman as a result of a letter he received on behalf of the defendant from Judge Robert Bronner of the Town Court of Mamakating.

On or about April 23, 1976, Judge Shaughnessy reduced a charge of speeding to parking on the highway in People v. Camille T. Dabenigno as a result of a letter he received on behalf of the defendant from Judge Lyle McDowell of the Town Court of Otisville.

On or about April 26, 1976, Judge Shaughnessy reduced a charge of speeding to driving with unsafe tires in People v. Menche B. Jensen as a result of a letter he received on behalf of the defendant from Mr. Al Paules, chairman of the Orange County Democratic Committee.

On or about May 6, 1976, Judge Shaughnessy reduced a charge of speeding to driving with unsafe tires in People v. John A. Quidone as a result of a letter he received on behalf of the defendant from Judge Frank Giza of the Town Court of Wawayanda.

On or about September 23, 1976, Judge Shaughnessy reduced a charge of speeding to driving with unsafe tires in People v. Irving Tuttelman as a result of a letter he received on behalf of the defendant from Judge Isidore Wittenberg of the Town Court of Crawford.

On or about April 6, 1977, Judge Shaughnessy imposed an unconditional discharge on a charge of speeding in People v. Anthony T. Frasca as a result of a letter he received on behalf of the defendant from Judge Michael A. Pascale of the Town Court of Marlborough, or someone at Judge Pascale's request.

JUSTICE SHAUGHNESSY'S WAIVER OF A SCHEDULED HEARING BEFORE THE COMMISSION

The Commission sent Judge Shaughnessy letters dated July 12, 1977, and August 8, 1977, asking him to comment on his grants of favorable dispositions in the Levine, Walker, Craft, Freiser, Van Etten, Moshinski, Williamson, Guarino, Aversano, Einhorn, Zimmerman, Dabenigno, Jensen, Quidone and Tuttelman cases. In letters dated August 3, 1977, and August 8, 1977, Judge Shaughnessy stated that he could not "recall the facts or specifics" of the cases noted above, adding that the "dispositions of these cases were not made because of the correspondence which I received on behalf of the defendants."

Pursuant to Section 43, subdivision 5, of the Judiciary Law, the Commission determined that cause existed to conduct a hearing with respect to the judge's apparent conduct in the cases noted above and in the Gray, Altman, Sullivan and Frasca cases. On November 25, 1977, Judge Shaughnessy was served with a Notice of Hearing and a Formal Written Complaint detailing the factual allegations in the 19 cases noted above. In a Verified Answer dated December 15, 1977, Judge Shaughnessy admitted the factual allegations in the Gray case, in which he was alleged to have made an ex parte request for a favorable disposition for the defendant, but denied any impropriety in so doing. Judge Shaughnessy also acknowledged having received the requests for favorable dispositions in the remaining 18 cases and acknowledged having disposed of the 18 cases as alleged, but he denied that the letters denoted in the Formal Written Complaint "resulted in" the dispositions that were made. Judge Shaughnessy's Verified Answer also stated as follows:

[I]t has always been Respondent's professional practice as a Judge to consider all information that is brought to his attention by the defendant or by anyone else in any case that comes before him. In considering such information, the Respondent considers and gives weight to the source of the information, as well as its substance.

In a letter from his attorney dated January 4, 1978, Judge Shaughnessy waived his right to the scheduled hearing, submitted an affidavit in lieu of the hearing, and stipulated that the exhibits appended to the Formal Written Complaint should be submitted to the Commission as exhibits along with the judge's Answer.

CONCLUSION

By making an ex parte request of another judge for a favorable disposition for the defendant in a traffic case, and by granting favorable dispositions to defendants in traffic cases at the request of third parties, Judge Shaughnessy was in violation of Sections 33.1, 33.2, 33.3(a)(1) and 33.3(a)(4) of the Rules Governing Judicial Conduct of the Administrative Board of the Judicial Conference, and Canons 1,2 and 3A of the Code of Judicial Conduct, 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)]

DETERMINATION

By reason of the foregoing, in accordance with Article VI, Section 22k, of the Constitution of the State of New York, and Section 43, subdivision 7, of the Judiciary Law, the State Commission on Judicial Conduct has determined that Judge Shaughnessy should be publicly censured.

Respectfully submitted,

State Commission on Judicial
Conduct

Dated: February 16, 1978
New York, New York

APPEARANCES:

Gerald Stern (Frank A. Finnerty, Of Counsel) for the Commission
Cohen, Bavoso, Weinstein & Fox (By Mark D. Fox) for Respondent