

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

STEVE A. SKRAMKO,

Determination

a Justice of the Warren Town Court,
Herkimer 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
Honorable Isaac Rubin
Honorable Felice K. Shea
Carroll L. Wainwright, Jr.

Respondent, Steve A. Skramko, a justice of the Town Court of Warren, Herkimer County, was served with a Formal Written Complaint dated March 1, 1979, setting forth six charges relating to the improper assertion of influence in traffic cases. Respondent filed an answer dated March 17, 1979.

By order dated July 30, 1979, the Commission appointed Herbert W. Holtz, Esq., as referee to hear and report to the Commission with respect to the facts herein. A hearing was held on September 19, 1979, and the report of the referee, dated November 21, 1979, was filed with the Commission.

By notice dated January 7, 1980, the administrator of the Commission moved to confirm the referee's report and for a

determination that respondent be censured. Respondent waived oral argument and did not submit any papers.

The Commission considered the record in this proceeding on February 26, 1980, and upon that record makes the following findings of fact.

1. Charge I: On July 7, 1976, respondent sent a letter to Justice Charles Persons, Jr., of the Town Court of Florida, seeking special consideration on behalf of the defendant in People v. Michael A. Conforti, a case then pending before Judge Persons.

2. Charge II: On January 17, 1975, respondent communicated with Justice James B. Lamb of the Town Court of Nassau, seeking special consideration on behalf of the defendant in People v. Charles M. Demorest, a case then pending before Judge Lamb.

3. Charge III: On February 23, 1973, respondent sent a letter to Justice Thomas O'Connell of the Town Court of Brutus, seeking special consideration on behalf of the defendant in People v. Anthony V. Bankit, a case then pending before Judge O'Connell.

4. Charge IV: On June 28, 1974, respondent sent a letter to Justice Fred J. DeVries of the Town Court of Warrensburg, seeking special consideration on behalf of the defendant in People v. Steven De Young, a case then pending before Judge DeVries.

5. Charge V: On March 10, 1977, respondent sent a letter to Justice James A. Davidson of the Town Court of Queensbury, seeking special consideration on behalf of the defendant in People

v. Thomas Meehan, a case then pending before Judge John Carusone, a co-justice.

6. Charge VI: On September 23, 1973, respondent reduced a charge of driving to the left of pavement markings to driving with an inadequate muffler in People v. Charlotte Szaresko as a result of a written communication he received from Justice Harry J. Enea of the Village Court of Herkimer, 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 VI 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 a request, 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 relationship 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)]

In his letters, respondent also indicated his willingness to accomodate requests for consideration similar to those he himself was making. Such offers of reciprocity only compound respondent's misconduct.

Courts in this and other states, as well as the Commission, have found that favoritism is serious judicial misconduct and that ticket-fixing is a form of favoritism.

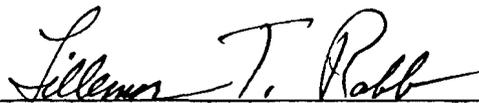
In Matter of Byrne, 420 NYS2d (Ct. on the Judiciary 1979), the court declared that a "judicial officer who accords or requests special treatment or favoritism to a defendant in his court or another judge's court is guilty of malum in se misconduct constituting cause for discipline." In that case, ticket-fixing was equated with favoritism, which the court stated was "wrong and has always been wrong." Id. at 71-72.

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 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: May 20, 1980
Albany, New York

APPEARANCES:

Gerald Stern (Steven F. Downs and Jack J. Pivar, Of Counsel)
for the Commission

Steve A. Skramko, Respondent *Pro Se*