

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

JOSEPH SLAVIN,

a Judge of the Civil Court of the City
of New York and Acting Supreme Court
Justice, 2nd Judicial District, Kings
County.

Determination

THE COMMISSION:

John J. Bower, Esq., Chairman
Honorable Myriam J. Altman
Henry T. Berger, Esq.
Honorable Carmen Beauchamp Ciparick
E. Garrett Cleary, Esq.
Dolores Del Bello
Honorable Isaac Rubin
Honorable Eugene W. Salisbury
John J. Sheehy, Esq.

APPEARANCES:

Gerald Stern for the Commission

Meissner, Kleinberg & Finkel (By Richard A. Finkel)
for Respondent

The respondent, Joseph Slavin, a judge of the Civil Court of the City of New York, Kings County, and acting justice of the Supreme Court, 2d Judicial District, was served with a Formal Written Complaint dated September 26, 1989, alleging that he made threatening statements in connection with a dispute

between his son and a third party. Respondent did not answer the Formal Written Complaint.

On January 17, 1990, the administrator of the Commission, respondent and respondent's counsel entered into an agreed statement of facts pursuant to Section 44, subdivision 5, of the Judiciary Law, waiving the hearing provided for in Section 44, subdivision 4, of the Judiciary Law, stipulating that the Commission make its determination based on the pleadings and the agreed upon facts, jointly recommending that respondent be admonished and waiving further submissions and oral argument.

On January 18, 1990, the Commission approved the agreed statement and made the following determination.

1. Respondent has been a judge of the Civil Court of the City of New York and an acting justice of the Supreme Court during the time herein noted.

2. In June 1986, respondent's son, Zachary, a New York City Housing Authority police officer, and Lee Solomon jointly purchased a boat. Respondent was guarantor of the loan that financed the purchase.

3. During the Spring of 1988, Zachary Slavin and Mr. Solomon had a dispute concerning payments on the boat. Mr. Solomon complained to the New York City Police Department

and to Zachary Slavin's employer that Zachary Slavin had "stolen" the boat.

4. Between April 1, 1988, and May 31, 1988, respondent learned that Mr. Solomon had made the complaints or that he intended to make them.

5. Respondent called Martin Solomon by telephone and asked whether he knew what his son, Lee, intended to do. When Martin Solomon answered that he did, respondent said that he would see to it that Lee Solomon went to jail, even if respondent had to give up his judicial position to do so.

6. Respondent subsequently called Lee Solomon's mother, Sydell, and said that if her son reported the boat stolen, respondent would personally see to it that he was put away, even if respondent had to give up his judicial position to do so. Respondent also said that he would tell Lee Solomon the same thing.

7. On a recorded message to Lee Solomon on his telephone answering machine, respondent said:

Lee, this is Mr. Slavin, it's about a quarter to ten. I would highly recommend that you speak to your mother as quickly as possible. I had a long talk with her and this business of you reporting the boat stolen may wind, may wind, get wind up getting you sent to jail for two or three years, so I would suggest that you call your mother forthwith. Thank you.

Zachary Slavin had previously stated on a recorded message to Lee Solomon on his telephone answering machine:

Listen, if you reported that boat stolen, I suggest you cancel it, the report, immediately or we'll have you arrested for filing a false police report and if you take any further action about notifying my job or trying to report that boat stolen again, I will see to it that you are sued from here to eternity. My father's relaying that same message to your mother at this time. Heed the advice. Goodbye.

8. Lee Solomon and his parents had been longtime acquaintances of respondent. During the Spring of 1988 and for years prior thereto, Lee Solomon and his parents knew that respondent was a judge.

9. The purpose of respondent's statements and recorded message was to persuade Lee Solomon not to file complaints, or to withdraw complaints that respondent considered to be false concerning his son with the police department and the housing authority.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1 and 100.2 of the Rules Governing Judicial Conduct and Canons 1 and 2 of the Code of Judicial Conduct. The charge in

the Formal Written Complaint is sustained, and respondent's misconduct is established.

Respondent intervened in a dispute involving his son, making threats against persons who knew him to be a judge. In doing so, respondent used the prestige of his judicial office to advance the private interests of his son, in violation of Section 100.2 of the Rules Governing Judicial Conduct.

It was improper for respondent to attempt to dissuade Lee Solomon from pursuing complaints that he had a legal right to make against respondent's son. This is especially so because of the threatening nature of respondent's comments.

Members of the judiciary should be acutely aware that any action they take, whether on or off the bench, must be measured against exacting standards of scrutiny to the end that public perception of the integrity of the judiciary will be preserved (citation omitted).... Thus, any communication from a Judge to an outside agency on behalf of another may be perceived as one backed by the power and prestige of judicial office.

Matter of Lonschein v.
State Commission on
Judicial Conduct, 50
NY2d 569, 572 (1980).

Coming from a judge, threats to see to it that one is put away for years are especially intimidating.

In mitigation, we have considered that respondent's judgment may have been somewhat clouded by concern for his son. See Matter of Edwards v. State Commission on Judicial Conduct, 67 NY2d 153, 155 (1986); Matter of Kiley v. State Commission on Judicial Conduct, 74 NY2d 364, 370 (1989).

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

Mr. Bower, Judge Altman, Mr. Berger, Judge Ciparick, Mr. Cleary, Mrs. Del Bello, Judge Rubin and Judge Salisbury concur.

Mr. Sheehy was 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: February 28, 1990



John J. Bower, Esq., Chairman
New York State
Commission on Judicial Conduct