

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

KLAUS SOHNS,

a Justice of the Franklin Town Court,
Delaware County.

Determination

THE COMMISSION:

Henry T. Berger, Esq., Chair
Jeremy Ann Brown
Stephen R. Coffey, Esq.
Lawrence S. Goldman, Esq.
Honorable Daniel F. Luciano
Honorable Frederick M. Marshall
Honorable Juanita Bing Newton
Alan J. Pope, Esq.
Honorable Eugene W. Salisbury
Honorable William C. Thompson

APPEARANCES:

Gerald Stern (Cathleen S. Cenci, Of Counsel) for the
Commission

Honorable Klaus Sohns, pro se

The respondent, Klaus Sohns, a justice of the Franklin Town Court, Delaware County, was served with a Formal Written Complaint dated December 30, 1997, alleging that he failed to remit court funds promptly to the state comptroller, that he failed to keep proper court records, and that he failed to dispose of cases. Respondent answered the Formal Written Complaint by letter dated February 7, 1998.

By motion dated March 31, 1998, the administrator of the Commission moved for summary determination and a finding that respondent's misconduct had been established. Respondent did not file any papers in response thereto. By Determination and Order dated June 24, 1998, the Commission granted the administrator's motion.

The administrator filed a memorandum as to sanction. Respondent neither filed a memorandum nor requested oral argument.

On July 30, 1998, the Commission considered the record of the proceeding and made the following findings of fact.

1. Respondent has been a justice of the Franklin Town Court since 1980. His caseload consists of 30-to-40 cases a year.
2. Between January 1982 and February 1985, as set forth in Schedule A appended hereto, respondent failed to report cases and remit court funds to the state comptroller within ten days of the month following collection, as required by UJCA 2020 and 2021(1), Town Law §27(1) and Vehicle and Traffic Law §1803(8).
3. By letter dated April 26, 1985, respondent acknowledged to the Commission, "I did file some reports late, not realizing that it was that serious." He promised that future reports would be filed on time.
4. On June 25, 1985, the Commission cautioned respondent to remit funds to the comptroller by the tenth day of the month following collection.

5. Between January 1994 and August 1997, as set forth in Schedule B appended hereto, respondent again failed to report dispositions and remit court funds to the comptroller as required by law.

6. Since 1980, respondent has failed to maintain a docket of motor vehicle cases and, between April 1996 and September 1997, he failed to maintain a docket of criminal cases, as required by UJCA 107 and 2019 and Town Law §31(1)(a).

7. Between January 1994 and September 1997, respondent failed to maintain a cashbook, as required by the Uniform Civil Rules for the Justice Courts, 22 NYCRR 214.11(3).

8. Between January 1995 and September 1997, respondent failed to issue duplicate receipts, as required by Town Law §31(1)(a).

9. Between October 1986 and September 1997, respondent failed to take action on 111 cases, as set forth in Schedule C appended hereto, in that he failed to send fine notices to defendants who had pleaded guilty by mail; failed to schedule trials for defendants who had pleaded not guilty, and failed to suspend the driving privileges of defendants who had failed to answer summonses, pay fines or appear for trial, as required by Vehicle and Traffic Law §510(4-a)(a). Some of the cases were pending in respondent's court for more than ten years.

10. In People v Harold Carbaugh, Sr., in which the defendant was charged on October 1, 1996, with Sexual Abuse and Endangering the Welfare of a Child, respondent conducted an arraignment and adjourned the matter to allow the defendant to

retain an attorney. Respondent did not set an adjourned date and never re-scheduled the matter because “he was asked to come back and never did,” respondent testified on October 6, 1997.

11. In People v Norman Epps, in which the defendant was charged on June 25, 1996, with Criminal Contempt on the complaint of his wife, respondent took no action after the defendant came to court and said that he had reconciled with his wife. Respondent never consulted the prosecutor or the victim. “[H]e thought he could work it out with his wife or something, and we left it as such,” respondent testified during the investigation.

12. In People v Brian M. Johns, in which the defendant was charged on June 20, 1996, with Criminal Possession of a Weapon, respondent conducted an arraignment and adjourned the matter without date so that the defendant could contact his lawyer. “The attorney never got back and.... a trial date needs to be set up for criminal summons to get him back to court,” respondent testified more than a year later.

13. In People v John E. Donnelly, in which the defendant was charged on October 3, 1990, with Inadequate Headlights and No Slow Moving Vehicle Emblem, respondent took no action after the case was transferred to him by another judge because “it never got to that.”

14. In People v Brian Frear, in which the defendant was charged on September 5, 1989, with Speed Not Reasonable Nor Prudent, respondent adjourned the matter to October 10, 1989, for a supporting deposition and “nothing has become of it.”

15. In People v David L. Hitchcock, in which the defendant was charged on January 28, 1995, with Driving While Intoxicated and pleaded guilty to Driving While Ability Impaired, respondent took no further action because the defendant said that he could not afford to pay a fine and “I really didn’t know what to do with the case....”

16. In People v Sharon D. Serra, in which the defendant was charged on October 28, 1993, with Failure to Stop For Stop Sign, respondent took no action after the defendant told him by telephone that she could not come to court from her home in New Jersey.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated the Rules Governing Judicial Conduct, 22 NYCRR 100.1, 100.2(A), 100.3(B)(1) and its predecessor Section 100.3(a)(1), 100.3(B)(7) and its predecessor Section 100.3(a)(5), and 100.3(C)(1) and its predecessor Section 100.3(b)(1) [renumbered eff. Jan. 1, 1996]. Charge I of the Formal Written Complaint is sustained, and respondent’s misconduct is established.

Respondent has neglected nearly every aspect of his duties as a judge throughout many of his 18 years in office. Although he has a caseload of only 30-to-40 matters per year, he left 111 cases pending for long periods --- some more than ten years. Rather than re-schedule cases for a date certain, he left it to the parties to ask that cases be restored to the court calendar. Even criminal cases were left to languish because

defendants said that they needed to consult a lawyer or could not pay a fine, then never volunteered to return to court.

Respondent also failed to report cases and remit funds promptly to the state comptroller as the law requires, even after a Commission caution in 1985 and his promise that he would be more diligent in his handling of court money. Moreover, he failed to keep adequate records of the matters before him.

Such disdain for the administrative and adjudicative responsibilities of judicial office constitutes serious misconduct. (Matter of Vincent, 70 NY2d 208; Matter of Petrie, 54 NY2d 807). Respondent's failure to heed the Commission's caution exacerbates his wrongdoing. (See, Matter of Lenney, 71 NY2d 456, 459).

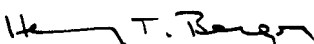
By reason of the foregoing, the Commission determines that the appropriate sanction is removal.

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.

Dated: October 19, 1998



Henry T. Berger, Esq., Chair
New York State
Commission of Judicial Conduct

Schedule A

<u>Month</u>	<u>Report Submitted</u>	<u>Days Late</u>
January 1982	2/24/82	14
February 1982	3/17/82	7
March 1982	4/16/82	6
April 1982	5/24/82	14
May 1982	8/4/82	55
June 1982	8/4/82	25
July 1982	8/4/82	0
August 1982	11/5/82	56
September 1982	11/5/82	26
October 1982	11/5/82	0
November 1982	12/17/82	7
December 1982	1/17/83	7
January 1983	2/18/83	8
February 1983	3/25/83	15
March 1983	5/16/83	36
April 1983	5/16/83	6
May 1983	6/21/83	11
June 1983	8/3/83	24
July 1983	8/3/83	0
August 1983	10/4/83	24
September 1983	12/5/83	56
October 1983	12/5/83	25
November 1983	12/5/83	0
December 1983	3/19/84	69

Schedule A

<u>Month</u>	<u>Report Submitted</u>	<u>Days Late</u>
January 1984	3/19/84	38
February 1984	3/19/84	9
March 1984	5/24/84	44
April 1984	5/24/84	14
May 1984	8/20/84	71
June 1984	8/20/84	41
July 1984	8/20/84	10
August 1984	11/15/84	66
September 1984	11/15/84	36
October 1984	11/15/84	5
November 1984	2/7/85	59
December 1984	2/7/85	28
January 1985	2/7/85	0
February 1985	3/19/85	9

Schedule B

<u>Month</u>	<u>Report Submitted</u>	<u>Days Late</u>
January 1994	2/14/94	4
February 1994	5/11/94	62
March 1994	5/11/94	31
April 1994	5/11/94	1
May 1994	8/11/94	62
June 1994	8/11/94	32
July 1994	8/11/94	1
August 1994	10/7/94	27
September 1994	10/7/94	0
October 1994	1/20/95	71
November 1994	1/20/95	41
December 1994	1/20/95	10
January 1995	3/15/95	33
February 1995	3/16/95	6
March 1995	5/18/95	38
April 1995	5/18/95	8
May 1995	8/16/95	67
June 1995	8/15/95	36
July 1995	8/16/95	6
August 1995	10/23/95	43
September 1995	10/23/95	13
October 1995	11/27/95	17
November 1995	2/12/96	64
December 1995	2/13/96	34

Schedule B

<u>Month</u>	<u>Report Submitted</u>	<u>Days Late</u>
January 1996	4/18/96	68
February 1996	4/17/96	38
March 1996	4/17/96	7
April 1996	7/19/96	70
May 1996	7/19/96	39
June 1996	7/19/96	9
July 1996	10/10/96	61
August 1996	10/10/96	30
September 1996	10/10/96	0
October 1996	12/2/96	22
November 1996	12/3/96	0
December 1996	2/18/97	39
January 1997	2/14/97	4
February 1997	4/28/97	49
March 1997	4/28/97	18
April 1997	6/4/97	25
May 1997	6/4/97	0
June 1997	7/23/97	13
July 1997	8/29/97	19
August 1997	9/18/97	8

Schedule C

<u>Defendant</u>	<u>Date of Charges</u>
Laurie Allen	4/07/92
Susan J. Allison	10/19/86
Xandra Sue Angle	2/13/95
John L. Archer	1/19/92
Tracy Armstrong	2/20/95
David J. Atkinson	2/08/94
Peter C. Baker	1/18/90
Frank J. Balkassare	11/12/89
Daniel J. Banks	4/22/93
Jose R. Barahona	6/09/96
William T. Bateman	12/21/89 12/22/89
Russell C. Beach	8/09/91
Merle Bell	7/17/94
Kathleen M. Bolger	12/14/92
Loren C. Brooks	6/03/95
John V. Bruzzese	10/29/93
William C. Capek	2/24/95
John P. Caruso	5/05/92
D.B. Christensen	3/24/92
William N. Cocks	10/04/92
Christina D. Cooke	1/29/95
James Corban	8/28/92

Schedule C

<u>Defendant</u>	<u>Date of Charges</u>
Robert E. Coryer	12/21/89
Kalief Cuyler-Gibbs	2/16/96
Amy J. Doenges	7/11/95
John E. Donnelly	10/03/90
D. Drayton	10/17/89
Johnny N. Eastman	10/25/93
Thomas J. Evans	2/02/96
Connie P. Fallon	8/21/95
Eric E. Farrell	3/10/95
Anthony Feltner	3/28/93
Timothy A. Ferguson	4/13/95
Robert Festa	3/28/93
Brian Frear	9/05/89
Vincent J. Gentile	2/09/91
David L. Grant	3/24/94
David L. Grant	4/13/87
Michael S. Gural	7/01/89
Vern E. Hall	11/25/93
Dorothy M. Hamlin	12/05/96
Mark E. Hand	3/18/89
Kenneth E. Hansen, Jr.	12/26/94
William T. Harris	12/02/93

Schedule C

<u>Defendant</u>	<u>Date of Charges</u>
Kerri E. Herlihy	2/24/95
Donald R. Hill	12/29/93
David L. Hitchcock	1/28/95
Brenda L. Holcomb	2/10/93
Connie Hopkins	2/01/96
John A. Howell	10/19/86
LeeAnn L. Hughes	8/19/93
John P. Jaques	1/28/92
Rhonda A. Keene	5/28/95
William H. Kent	12/31/94
James A. Kilmer	9/92
Rebecca L. Kruser	12/05/90
Hugh B. Leonard	10/04/92
Stephen H. Liska	11/30/96
Terry A. Lum	2/29/92
Olga Lyubarov	5/07/96
Joann Maggiore	5/27/94
Joseph T. Martinez	12/23/95
Brian C. Mettler	4/27/95
Robert A. Michelin	8/13/90
Judith A. Miller	2/16/96
Paul T. Miller	12/28/94

Schedule C

<u>Defendant</u>	<u>Date of Charges</u>
Crystall A. Miner	5/23/92
Steven F. Minninger	10/04/92
Raymond J. Mallica	12/23/92
Randall I. Mowers	5/02/94
Vickie L. North	10/27/93
Rein Olvett	5/23/92
Patrick Paoella	1/07/90
John F. Phraner	6/30/94
Kevin C. Place	8/20/94 10/09/94
Ramona Plance	11/05/95
Jeffrey H. Pomeroy	8/27/92
Angelo Portoro	4/10/92
William M. Pywar, Jr.	1/14/94
Ronald M. Roof	1/27/95
Eric L. Rosa	7/18/92
Sean A. Schmidt	6/13/87
Rusty Schmitz	11/11/88
Frederick W. Schum, III	2/07/95
Sharon D. Serra	10/28/93
Aaron R. Seward	12/04/96
Gregg Sheiowitz	11/12/95
Arthur J. Smith	6/16/93

Schedule C

<u>Defendant</u>	<u>Date of Charges</u>
Michael G. Solden	9/18/95
Christine Squassoni	6/09/89
Homer E. Steele	10/26/88
Glen M. Stiver	3/02/90
Louis B. Summer	7/11/96
James L. Thomas, 4 th	4/28/92
Joshua C. Touby	6/14/89
Laura M. Tuazon	12/06/91
Barry R. Waid	1/23/93
George A. Walter	5/27/94
Brian T. Williams	11/13/94
Samuel Williamson	2/26/93
Perry D. Blansett	7/01/96
Harold E. Carbaugh, Sr.	10/01/96
Andrew D. Clavie	12/07/94
Norman Epps	6/25/96
Jane Evans	1/26/96
Arthur A. Forziati	1/14/94
David Lee Groat	2/18/95
Brian M. Johns	6/20/96
Ronald M. Roof	1/27/95
Nicah Sickler	9/17/96
Michael S. Silver	7/18/95