

**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**

WALTER J. STERIA,

a Justice of the Town Court of  
New Bremen, Lewis County.

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BEFORE: Honorable Fritz W. Alexander, II  
David Bromberg, Esq.  
Honorable Richard J. Cardamone  
E. Garrett Cleary, Esq.  
Dolores DelBello  
Michael M. Kirsch, Esq.  
Victor A. Kovner, Esq.  
Honorable Felice K. Shea  
Carroll L. Wainwright, Jr., Esq.

APPEARANCES:

Gerald Stern (Jack J. Pivar, Of Counsel)  
for the Commission

William J. Riley for Respondent

The respondent, Walter J. Steria, a justice of the Town Court of New Bremen, Lewis County, was served with a Formal Written Complaint dated September 19, 1980, alleging misconduct with respect to a traffic case. Respondent did not file an answer.

By order dated December 24, 1980, the Commission designated Charles T. Major, Esq., referee to hear and report proposed findings of fact and conclusions of law. The hearing was held on February 20, 1981. Respondent waived his appearance. The referee filed his report to the Commission on May 18, 1981.

By motion dated June 16, 1981, the administrator of the Commission moved to confirm the referee's report and for a determination that respondent be removed from office. Respondent did not submit papers in opposition. The Commission heard oral argument on the motion on July 15, 1981, at which respondent appeared through counsel. Thereafter the Commission considered the record of the proceeding and makes the following findings of fact.

1. On June 2, 1980, respondent sent a letter on judicial stationery to Champion Town Court Justice James Church, seeking special consideration on behalf of the defendant, who was charged with speeding, in People v. Linda Bush, a case then pending before Judge Church. Respondent's letter stated that the defendant had been speeding, identified the defendant as his baby sitter and asked Judge Church to "see what you can do for her." Judge Church did not accede to respondent's request.

2. Prior to sending the letter of June 2, 1980, respondent knew that it was improper for a judge to request special consideration for the defendant in a case before another judge, in that (i) he was aware of the Commission's well-publicized investigation of such ticket-fixing incidents prior to sending the letter and (ii) he had attended an Office of Court Administration judicial training course in 1979 at which ticket-fixing was described and examples given, such as an attempt by one judge to influence another, by using official stationery to request special consideration.

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. Charge I of the Formal Written Complaint is 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 grant special consideration to a defendant. By making such a request of another judge for a favorable disposition for the defendant in a traffic case, respondent violated the Rules enumerated above.

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, 47 NY2d(b) (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 (c).

The import of respondent's misconduct goes beyond his request for special consideration. Respondent was aware of the Commission's extensively reported investigation and disciplinary determinations in ticket-fixing matters. Furthermore, he had

been apprised of the impropriety of ticket-fixing by the Office of Court Administration during a judicial training course in 1979. Indeed, respondent was advised specifically at the training course that use of official stationery to request special consideration was improper. Nevertheless, in 1980 respondent made precisely such a proscribed request. Respondent knew his action would be wrong, but he was not deterred. His explanation that his letter pertained only to the fine is neither persuasive nor relevant. Special consideration is wrong whether asserted with regard to the fine, a reduction of the original charge or any other disposition of the particular case.

We note specifically that Judge Church, to whom respondent's letter was addressed, acted properly in disregarding the request which respondent made of him.

Claimed ignorance of the ethical standards a judge is obliged to know does not excuse a violation of those standards. Where the violation occurs in the face of specific knowledge of the applicable standards, the misconduct is all the more egregious.

Under the circumstances noted herein the Commission determines that the appropriate sanction is severe censure.

All concur, except for Mr. Kovner and Mr. Wainwright, who dissent only with respect to sanction and vote that the appropriate discipline is removal from office.

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: November 13, 1981

  
Fritz W. Alexander, II, Member  
New York State Commission On  
Judicial Conduct