

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

Determination

RICHARD A. STERLING,

a Justice of the Gouverneur Town Court,
St. Lawrence County.

THE COMMISSION:

Henry T. Berger, Esq., Chair
Helaine M. Barnett, Esq.
E. Garrett Cleary, Esq.
Stephen R. Coffey, Esq.
Mary Ann Crotty
Lawrence S. Goldman, Esq.
Honorable Juanita Bing Newton
Honorable Eugene W. Salisbury
Barry C. Sample
Honorable William C. Thompson

APPEARANCES:

Gerald Stern (John J. Postel, Of Counsel) for the
Commission

The respondent, Richard A. Sterling, a justice of the
Gouverneur Town Court, St. Lawrence County, was served with a
Formal Written Complaint dated January 25, 1995, alleging that he
converted court funds to his personal use. Respondent did not
answer the Formal Written Complaint.

By motion dated June 6, 1995, the administrator of the
Commission moved for summary determination and a finding that
respondent has engaged in judicial misconduct. Respondent did
not oppose the motion or file any papers in response thereto.

By determination and order dated June 30, 1995, the Commission granted the motion.

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

On August 31, 1995, the Commission considered the record of the proceeding and made the following findings of fact.

As to Charge I of the Formal Written Complaint:

1. Respondent has been a justice of the Gouverneur Town Court since January 1, 1994.

2. On January 3, 1994, respondent's predecessor, William E. Mashaw, transferred \$5,200 to respondent, representing bail for two defendants with cases pending in the court. Gail Lang had posted \$5,000 of the money on July 19, 1993, as bail for Rodger H. Ingram. Respondent deposited the money in his court account.

3. Between February 11, 1994, and July 19, 1994, respondent converted the money to his personal use by issuing six checks to himself from his court account. Respondent paid himself \$950 on February 11, 1994; \$1,050 on March 5, 1994; \$970 on April 7, 1994; \$970 on May 20, 1994; \$660 on June 13, 1994; and, \$400 on July 19, 1994.

4. As of the date of the charges, January 25, 1995, respondent had not replaced the funds and had not returned the \$5,000 in bail to Ms. Lang, even though the charge against Mr. Ingram had been disposed of in October 1994 and Ms. Lang had made repeated requests to have the money returned.

5. During the investigation of this matter, respondent admitted, by letter dated January 10, 1995, "Due to many problems in my personal life (health, financial, etc.) I used this money for my own use."

As to Charge II of the Formal Written Complaint:

6. On December 15 and 20, 1994, respondent converted to his personal use \$715 in court funds by withdrawing the balance of his court account and failing to replace the money.

7. Respondent closed the account and failed to notify the Chief Administrator of the Courts that he had done so, as required by the Uniform Civil Rules for the Justice Courts, 22 NYCRR 214.9(c).

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) and 100.3(b)(1), and Canons 1, 2A and 3B(1) of the Code of Judicial Conduct. Charges I and II of the Formal Written Complaint are sustained, and respondent's misconduct is established.

The conversion of court funds to a judge's personal use is "intolerable," (Matter of Lew, 1983 Ann Report of NY Commn on Jud Conduct, at 135, 137), "shocks the conscience," (Matter of Burrell, 1990 Ann Report of NY Commn on Jud Conduct, at 82, 84) and requires removal (Matter of Montaneli, 1987 Ann Report of NY Commn on Jud Conduct, at 121, 126; Matter of Lemon, 1983 Ann

Report of NY Commn on Jud Conduct, at 131, 133).

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

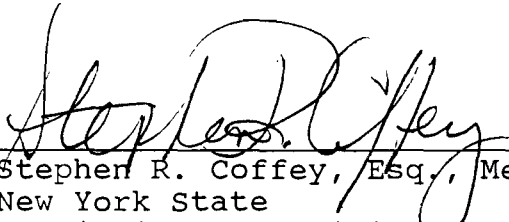
Mr. Berger, Mr. Cleary, Mr. Coffey, Ms. Crotty, Mr. Goldman, Judge Newton, Judge Salisbury, Mr. Sample and Judge Thompson concur.

Ms. Barnett 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: September 8, 1995



Stephen R. Coffey, Esq., Member
New York State
Commission on Judicial Conduct