

**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

VERNON F. TROYER,

a Justice of the Wheatfield Town Court,  
Niagara County.

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**Determination**

BEFORE: Mrs. Gene Robb, Chairwoman  
David Bromberg  
Honorable Richard J. Cardamone  
Dolores DelBello  
Michael M. Kirsch  
William V. Maggipinto  
Honorable Isaac Rubin  
Honorable Felice K. Shea  
Carroll L. Wainwright, Jr.

Respondent, a justice of the Town Court of Wheatfield, Niagara County, was served with a Formal Written Complaint dated July 27, 1978, setting forth nine charges relating to the improper assertion of influence in traffic cases. Respondent filed an answer dated September 5, 1978.

On October 18, 1979, 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, and stipulating that the Commission make its determination upon the pleadings and the facts as agreed upon. The Commission approved the agreed statement of

facts, as submitted, on November 13, 1979, determined that no outstanding issue of fact remained, and scheduled oral argument with respect to determining (i) whether the facts established misconduct and (ii) an appropriate sanction, if any.

The administrator submitted a memorandum on the issues herein. Respondent submitted a letter from his attorney on the issues herein. On January 23, 1980, after hearing oral argument, the Commission, in executive session, considered the record in this proceeding and upon that record makes the following findings of fact and conclusions of law.

Charge IX of the Formal Written Complaint is not sustained and therefore is dismissed.

1. Charge I: On June 29, 1976, respondent sent a letter on judicial stationery to Justice Edward L. Robinson of the Town Court of Amherst, on behalf of the defendant in People v. Randy L. Adams, a case then pending before Judge Robinson, confirming a telephone conversation he had had with the Amherst Town Court Clerk.

2. Charge II: On June 10, 1976, respondent sent a letter on judicial stationery to Justice Edward L. Robinson of the Town Court of Amherst, on behalf of the defendant in People v. Boutros J. Gatas, a case then pending before Judge Robinson, confirming a telephone conversation he had had with the Amherst Town Court Clerk.

3. Charge III: On July 1, 1976, respondent sent a letter on judicial stationery to Justice Edward L. Robinson of the Town Court of Amherst, on behalf of the defendant in People

v. Susan M. Leslie, a case then pending before Judge Robinson, confirming a telephone conversation he had had with the Amherst Town Court Clerk.

4. Charge IV: On August 22, 1973, respondent sent a letter on judicial stationery to Justice Thomas J. O'Connell of the Town Court of Brutus, confirming an earlier telephone conversation with Judge O'Connell in which he had requested special consideration on behalf of the defendant in People v. Harold L. Peters, a case then pending before Judge O'Connell.

5. Charge V: On May 20, 1975, respondent reduced a charge of passing a red light to driving with an inadequate muffler in People v. David J. Mahar as a result of a written communication he received from Justice Sebastian Lombardi of the Town Court of Lewiston seeking special consideration on behalf of the defendant.

6. Charge VI: On January 4, 1977, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. Arthur Schuler as a result of a written communication he received from the arresting officers seeking special consideration on behalf of the defendant.

7. Charge VII: On November 27, 1973, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. Donald Harrington as a result of a written communication he received from Justice Sebastian Lombardi of the Town Court of Lewiston seeking special consideration on behalf of the defendant.

8. Charge VIII: On February 14, 1974, respondent reduced a charge of passing a stopped school bus to driving

with an inadequate muffler in People v. Marguerite H. Kirk as a result of a written communication he received from Justice Sebastian Lombardi of the Town Court of Lewiston 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 VIII 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 requests from judges and other persons of influence, respondent violated the Rules enumerated above.

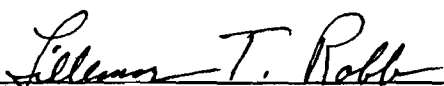
Courts in this state and other jurisdictions have found that favoritism is serious judicial misconduct and that ticket-fixing is a form of favoritism.

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

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: April 1, 1980  
Albany, New York

APPEARANCES:

Gerald Stern (Richard Granofsky, Of Counsel) for the Commission

Findlay, Hackett, Reid and Wattengel (By Glenn S. Hackett) for Respondent