

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

JOHN G. TURNER,

a Judge of the County Court,
Albany County.

THE COMMISSION:

Mrs. Gene Robb, Chairwoman
John J. Bower, Esq.
David Bromberg, Esq.
Honorable Carmen Beauchamp Ciparick
E. Garrett Cleary, Esq.
Dolores DelBello
Victor A. Kovner, Esq.
Honorable William J. Ostrowski
Honorable Isaac Rubin
Honorable Felice K. Shea
John J. Sheehy, Esq.

APPEARANCES:

Gerald Stern (Stephen F. Downs, Of Counsel) for the
Commission

Honorable John G. Turner, pro se

The respondent, John G. Turner, a judge of the County Court, Albany County, was served with a Formal Written Complaint dated October 31, 1986, alleging that he participated in fund-raising activities. Respondent filed an answer dated November 25, 1986.

By motion dated December 29, 1986, the administrator of the Commission moved for summary determination and a finding that respondent's misconduct be found established. Respondent did not oppose the motion or file any papers in response thereto. By determination and order dated January 29, 1987, the Commission granted the administrator's motion and found respondent's misconduct established.

The administrator filed a memorandum as to sanction. Respondent did not file any papers and waived oral argument.

On February 19, 1987, the Commission considered the record of the proceeding and made the following findings of fact.

1. Respondent is a judge of the Albany County Court and has been since May 1984. Previously, he was a judge of the Albany City Court for six years.

2. In 1985 and 1986, respondent agreed to participate in the American Heart Association's "Jail Bail for Heart" fund-raising events.

3. Respondent knew that his name would be used to publicize the events.

4. In 1985, respondent cleared his court calendar for two hours and, as part of the fund-raising event, conducted mock arraignments in his courtroom of donors to the heart association. Respondent set mock bail for donors at the amount they had agreed to contribute to the heart association.

5. The money was collected outside of the courtroom by representatives of the heart association.

6. In 1986, respondent also cleared his calendar for two hours on a day when he would otherwise have held court for the purpose of the heart association "arraignments," but no "cases" came before him.

7. Respondent permitted his photograph to be taken for publicity purposes in connection with the event, but he believes that it was not published.

8. Respondent was aware that judges are not permitted to engage in fund-raising activities and acknowledges that his participation in the mock arraignments constituted a violation of the prohibition.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2 and 100.5(b)(2) of the Rules Governing Judicial Conduct and Canons 1, 2 and 5B(2) of the Code of Judicial Conduct. The charge in the Formal Written Complaint is sustained, and respondent's misconduct is established.

No judge may solicit funds for charitable organizations or use or permit the use of the prestige of the office for that purpose. Section 100.5(b)(2) of the Rules Governing Judicial Conduct; Matter of Kaplan, 1984 Annual Report 112 (Com.

on Jud. Conduct, May 17, 1983). Respondent violated this rule by permitting his name to be used to publicize a fund-raising event for the heart association. The purpose of the mock arraignments was to generate publicity that would induce contributions. By agreeing to participate, respondent lent the prestige of his office to this fund-raising effort.

Respondent further deviated from the high standards of conduct expected of every judge by mocking a court proceeding and by taking court time to help raise funds for a private organization.

Respondent's misconduct is mitigated by the fact that he has readily acknowledged that what he did was wrong. Matter of Doolittle, 1986 Annual Report 87 (Com. on Jud. Conduct, June 13, 1985).

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

Mrs. Robb, Mr. Bower, Mr. Bromberg, Judge Ciparick, Mrs. DelBello, Mr. Kovner, Judge Ostrowski, Judge Shea and Mr. Sheehy concur.

Mr. Cleary and Judge Rubin were 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, and subdivision 7, of the Judiciary Law.

Dated: March 23, 1987


Lillemor T. Robb, Chairwoman
New York State
Commission on Judicial Conduct