

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

LEE VINCENT,

a Justice of the Burke Town
Court, Franklin 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 (Cathleen S. Cenci, Of Counsel) for the
Commission

Honorable Lee Vincent, pro se

The respondent, Lee Vincent, a justice of the Burke
Town Court, Franklin County, was served with a Formal Written
Complaint dated October 31, 1985, alleging, inter alia, certain
financial depositing, reporting and remitting deficiencies.
Respondent filed an answer dated January 12, 1986.

By order dated January 24, 1986, the Commission designated Robert E. Helm, Esq., as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on March 10, 1986, and the referee filed his report with the Commission on June 4, 1986.

By motion dated August 11, 1986, the administrator of the Commission moved to confirm the referee's report and for a finding that respondent be removed from office. Respondent opposed the motion on September 2, 1986. The administrator filed a reply on September 9, 1986. Oral argument was waived.

On September 11, 1986, the Commission considered the record of the proceeding and made the following findings of fact.

Preliminary findings:

1. Respondent is a justice of the Burke Town Court and has been since 1975.
2. Respondent is not a lawyer. He is a part-time judge, holds a college degree in agriculture and operates a farm.
3. Respondent has attended all required training courses for non-lawyer judges offered by the Office of Court Administration.

As to Charge I of the Formal Written Complaint:

4. Between February 1981 and October 1984, respondent failed to remit funds and file reports in a timely manner to the State Comptroller in 43 of the 45 months of the period, as indicated in Schedule A of the Formal Written Complaint, as amended.*

5. Respondent's 43 tardy reports ranged from 3 to 202 days late, for an average of 44 days late.

6. During the period, the State Comptroller ordered pursuant to law that respondent's salary be stopped on six occasions for failure to remit court funds.

7. Respondent acknowledged in testimony before a member of the Commission on April 11, 1985, that he was aware that he is required by law to remit funds and report cases to the State Comptroller by the tenth day of the month following collection.

8. Respondent offered no explanation for his failures other than that he "put it off" and "did not make myself do what I should have done."

* Schedule A was amended at the hearing to change the date the January 1981 report was received to February 6, 1981, and the date the August 1983 report was received to September 21, 1983. The number of days the August 1983 report was late was accordingly amended to 11 days.

As to Charge II of the Formal Written Complaint:

9. From December 1980 until December 1984, respondent failed to deposit court funds in his official court account within 72 hours of receipt as then required by law, as indicated in Schedule B of the Formal Written Complaint.

10. In the four-year period, respondent received fines or bail on 35 occasions. He promptly deposited the money on only four occasions.

11. Respondent kept undeposited money in a briefcase, sometimes for as long as seven months.

12. Respondent testified that he was aware that he was then required by law to deposit court funds within 72 hours of receipt.

13. Respondent had no explanation for his depositing failures.

As to Charge III of the Formal Written Complaint:

14. From 1978 to 1985, respondent failed to perform his administrative and adjudicative responsibilities in that he failed to promptly dispose of 91 cases pending for between six months and three years, as indicated in Appendix A appended hereto.

15. Thirty-six of the cases were disposed of on February 10, 1982, after a State Police investigator implored respondent to dispose of the pending cases in his court. In

order to clear his books of cases long pending, respondent imposed unconditional discharges in cases in which the defendants had pled guilty and dismissed cases in which the defendants had not pled.

16. Between January 1981 and December 1984, respondent handled only 201 of the 1,370 cases in the Burke Town Court.

17. From 1980 to 1984, respondent failed to maintain adequate cashbook records as required by law in that cashbook entries were inconsistent with receipts, deposit slips and bank statements, as indicated in Schedule D of the Formal Written Complaint.

18. From 1978 to 1984, respondent failed to maintain complete and adequate dockets of the cases in his court, as required by law.

As to Charge IV of the Formal Written Complaint:

19. On January 28, 1981, Gregory Burnell was charged with Uninspected Motor Vehicle. He pled guilty by mail before respondent on January 29, 1981. On June 22, 1981, respondent imposed a fine of \$5. The fine was not paid, and the matter remained pending until respondent imposed an unconditional discharge on February 10, 1982.

20. On April 12, 1981, Elizabeth D. Maracle was charged with Speeding. She pled guilty by mail before respondent on April 13, 1981. Respondent imposed a \$20 fine.

The fine was not paid, and the case remained pending until respondent imposed an unconditional discharge on February 10, 1982.

21. On January 14, 1981, Duane H. Waugh was charged with Overloaded Consecutive Axles. He pled guilty by mail before respondent on February 2, 1981. Respondent imposed a \$100 fine on June 22, 1981. The fine was not paid, and the matter remained pending until respondent imposed an unconditional discharge on February 10, 1982.

22. On November 5, 1982, Kevin F. Bauter was charged with Speeding. He pled guilty by mail before respondent on November 18, 1982. Respondent imposed a \$15 fine on September 7, 1983. The fine was not paid, and the matter remained pending until respondent dismissed it on January 10, 1984.

23. Respondent made no attempt to use the methods available to him by law to collect the fines.

24. Respondent acknowledged in testimony before a member of the Commission on April 11, 1985, that his failure to collect the fines and promptly dispose of the cases was due to "sloppiness" and "neglect."

As to Charge V of the Formal Written Complaint:

25. The charge is not sustained and is, therefore, dismissed.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(a), 100.3, 100.3(a)(1), 100.3(a)(5) and 100.3(b)(1) of the Rules Governing Judicial Conduct; Canons 1, 2A, 3, 3A(1), 3A(5) and 3B(1) of the Code of Judicial Conduct; Sections 107, 2019, 2019-a, 2020 and 2021(1) of the Uniform Justice Court Act; Section 27(1) of the Town Law; Section 1803 of the Vehicle and Traffic Law; Sections 30.7(a) and 30.9 of the Uniform Justice Court Rules then in effect, and Sections 105.1 and 105.3 of the Recordkeeping Requirements for Town and Village Courts then in effect.* Charges I through IV of the Formal Written Complaint are sustained, and respondent's misconduct is established. Charge V is dismissed.

Despite a small caseload--only 201 cases in four years--respondent has neglected nearly every aspect of his administrative and judicial duties. He has failed to promptly dispose of cases and, when urged to do so, dismissed or discharged them wholesale because they had been pending so long. Of the fines and bails he did collect, he failed to promptly deposit most of the money in his official account. Only four

* The Uniform Justice Court Rules and the Recordkeeping Requirements for Town and Village Courts were repealed effective January 6, 1986, and replaced by the Uniform Rules for Trial Courts.

times in four years was the money collected promptly deposited. In the same four years, respondent was late in turning the money over to the State Comptroller in 43 months--on one occasion 202 days late.

Such mishandling of public monies constitutes serious misconduct, even where there is no evidence that the funds were used for the judge's personal benefit. Bartlett v. Flynn, 50 AD2d 401, 404 (4th Dept. 1976). Such a violation of the public trust warrants removal. Matter of Petrie v. State Commission on Judicial Conduct, 54 NY2d 807 (1981).

In addition, respondent violated the law by failing to keep adequate court records.

Respondent was aware of his administrative duties and acknowledges his negligence.

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

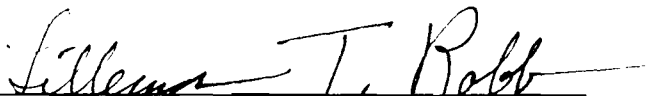
Mrs. Robb, Mr. Bower, Mr. Bromberg, Judge Ciparick, Mrs. DelBello, Mr. Kovner, Judge Ostrowski and Mr. Sheehy concur.

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

Dated: October 23, 1986


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

APPENDIX A

<u>Defendant</u>	<u>Date Charged</u>	<u>Date of Disposition</u>
Melvin W. Martin	11/20/78	6/24/81
Melvin W. Martin	11/20/78	6/24/81
Wendell D. Campbell	5/08/80	6/24/81
Val J. Demaine	10/30/80	6/22/81
Robert G. Bombard	9/18/80	6/22/81
Annette M. Crompt	3/05/81	9/23/81
John R. Spinella	6/10/81	2/10/82
Jean M. Arseneault	6/04/81	2/10/82
Raymond Symer	6/04/81	2/10/82
Jean M. Arseneault	6/04/81	2/10/82
Samuel A. Ponto	6/04/81	2/10/82
Jean Louis Quimette	6/10/81	2/10/82
Daniel N. Ducharme	6/10/81	2/10/82
John Simonet	6/10/81	2/10/82
John Simonet	6/10/81	2/10/82
Wilfred J. Gonyea	6/10/81	2/10/82
Yvon Emard	6/10/81	2/10/82
Denis Allard	6/04/81	2/10/82
Lionel LaVallee	6/10/81	2/10/82
George C. Reynolds	10/30/80	2/10/82
Gregory Burnell	1/28/81	2/10/82
Bradley W. Hoppough	9/18/80	2/10/82
Gerard Pepin	9/18/80	2/10/82

Lee Vincent, Appendix A--continued

Elizabeth D. Maracle	4/12/81	2/10/82
Kay Herdman	3/07/81	2/10/82
Lyle P. Bouissey	11/20/80	2/10/82
Duane H. Waugh	1/14/81	2/10/82
Randall F. Deshane	10/13/80	2/10/82
Bradley E. Kirk	11/13/80	2/10/82
Pascal Rodrigue	4/20/80	2/10/82
George D. Baltovich	11/21/80	2/10/82
James G. Johnston	10/30/80	2/10/82
Jonah P. Dezan	7/23/81	2/10/82
James T. Thibeault	6/04/81	2/10/82
Claude Cote	6/10/81	2/10/82
Arthur W. Charette	6/04/81	2/10/82
Justin C. Lawyer	11/03/80	2/10/82
Donald Stubbe	4/22/80	2/10/82
Andre Vodoin	5/21/80	2/10/82
Jean Guy Pelletier	6/26/80	2/10/82
Robert P. Hewitt	6/26/79	2/10/82
Pierre Bazinet	8/13/79	2/10/82
Gary J. Forrette	4/16/81	3/24/82
Gary J. Forrette	4/16/81	3/24/82
Raymond J. Steeves	5/29/81	11/20/82
Donald Soucia	5/20/82	11/20/82
Barbara H. Hunter	5/19/82	11/20/82
Robert H. Parks	6/25/81	1/01/83

Lee Vincent, Appendix A--continued

Michael J. Smith	5/09/81	1/01/83
James K. Earl	8/28/80	3/15/83
Grace E. Latreille	10/10/82	5/04/83
Patricia M. Mageean	4/23/82	5/11/83
John R. Morris	4/05/83	--
Michael W. O'Connor	1/28/81	5/11/83
Michael W. O'Connor	1/28/81	5/11/83
Betty B. Boileau	8/10/82	5/11/83
Kimberly L. O'Connor	12/16/81	5/11/83
Kimberly L. O'Connor	12/16/81	5/11/83
Harry F. Martin	6/10/81	5/11/83
Shirley A. Wood	4/18/81	5/11/83
Rene R. Gagne	12/18/81	9/07/83
David J. Boileau	10/02/82	9/07/83
Roger J. Poirier	11/10/82	11/23/83
Roger J. Poirier	11/10/82	11/23/83
Kevin F. Bauter	11/05/82	1/10/84
James G. McRae	5/12/83	1/10/84
Philip A. Livingston	4/21/83	11/11/83
Brian P. Hall	8/05/83	3/07/84
Brian P. Hall	8/05/83	3/07/84
Dennis R. LaPointe	3/03/84	--
Joseph H. Griffin	8/14/83	4/11/84
Timothy J. LaPlante	8/14/83	4/11/84
Donald D. Rowe	7/29/83	4/11/84

Lee Vincent, Appendix A--continued

Timothy J. LaPlante	8/14/83	4/11/84
Jenny A. Gessler	11/09/83	11/20/84
Douglas K. Hesselstine	5/22/83	6/06/84
Joan K. Craft	5/22/83	11/20/84
Roger R. Bentley	8/07/82	11/21/84
Claude LaCharite	5/12/83	11/24/84
Candie L. Peck	8/05/83	11/24/84
Albert Cox	11/03/83	11/21/84
Timothy R. Fuller	5/12/83	12/05/84
Roland L. Paquin	3/29/84	12/05/84
Charles W. Huto	7/16/83	12/26/84
Charles W. Huto	7/16/83	12/26/84
Alice T. Egan	8/21/83	12/26/84
Paul J. Summers	4/16/83	1/16/85
Paul J. Summers	4/16/83	1/16/85
Paul J. Summers	4/16/83	1/16/85
Paul J. Summers	4/16/83	1/16/85
Brian G. Peck	2/01/84	2/06/85