

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

CHARLES D. WANGLER,

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

THE COMMISSION:

Mrs. Gene Robb, Chairwoman
Honorable Fritz W. Alexander, II
John J. Bower, Esq.
David Bromberg, Esq.
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, (Henry S. Stewart, Of Counsel) for the
Commission

Clements & Ducharme, P.C. (Jerome J. Richards, Of
Counsel) for Respondent

The respondent, Charles D. Wangler, a justice of the
Oswegatchie Town Court, St. Lawrence County, was served with a
Formal Written Complaint dated June 27, 1984, alleging certain
financial depositing, reporting and remitting failures and

alleging that he twice appeared to perform his judicial duties in an intoxicated condition. Respondent did not answer the Formal Written Complaint.

By motion dated July 25, 1984, the administrator of the Commission moved for summary determination and for a finding that respondent's misconduct be found established. Respondent did not oppose the motion or file any papers in response thereto.

By order dated August 21, 1984, the Commission granted the administrator's motion, found respondent's misconduct established and set a schedule for oral argument as to sanction. The administrator submitted a memorandum as to sanction dated September 11, 1984. Respondent submitted a memorandum as to sanction on September 13, 1984. Respondent requested oral argument but did not appear at the scheduled time. On September 21, 1984, 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. From March 1981 until April 1984, respondent failed to promptly deposit court funds into his official account, with the result that his court account was continuously deficient for 39 months. At one point, his account was deficient by \$2,733.80, and had been deficient by more than \$1,000 for the preceding eight months.

As to Charge II of the Formal Written Complaint:

2. From February 1981 until April 1984, respondent was late in remitting funds and filing reports to the Department of Audit and Control in 33 of the 39 months during the period. Respondent's reports were late by an average of 23 days and on some occasions were late by more than two months.

As to Charge III of the Formal Written Complaint:

3. In or about March 1982, in connection with certain alleged irregularities in his court account, respondent appeared at a meeting with representatives of the Department of Audit and Control in an intoxicated condition and acted in a rude, angry and uncooperative manner.

As to Charge IV of the Formal Written Complaint:

4. On or about March 28, 1984, respondent appeared in his court in an intoxicated condition. He was unsteady on his feet; his eyes were bloodshot; his breath smelled of alcohol, and his speech was slurred.

5. Respondent's co-judge, Robert Morrow, told respondent that he was in no condition to hold court and should go home.

6. Respondent argued with Judge Morrow and insisted that he was able to hold court. Respondent became belligerent and

asked Judge Morrow what right he had to tell respondent to go home.

7. Respondent eventually left the court. Judge Morrow presided over respondent's court in his place.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2 and 100.3(a)(1) of the Rules Governing Judicial Conduct; Canons 1, 2 and 3A(1) of the Code of Judicial Conduct; Sections 2020 and 2021(1) of the Uniform Justice Court Act; Section 30.7(a) of the Uniform Justice Court Rules; Section 1803 of the Vehicle and Traffic Law, and Section 27(1) of the Town Law. Charges I through IV of the Formal Written Complaint are sustained, and respondent's misconduct is established.

Over a period of three years, respondent made little effort to fulfill the administrative duties of his office. He kept undeposited court funds in his personal possession and consistently failed to turn them over to the proper authority. Such misconduct breaches the public's trust. Matter of Cooley v. State Commission on Judicial Conduct, 53 NY2d 64 (1981); Matter of Petrie v. State Commission on Judicial Conduct, 54 NY2d 807 (1981); Bartlett v. Flynn, 50 AD2d 401 (4th Dept. 1976).

In addition, respondent has undermined the public's confidence in the integrity of the judiciary by appearing in an

intoxicated condition on two occasions to perform his judicial duties. See Matter of Kuehnel v. State Commission on Judicial Conduct, 49 NY2d 465 (1980); Matter of Quinn v. State Commission on Judicial Conduct, 54 NY2d 386 (1981); Matter of Aldrich v. State Commission on Judicial Conduct, 58 NY2d 279 (1983); Matter of Mahar unreported (Com. on Jud. Conduct, June 10, 1982).

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

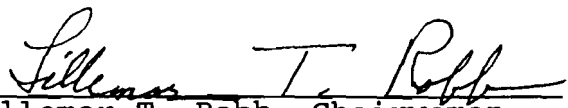
Mrs. Robb, Judge Alexander, Mr. Bower, Mr. Bromberg, Mr. Cleary, Mr. Kovner, Judge Ostrowski, Judge Rubin, Judge Shea and Mr. Sheehy concur.

Mrs. DelBello 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 28, 1984


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