

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

VERNON E. WILLIAMS,

a Justice of the Palatine Town Court,
Montgomery County.

Determination

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

Respondent, a justice of the Town Court of Palatine, Montgomery County, was served with a Formal Written Complaint dated February 26, 1979, alleging nine charges of misconduct relating to the improper assertion of influence in traffic cases. Respondent filed an answer dated March 23, 1979.

By notice of motion dated August 2, 1979, the administrator of the Commission moved for summary determination pursuant to Section 7000.6(c) of the Commission's rules (22 NYCRR 7000.6[c]). Respondent did not oppose the motion. The Commission granted the motion on September 26, 1979, deemed respondent's misconduct established with respect to all nine charges in the Formal Written

Complaint, and set a date for oral argument on the issue of an appropriate sanction. The administrator submitted a memorandum in lieu of oral argument. Respondent waived oral argument and submitted a letter on sanction.

The Commission considered the record in this proceeding on October 26 and November 13, 1979, and upon that record makes the following findings of fact.

1. As to Charge I, on May 7, 1974, respondent sent a letter to Justice Robert Radloff of the Town Court of Lake George, seeking special consideration on behalf of the defendant, the respondent's son, in People v. Vernon G. Williams, a case then pending before Judge Radloff.

2. As to Charge II, on April 22, 1974, respondent reduced a charge of speeding to driving with unsafe tires and imposed an unconditional discharge in People v. Waldo E. Chestnut, Jr., as a result of a written communication he received seeking special consideration on behalf of the defendant.

3. As to Charge III, on April 16, 1974, respondent reduced a charge of speeding to driving with unsafe tires in People v. Frank C. Danna, as a result of a communication he received from Justice John J. Palma of the Town Court of St. Johnsville, seeking special consideration on behalf of the defendant.

4. As to Charge IV, on April 16, 1974, respondent reduced a charge of speeding to driving with unsafe tires in People v. Franklin Kretser, as a result of a communication he received from Justice John J. Palma of the Town Court of St. Johnsville,

seeking special consideration on behalf of the defendant.

5. As to Charge V, on August 16, 1975, respondent reduced a charge of speeding to driving with unsafe tires in People v. Henry H. Wilson, as a result of a communication he received from Justice John J. Palma of the Town Court of St. Johnsville, seeking special consideration on behalf of the defendant.

6. As to Charge VI, on November 19, 1974, respondent reduced a charge of speeding to driving with unsafe tires and imposed an unconditional discharge in People v. Edward R. Paton, as a result of a communication he received seeking special consideration on behalf of the defendant.

7. As to Charge VII, on June 4, 1977, respondent reduced a charge of speeding to driving with unsafe tires in People v. Alexander Klymkow, as a result of a communication he received, seeking special consideration on behalf of the defendant.

8. As to Charge VIII, on April 26, 1977, respondent reduced a charge of speeding to driving with an unsafe tire in People v. Alica Galusha, as a result of a communication he received from Chief of Police Gisoni, or someone at his request, seeking special consideration on behalf of the defendant.

9. As to Charge IX, on May 27, 1974, respondent reduced a charge of speeding to driving with an unsafe tire and imposed an unconditional discharge in People v. Gwendolyn Getman, as a result of a communication he received seeking special consideration on

behalf of the defendant.

Upon the foregoing facts, 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 IX of the Formal Written Complaint 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 an ex parte request of another judge for a favorable disposition for a defendant in a traffic case, and by granting such requests from other judges and persons with influence, respondent violated the Rules enumerated above, which read in part as follows:

Every judge...shall himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. [Section 33.1]

A judge shall respect and comply with the law and shall conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. [Section 33.2(a)]

No judge shall allow his family, social or other relationships to influence his judicial conduct or judgment. [Section 33.2(b)]

No judge...shall convey or permit others to convey the impression that they are in a special position to influence him....
[Section 33.2(c)]

A judge shall be faithful to the law and maintain professional competence in it....
[Section 33.3(a) (1)]

A judge shall...except as authorized by law, neither initiate nor consider ex parte or other communications concerning a pending or impending proceedings....
[Section 33.3(a) (4)]

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

In Matter of Byrne, N.Y.L.J. Apr. 20, 1978, p. 5 (Ct. on the Judiciary, Apr. 18, 1978), the court declared that a "judicial officer who accords or requests special treatment or favoritism to a defendant in his court or another judge's court is guilty of malum in se misconduct constituting cause for discipline." In that case, ticket-fixing was equated with favoritism, which the court stated was "wrong and has always been wrong." Id.

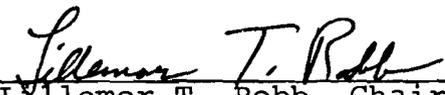
By reason of the foregoing, the Commission determines that the appropriate sanction is censure.

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, sub-

division 7, of the Judiciary Law.


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

Dated: December 19, 1979
Albany, New York

APPEARANCES:

William B. Mackenzie for Respondent

Gerald Stern for the Commission (Judith Siegel-Baum, Of Counsel)