

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

STANLEY C. WOLANIN,

Determination

a Justice of the Town Court of
Whitestown and an Acting Justice
of the Village Court of Whitesboro,
Oneida County.

BEFORE: Mrs. Gene Robb, Chairwoman
Honorable Fritz W. Alexander, II
David Bromberg, Esq.
E. Garrett Cleary, Esq.
Dolores DelBello
Michael M. Kirsch, Esq.
Victor A. Kovner, Esq.
Honorable Felice K. Shea
Carroll L. Wainwright, Jr., Esq.

APPEARANCES:

Gerald Stern (Jack J. Pivar, Of Counsel)
for the Commission

Evans, Severn, Bankert & Peet (By
Anthony T. Panzone) for Respondent

The respondent, Stanley C. Wolanin, a justice of the Town Court of Whitestown and an acting justice of the Village Court of Whitesboro, Oneida County, was served with a Formal Written Complaint dated September 12, 1980, alleging various deficiencies in his court finances and reports. Respondent filed an answer dated October 8, 1980.

By order dated November 3, 1980, Charles T. Major, Esq., was designated referee to hear and report proposed findings of fact

and conclusions of law. The hearing was conducted on February 25 and 26, 1981, and the referee filed his report to the Commission on October 6, 1981.

By motion dated October 26, 1981, the administrator of the Commission moved to confirm in part and to disaffirm in part the referee's report, and for a determination that respondent be removed from office. Respondent opposed the motion by answering affidavit dated December 6, 1981. The parties filed reply papers. Oral argument was waived.

The Commission considered the record of this proceeding on January 20, 1982, and made the following findings of fact.

As to Charge I of the Formal Written Complaint:

1. Between November 1977 and November 1978, in his capacity as justice of the Town Court of Whitestown, respondent received monies from fines and made the deposits in his court account as set forth in Exhibit A of the Formal Written Complaint.
2. Between November 1977 and November 1978, respondent retained possession of and did not safeguard large amounts of court funds and regularly failed to deposit those funds in court accounts within the time required by law and court rules.
3. An audit was performed on respondent's court account in December 1978 by the Department of Audit and Control. The audit was based solely on the entries made in respondent's records.
4. Prior to the audit being performed, respondent produced \$1,039 from his briefcase (\$690 in cash and \$349 in un-deposited checks) and certified that this represented all the court funds that he had on hand.

5. During the audit, respondent was notified that his account was deficient by \$1,608.50. Thereupon, respondent on December 14, 1978, deposited \$1,608.50 in his court account.

6. On December 20, 1978, respondent was notified that he was deficient by another \$157.40 and he deposited this amount in his court on the same day.

As to Charge II of the Formal Written Complaint:

7. Between January 1975 and December 1978, respondent failed to report or remit to the State Comptroller, within the time required by law and court rules, fines totaling \$470 which he received in his capacity as acting justice of the Village Court of Whitesboro, as follows:

- (a) \$160 from parking violation fines in 1975;
- (b) \$190 in fines from cases adjudicated between January 1975 and May 1978; and
- (c) \$120 in fines from cases adjudicated between May 1978 and August 1978.

8. On December 8, 1978, respondent filed a supplemental report with the Department of Audit and Control to account for the \$470 in fines he had previously failed to report.

9. Between March 1975 and December 1978, respondent failed to deposit \$250 he received in his official capacity as acting justice of the Village Court of Whitesboro. Respondent deposited \$250 in his official court account in December 1978.

10. From May 1978 to November 6, 1978, respondent received \$155 in fines in his capacity as acting justice of the Village Court of Whitesboro, as set forth in Exhibit B of the Formal Written Complaint. Respondent deposited \$155 in his official court account on December 8, 1978.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 2020 and 2021(1) of the Uniform Justice Court Act, Section 1803 of the Vehicle and Traffic Law, Section 30.7 of the Uniform Justice Court Rules, Sections 33.1, 33.2(a) and 33.3(b)(1) of the Rules Governing Judicial Conduct and Canons 1, 2A and 3B(1) of the Code of Judicial Conduct. Charges I and II of the Formal Written Complaint are sustained and respondent's misconduct is established.

Over a four-year period, respondent failed to make prompt deposits of court funds in his official bank accounts, and he failed to make timely reports and remittances of those funds to the State Comptroller, as required by the applicable laws and rules cited above. Moreover, respondent failed to safeguard adequately the public money entrusted to his care, and he failed in these proceedings to explain satisfactorily the deficiencies, which at one point exceeded \$1750.

Respondent's busy calendar and the inadequate administrative assistance provided to his court do not excuse the financial and record keeping deficiencies addressed herein. It is a judge's responsibility to meet statutory depositing, reporting, remitting and record keeping requirements.

The voluntary assumption of judicial office carries the obligation to discharge all the duties of that office diligently. We note that respondent's court has an unusually heavy caseload. We believe respondent now fully understands his judicial obligations and is committed to discharging his administrative duties promptly and accurately.

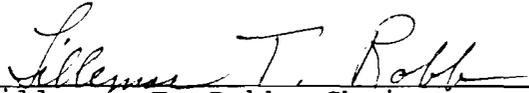
By reason of the foregoing, the Commission determines that respondent should be censured.

All concur, except for Judge Alexander, Mr. Bromberg and Mrs. DelBello, who dissent in a separate opinion and vote that respondent should be removed from office.

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: April 22, 1982


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

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DISSENTING OPINION
BY MR. BROMBERG,
JUDGE ALEXANDER AND
MRS. DELBELLO

We respectfully dissent from the majority determination that respondent be censured. We believe the record of this proceeding requires respondent's removal from office.

Respondent's gross negligence in the handling of court funds and his failure to account for funds, standing alone, even absent any conversion (or apparent conversion) of court funds to his use, would warrant removal. Matter of Petrie v. State Commission on Judicial Conduct, 54 NY2d 807 (1981); Bartlett v. Flynn, 50 AD2d 401 (4th Dept. 1976), app. dismissed, 39 NY2d 942 (1976); Matter of Lew (Commission determination rendered on this date).

By way of explanation for the \$1,608.50 deficiency in his court account, respondent testified that when the deficiency was reported to him by Audit and Control, (i) he was "surprised", (ii) he went home, searched through a desk, found \$1,200 to \$1,500 in bail money in an envelope, (iii) added enough money of his own to bring the amount to \$1,608.50 and (iv) deposited the money in his court account. Respondent claimed that the money found in the desk was from bail which he had forgotten to deposit. However, he was

unable to locate an entry for the bail anywhere in his records or give any details concerning the circumstances under which the money was received. Coincidentally, shortly before he "found" the unreported bail money, respondent withdrew \$1,200 from his personal savings account, but he could not explain the reason for that withdrawal.

It is reasonable, indeed compelling, to conclude that the money purportedly found in the desk came not from bail but from respondent's personal funds. Yet even if it were accepted at face value, respondent's explanation would create more problems than it would solve. The \$1,608.50 deficiency related to fines and bail which respondent had reported but had not deposited or remitted. The money purportedly from the desk was from "bail" he had not reported. Thus, if respondent made up for the deficiency as to reported cases with money from unreported cases, the money from the unreported cases would now be missing. In fact, the \$1,200 in bail which respondent claims to have found in his desk is to this day unreported and outstanding.

Under the circumstances we are not persuaded that respondent's purported "renewed commitment" to the prompt and accurate discharge of his administrative duties either excuses or mitigates the gross misconduct revealed by this record. Nor do we feel such commitment to be reliable when considered in light of the explanations offered by respondent for his conduct herein.

We note that respondent was previously censured for ticket-fixing activities. Matter of Stanley C. Wolanin, NYLJ Aug. 9, 1979, p. 5, col. 1 (Com. on Jud. Conduct, July 10, 1979).

Accordingly, it is our view that the appropriate sanction is removal from office. Under the circumstances, we see no alternative.

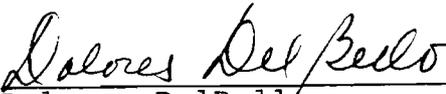
Dated: April 22, 1982



David Bromberg, Esq.



Honorable Fritz W. Alexander, II



Dolores DelBello