

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

THEODORE WORDON,

a Justice of the Town Court of Durham,
Greene County.

Determination

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

The respondent, Theodore Wordon, a justice of the Town Court of Durham, Greene County, was served with a Formal Written Complaint dated February 15, 1979, alleging misconduct in that he sent a letter on court stationery to a debtor on behalf of a creditor. Respondent submitted an answer dated April 5, 1979.

The administrator of the Commission and respondent entered into an agreed statement of facts on November 21, 1979, pursuant to Section 44, subdivision 5, of the Judiciary Law, waiving the hearing provided for by Section 44, subdivision 4, of the Judiciary Law, and stipulating that the Commission make its determination on the pleadings and the facts as agreed upon. The Commission approved the agreed statement on December 13, 1979,

determined that no outstanding issue of fact remained, and scheduled oral argument with respect to determining (i) whether the facts establish misconduct and (ii) an appropriate sanction, if any. The administrator submitted a memorandum in lieu of oral argument. Respondent waived oral argument and did not submit a memorandum.

The Commission considered the record in this proceeding on January 24, 1980, and upon that record makes the following findings of fact.

1. Mr. and Mrs. Thomas McGoldrick are the owners of the Weldon House, a hotel in East Durham, New York.

2. Some time between July 23, 1978, and August 6, 1978, the McGoldricks communicated with respondent concerning a check received by the McGoldricks from Mr. Hugh Hughes, who had been a guest at the Weldon House, as payment for services. A "stop payment" order had been issued on the check because of a dispute over services. The McGoldricks asked respondent to write a letter to Mr. Hughes.

3. On August 6, 1978, respondent sent a letter on his court stationery to Mr. Hughes, stating (i) that Mr. Hughes had stopped payment on a check to the Weldon House, (ii) that Mr. Hughes therefore was subject to a charge of theft of services under New York Penal Law and (iii) that a warrant could be issued for his arrest if the matter was not settled.

4. On August 10, 1978, Mr. Hughes sent a replacement check in the amount of \$317.69, which was received by the Weldon House. The check had been sent by Mr. Hughes prior to his receipt of the letter from respondent.

5. Respondent sent his letter to Mr. Hughes in order to "avoid a court case that could have happened if the problem was reported to the N.Y. state police" (Ex. E appended to the agreed statement of facts).

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. Charge I of the Formal Written Complaint is sustained and respondent's misconduct is established.

The obligation to avoid impropriety and the appearance of impropriety is fundamental to the fair and proper administration of justice. In using his judicial office in this case for what in essence was a debt-collecting purpose, and in threatening the purported debtor with arrest, respondent's conduct not only had the appearance of impropriety but was, in fact, clearly improper. As such, it undermined the integrity of the judiciary. The reasonable inference to be drawn from respondent's letter to Mr. Hughes is that a judge of the court in which a purported debtor could be sued was playing an adversarial role on behalf of a party to the dispute and thus appeared to have pre-judged the merits of the matter.

The Rules Governing Judicial Conduct state that "[n]o judge shall lend the prestige of his office to advance the private interests of others; nor shall any judge convey or permit others to convey the impression that they are in a special position to

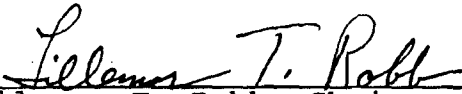
influence him" (Section 33.2[c]). Respondent's actions violated this standard.

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

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, subdivision 7, of the Judiciary Law.


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

Dated: April 1, 1980
Albany, New York

APPEARANCES:

Gerald Stern (Jeanne A. O'Connor, Of Counsel) for the Commission

Theodore Wordon, Respondent *Pro Se*