

State of New York  
Commission on Judicial Conduct

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In the Matter of the Proceeding Pursuant to Section 44,  
subdivision 4, of the Judiciary Law in Relation to

## Determination

STANLEY YUSKO,

a Justice of the Cocksackie Village Court,  
Greene County.

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THE COMMISSION:

Henry T. Berger, Esq., Chair  
Honorable Myriam J. Altman\*  
Helaine M. Barnett, Esq.  
Herbert L. Bellamy, Sr.  
Honorable Carmen Beauchamp Ciparick\*  
E. Garrett Cleary, Esq.  
Dolores Del Bello  
Lawrence S. Goldman, Esq.  
Honorable Eugene W. Salisbury  
John J. Sheehy, Esq.  
Honorable William C. Thompson

APPEARANCES:

Gerald Stern (Cathleen S. Cenci, Of Counsel) for the  
Commission

Dennis B. Schlenker for Respondent

The respondent, Stanley Yusko, a justice of the  
Cocksackie Village Court, Greene County, was served with a Formal  
Written Complaint dated November 24, 1992, alleging, inter alia,  
that he failed to comply with the law in several cases, attempted  
to coerce a defendant to cooperate with the police and made  
improper comments to a defendant. Respondent filed an answer  
dated December 10, 1992.

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\*Judge Altman and Judge Ciparick resigned effective  
December 31, 1993. The vote in this matter was on December 9,  
1993.

By order dated January 8, 1993, the Commission designated Bernard H. Goldstein, Esq., as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on March 16, 1993, and the referee filed his report with the Commission on May 28, 1993.

By motion dated October 28, 1993, the administrator of the Commission moved to disaffirm the referee's report, to adopt alternative findings and conclusions and for a determination that respondent be removed from office. Respondent opposed the motion by cross motion dated November 18, 1993. The administrator filed a reply on November 24, 1993.

On December 9, 1993, the Commission heard oral argument, at which respondent appeared by counsel, and thereafter considered the record of the proceeding and made the following findings of fact.

As to Charge I of the Formal Written Complaint:

1. Respondent is a justice of the Coxsackie Village Court and was during the time herein noted.

2. As set forth below, respondent committed defendants charged with misdemeanors, violations or traffic infractions to jail without setting bail in five cases, contrary to CPL 170.10(7) and 530.20(1):

<u>Defendant</u>	<u>Date</u>	<u>Charge(s)</u>
Gordon Brandow, Jr.	8/22/89	Assault, 3d Degree
Gordon Brandow, Jr.	11/3/89	Criminal Mischief, 4th Degree; Criminal Contempt, 2d Degree
Scott Drinkwater	9/5/89	Disorderly Conduct
Manley Moore	11/30/89	Criminal Mischief, 4th Degree; Harassment
Arnold Suarez	10/4/90	Unlicensed Operator; Failure To Comply With Officer; Failure To Obey Stop Sign; Unreasonable Speed; Failure To Keep Right; Unsafe Tire

3. At the time that he ordered the defendants held without bail, respondent was aware that the law required him to set bail or release defendants charged with misdemeanors, violations or traffic infractions.

As to Charge II of the Formal Written Complaint:

4. On October 4, 1990, Arnold A. Suarez appeared before respondent on charges of Unlicensed Operator, Failure To Comply With Officer, Failure To Obey Stop Sign, Unreasonable Speed, Failure To Keep Right and Unsafe Tire.

5. Respondent said to the defendant, "You're going to jail; no bail," and left the room. He did not advise Mr. Suarez of the charges against him and did not advise him of his rights concerning counsel, as required by CPL 170.10(2) and 170.10(4)(a).

6. Respondent committed Mr. Suarez to jail without setting bail, as required by CPL 170.10(7) and 530.20(1).

7. Mr. Suarez returned to court on October 10, 1990. Respondent set bail at \$500 and recommitted him to jail until October 24, 1990.

8. On October 24, 1990, Mr. Suarez returned to court with an assistant public defender, who persuaded respondent to release the defendant. Mr. Suarez was released after spending 21 days in jail, even though the maximum period that he could properly be held awaiting trial was five days, pursuant to CPL 30.30(2)(d).

9. Respondent was aware at the time that he was required by law to set bail or release defendants charged with traffic infractions and was aware that a defendant charged with traffic infractions could not properly be held awaiting trial for more than five days.

As to Charge III of the Formal Written Complaint:

10. On October 31, 1990, Arnold Suarez's twin brother, Ronald, was charged with Disorderly Conduct based on an allegation that he had thrown an egg at the truck of the mayor of Coxsackie.

11. Ronald Suarez appeared in court about a week later. He was told outside the courtroom by police officers that respondent would dismiss the charge if Mr. Suarez would give information concerning the vandalism of respondent's home, which had also occurred on Halloween.

12. In court, respondent asked the defendant whether he would tell what had happened to respondent's house. Mr. Suarez said that he did not know. Respondent adjourned the case and said that he would give Mr. Suarez time to decide what to do.

13. In June 1991, Mr. Suarez was charged with a burglary. The Disorderly Conduct charge was still pending. Respondent told Mr. Suarez in the police station that he would drop both charges if Mr. Suarez told him what had happened at respondent's house on Halloween. If not, he would make sure that Mr. Suarez went to prison, respondent said. The burglary charge was later dismissed.

14. In July 1991, Mr. Suarez was again charged with Disorderly Conduct and with Resisting Arrest. The first Disorderly Conduct charge was still pending.

15. Mr. Suarez originally appeared before another judge on the new charges and was held on \$100 bail on July 22, 1991. On July 31, 1991, he returned to court before respondent, who increased bail to \$1,000 without making any inquiry of the defendant. Mr. Suarez returned to jail.

16. On September 11, 1991, the defendant returned to court without an attorney. He asked to be released, but respondent returned him to jail in lieu of \$1,000 bail.

17. On October 2, 1991, Mr. Suarez reappeared before respondent without counsel. Respondent told him that, if he pleaded guilty to Disorderly Conduct and Resisting Arrest, respondent would release him. Mr. Suarez pleaded guilty and was released after spending 72 days in jail, 64 of them pursuant to respondent's orders. The maximum time that he could properly be held awaiting trial was 30 days, pursuant to CPL 30.30(2)(b).

As to Charge IV of the Formal Written Complaint:

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

As to Charge V of the Formal Written Complaint:

19. On June 12, 1991, Kevin J. Brockett appeared before respondent on a charge of Criminal Mischief, 3d Degree. Referring to a previous appearance at which Mr. Brockett had been intoxicated, respondent angrily accused the defendant of directing foul remarks at him. Respondent demanded an apology and said that, if he had not been wearing his robes, he would have thrown Mr. Brockett's "ass" through a wall. Mr. Brockett apologized.

20. Because of respondent's remarks, Mr. Brockett felt compelled to accept a plea bargain and pleaded guilty to a misdemeanor.

21. The allegations of Paragraphs 14, 15, 16(a) and 17 of Charge V are not sustained and are, therefore, dismissed.

As to Charge VI of the Formal Written Complaint:

22. 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 the Rules Governing Judicial Conduct, 22 NYCRR 100.1, 100.2(a), 100.3 and 100.3(a)(1), and Canons 1, 2A, 3 and 3A(1) of the Code of Judicial Conduct. Charges I, II and III and subsections (b) and (c) of Paragraph 16 of Charge V are sustained, and respondent's misconduct is established. Charges IV and VI and Paragraphs 14, 15, 16(a) and 17 of Charge V are dismissed.

Respondent has failed to follow the law, exhibited bias and undignified demeanor and abused the powers of his office in order to further his personal interests.

Respondent did not comply with his ethical obligations to follow the law when, in five cases, he sent to jail without setting bail defendants charged with misdemeanors, violations or traffic infractions (see, CPL 170.10[7], 530.20[1]; Matter of LaBelle v State Commission on Judicial Conduct, 79 NY2d 350); when he failed to advise Arnold Suarez of his rights concerning counsel on traffic charges (see, CPL 170.10[4][a]), and when he

held defendants in jail awaiting trial for periods longer than those allowed by law (see, CPL 30.30[2][b] and [d]; Matter of Jutkofsky, 1986 Ann Report of NY Commn on Jud Conduct, at 111).

In the Ronald Suarez case, respondent abandoned his proper role as an independent and impartial judge (see, Matter of Wilkins, 1986 Ann Report of NY Commn on Jud Conduct, at 173, 175) and attempted to coerce the defendant into providing information that respondent suspected he possessed concerning vandalism at respondent's home. In furtherance of this personal cause, respondent kept the defendant in jail in lieu of bail for 64 days awaiting trial, even though the law mandates release after 30 days. Respondent should not have played a role in seeking a "deal" for his own benefit, and it was especially improper to deny the defendant a fundamental right in an attempt to gain his cooperation. (See, Matter of Perry, 53 AD2d 882 [2d Dept]).

Respondent's remarks to Mr. Brockett conveyed the impression of bias and the reasonable impression to the defendant that he must plead guilty.

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

Mr. Berger, Judge Altman, Ms. Barnett, Mr. Bellamy, Judge Ciparick, Mr. Goldman, Judge Salisbury and Judge Thompson concur as to sanction.

Judge Salisbury dissents only as to Paragraph 16(a) of Charge V and votes that that allegation be sustained.




Mrs. Del Bello dissents as to Paragraph 16(a) of Charge V and votes that that allegation be sustained, dissents as to Charge VI and votes that the charge be sustained and dissents as to sanction and votes that respondent be removed from office.

Mr. Cleary and Mr. Sheehy 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: January 27, 1994

  
Henry T. Berger, Esq., Chair  
New York State  
Commission on Judicial Conduct