

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

STANLEY YUSKO,

a Justice of the Cossackie Village
Court, Greene County.

THE COMMISSION:

Henry T. Berger, Esq., Chair
Helaine M. Barnett, Esq.
Honorable Evelyn L. Braun
E. Garrett Cleary, Esq.
Mary Ann Crotty
Lawrence S. Goldman, Esq.
Honorable Juanita Bing Newton
Honorable Eugene W. Salisbury
Barry C. Sample
John J. Sheehy, Esq.
Honorable William C. Thompson

APPEARANCES:

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

Dennis B. Schlenker and Mark D. Sanza for
Respondent

The respondent, Stanley Yusko, a justice of the
Cossackie Village Court, Greene County, was served with a Formal
Written Complaint and an Amended Formal Written Complaint dated
August 4, 1994, alleging that he presided over numerous cases in
1993 and 1994, even though he had failed to complete training
requirements and become certified as a judge. Respondent filed
an answer on August 15, 1994.

By order dated July 27, 1994, the Commission designated H. Wayne Judge, Esq., as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on October 11, 1994, and the referee filed his report with the Commission on November 11, 1994.

By motion dated December 7, 1994, the administrator of the Commission moved to confirm the referee's report and for a determination that respondent be removed from office. Respondent did not file any papers in response thereto. Oral argument was waived.

On January 12, 1995, 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. Respondent has been a justice of the Coxsackie Village Court since July 1, 1989. He is not a lawyer. He has submitted what purports to be a resignation effective December 31, 1994. There is no evidence that he has notified the Chief Administrator of the Courts that he has resigned.

2. On May 2, 1992, respondent attended a session of the advanced training program of the Office of Court Administration but did not pass an examination, as required by the Rules of the Chief Judge, 22 NYCRR 17.2.

3. Respondent did not attend a second advanced training session in 1992, as required by the Rules of the Chief Judge.

4. By letters dated May 18, 1992, and July 1, 1992, the director of Education and Training for the Office of Court Administration, Helen A. Johnson, reminded respondent that he must attend two training sessions in 1992 and pass examinations in order to comply with the law.

5. On February 22, 1993, Deputy Chief Administrative Judge Joseph J. Traficanti, Jr., issued respondent a temporary certification valid until June 30, 1993, but warned that, unless he successfully completed advanced training, he would not be authorized to perform the functions of his office beyond that date. On July 8, 1993, Judge Traficanti extended the temporary certification to July 31, 1993.

6. Respondent did not attend any advanced training program in 1993, and his certification to sit as a judge lapsed, pursuant to law, on July 31, 1993. He has been uncertified since that time.

7. Respondent attended a training session on April 16, 1994, but never attended a second session that year.

As to Charge II of the Formal Written Complaint:

8. Notwithstanding his failure to obtain certification to act as a judge pursuant to law, respondent handled 365 cases between August 1, 1993, and August 31, 1994, and committed defendants to jail in 36 cases during that period, as set forth in Exhibits 34 and 35 received in evidence at the hearing.

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 and 100.2(a), and Canons 1 and 2A of the Code of Judicial Conduct. Charges I and II of the Amended Formal Written Complaint are sustained, and respondent's misconduct is established.

Non-lawyer judges must successfully complete a training course before they may assume the functions of office. (NY Const, art VI, §20[c]; UJCA 105[a]). A basic training course after a judge's initial selection and advanced courses every year thereafter are required. Successful completion means attendance at at least 80 percent of the required sessions and a passing grade on a written examination. (Rules of the Chief Judge, 22 NYCRR 17.2).

Respondent failed to meet these requirements in 1992, resulting in the loss of his certification to perform the duties of his office on August 1, 1993. Notwithstanding that he was barred by law from acting as a judge after that date, he continued to handle hundreds of cases over the next year. There can be no doubt that he knew that he was not permitted to do so; the Office of Court Administration warned him in several letters that he would not be certified to sit as a judge if he did not attend training sessions and pass the required examinations.

A judge who "continued to hear cases and exercise the functions of his office even though he knew he lacked authority to do so" because he was not certified deliberately and repeatedly flouted the law, rendering him "unfit for judicial office," even though he had subsequently achieved certification. (Matter of Lobdell v State Commission on Judicial Conduct, 59 NY2d 338, 342). Similarly, respondent has shown disdain for the law and has prejudiced the proper administration of justice, and, as of the date of the hearing, he had not yet earned certification.

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

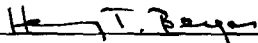
Mr. Berger, Ms. Barnett, Judge Braun, Mr. Cleary, Mr. Goldman, Judge Newton, Judge Salisbury, Mr. Sample, Mr. Sheehy and Judge Thompson concur.

Ms. Crotty 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: March 7, 1995


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