

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

C.J. Zygmont,

a Justice of the Town Court of
Niagara, Niagara County.

Determination

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

APPEARANCES:

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

John R. Minicucci for Respondent

The respondent, Casimer J. Zygmont, a justice of the
Town Court of Niagara, Niagara County, was served with a Formal
Written Complaint dated February 5, 1979, alleging 20 charges
of improper influence in traffic cases. Respondent filed an
answer dated March 13, 1979.

By order dated May 10, 1979, the Commission designated
Paul C. Gouldin, Esq., referee to hear and report proposed findings
of fact and conclusions of law. The hearing was held on February

28, 1980. The referee filed his report to the Commission on March 13, 1980.

By motion dated July 17, 1980, the administrator of the Commission moved to confirm the report of the referee and for a determination that respondent be censured. Respondent did not oppose the motion. Oral argument was not requested. The Commission considered the record of this proceeding on September 17, 1980, and makes the following findings of fact.

1. Charge I: On April 2, 1976, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. Henry M. Sloma as a result of a letter he received from Gloria A. Donovan, Clerk of the Town Court of Lewiston, seeking special consideration on behalf of the defendant, a member of the Lewiston Town Board.

2. Charge II: On December 15, 1972, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of speeding in People v. Louis Amoretti as a result of a letter he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

3. Charge III: On March 10, 1975, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of speeding in People v. Hedwig Book as a result of a letter he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

4. Charge IV: On September 19, 1975, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of speeding in People v. Anthony R. Cappello as a result of a letter he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

5. Charge V: On January 26, 1973, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of speeding in People v. Mary R. Fleming as a result of a letter he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

6. Charge VI: On October 17, 1975, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of moving from a lane unsafely in People v. Rose Gellman as a result of a letter he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

7. Charge VII: On October 31, 1975, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of speeding in People v. Donald W. Helsdon as a result of a letter he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

8. Charge VIII: On November 17, 1972, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of passing a red light in People v. Francis A. Linza as a result of a letter he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

9. Charge IX: On January 31, 1975, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of failing to yield the right of way to an emergency vehicle in People v. Anthony M. Marino as a result of a letter he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

10. Charge X: On January 31, 1975, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of speeding in People v. Anthony M. Marino as a result of a letter he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

11. Charge XI: On August 29, 1975, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of speeding in People v. Philip A. Savage, Jr., as a result of a letter he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

12. Charge XII: On September 8, 1972, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of changing lanes without signaling in People v. Joseph P. Scibilia as a result of a letter he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

13. Charge XIII: On October 1, 1976, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of speeding in People v. Jennie Sieczka as a result of a letter he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

14. Charge XIV: On November 26, 1976, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of speeding in People v. Patrick L. Stanley as a result of a letter he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

15. Charge XV: On May 3, 1974, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of driving left of pavement markings in People v. Mary S. Welch as a result of a letter he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

16. Charge XVI: On January 10, 1975, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of speeding in People v. Donna J. West as a result of a letter he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

17. Charge XVII: On December 8, 1972, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of speeding in People v. Geri-Linda Wheeler as a result of a letter he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

18. Charge XVIII: On July 27, 1973, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of speeding in People v. Kenneth L. Winter as a result of a letter he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

19. Charge XIX: On June 12, 1973, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of speeding in People v. Armand A. Forgione as a result of a letter he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

20. Charge XX: On November 25, 1975, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of speeding in People v. Clifford Van Blargan as a result of a letter he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

Upon the foregoing findings of fact, 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, Canons 1, 2 and 3A of the Code of Judicial Conduct, and Canons 4, 5, 13, 14, 17 and 34 of the Canons of Judicial Ethics. Charges I through XX of the Formal Written Complaint are sustained and respondent's misconduct is established. The referee's report is confirmed insofar as it finds that counsel for the Commission met the burden of proof on each charge. The Commission thereupon concludes that respondent's misconduct constitutes both impropriety and the appearance of impropriety.

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 acceding to ex parte requests for special influence

by another judge and a court clerk, 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 and other states, as well as the Commission, have found that favoritism is serious judicial misconduct and that ticket-fixing is a form of favoritism.

In Matter of Byrne, 47 NY2d (b) (Ct. on the Judiciary 1979), 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. at (c).

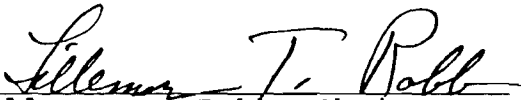
By reason of the foregoing, the Commission determines that the appropriate sanction is censure.

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, subdivision 7, of the Judiciary Law.

Dated: December 2, 1980
Albany, New York


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