

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

CARLTON M. CHASE,

Determination

a Justice of the Sullivan Town Court and Chittenango
Village Court, Madison County.

THE COMMISSION:

Henry T. Berger, Esq., Chair
Stephen R. Coffey, Esq.
Mary Ann Crotty
Lawrence S. Goldman, Esq.
Honorable Daniel F. Luciano
Honorable Frederick M. Marshall
Honorable Juanita Bing Newton
Alan J. Pope, Esq.
Honorable Eugene W. Salisbury
Honorable William C. Thompson

APPEARANCES:

Gerald Stern (John J. Postel, Of Counsel) for the Commission

Bond, Schoeneck & King, L.L.P. (By Francis E. Maloney, Jr.) for Respondent

The respondent, Carlton M. Chase, a justice of the Sullivan Town Court and the Chittenango Village Court, Madison County, was served with a Formal Written Complaint dated June 27, 1995, alleging that he improperly intervened on behalf of his daughter in three separate incidents. Respondent filed an answer dated July 19, 1995.

By order dated August 3, 1995, the Commission designated Travis H.D. Lewin, Esq., as referee to hear and report proposed findings of fact and conclusions of law. A

hearing was held on February 27 and 28, 1996, and the referee filed his report with the Commission on July 18, 1996.

By motion dated August 16, 1996, the administrator of the Commission moved to confirm the referee's report and for a finding that respondent's misconduct had been established. Respondent opposed the motion on September 10, 1996. The administrator filed a reply on September 11, 1996. Oral argument was waived.

By motion dated February 6, 1997, respondent moved to re-open the hearing. The administrator opposed the motion by affirmation dated February 13, 1997. By determination and order dated April 2, 1997, the Commission denied the motion. Also by determination and order dated April 2, 1997, the Commission made the findings of fact enumerated below. Both parties filed memoranda as to sanction. On May 22, 1997, the Commission heard oral argument, at which respondent and his counsel appeared, and thereafter considered the record of the proceeding and made the following determination.

As to Charge I of the Formal Written Complaint:

1. Respondent has been a justice of the Chittenango Village Court since 1973 and a justice of the Sullivan Town Court since 1981.
2. Donna Watson is respondent's daughter. She also serves as his court clerk.
3. On October 8, 1993, respondent was advised that Ms. Watson had been arrested for Driving While Intoxicated and was being held at a Madison County Sheriff's Department substation in Morrisville.

4. Respondent drove to the substation and arrived in the parking lot as his daughter was about to be transported in a patrol car for arraignment.

5. Sheriff's Deputies Karl R. Taylor and Joseph M. Gaiser, Sr., recognized respondent and knew that he was a judge. Rather than proceed with the arraignment, Deputy Taylor decided to release Ms. Watson to respondent.

6. Respondent appeared angry and upset. He loudly said to Deputy Taylor, "Wouldn't you have called me? You have my number."

7. Respondent also said, "Are you afraid of losing your job? With all my problems, you've caused me another one."

8. Respondent told Deputy Gaiser that Ms. Watson did not need to be arrested and said that he "didn't need this shit right now."

As to Charge II of the Formal Written Complaint:

9. Carla Watson is Donna Watson's daughter and respondent's granddaughter. On May 13, 1994, Carla Watson was 15 years old.

10. On May 13, 1994, respondent was advised by Donna Watson that his granddaughter had left home after a disagreement with her mother. He later learned that Carla Watson was at the Chittenango Police Station.

11. Respondent went to the police station, but his granddaughter had been removed to the home of friends. Respondent asked Officer Jerome M. Duda where Carla

Watson was. Officer Duda did not know respondent and refused to reveal her whereabouts. Respondent then said that he was Carla Watson's grandfather and the village justice. Officer Duda then revealed that she had been sent to stay with a family named Ormsby.

12. Respondent was agitated and spoke loudly. He stood within two feet of Officer Duda and, raising his hand, respondent yelled, "Where the fuck do you live?" He also said, "How long have you lived in this fuckin' village," and, "Where do you fuckin' people get off doing what you did?"

13. Respondent said to Officer Duda in the presence of another police officer, "I'll have your fuckin' job."

14. Upon learning where Carla Watson was staying, respondent said, "The fuckin' Ormsbys; I can't believe you people."

As to Charge III of the Formal Written Complaint:

15. On June 16, 1994, respondent was advised by Donna Watson that William Berry had come to respondent's home, had attempted to remove a wheelbarrow and had verbally abused Ms. Watson and her children. Ms. Watson had an Order of Protection against Mr. Berry which had been signed by respondent's fellow judge in the Sullivan Town Court, William Danehy.

16. Respondent and a friend drove around Chittenango looking for Judge Danehy until they spotted him pumping gasoline at a station on a public street.

17. Respondent approached Judge Danehy and stood above him on an island about a foot away.

18. Respondent asked Judge Danehy about the Order of Protection. Judge Danehy responded that he had found no violation. Respondent loudly berated Judge Danehy, exclaiming, "If you won't protect my daughter, who will?"

19. Respondent said that Judge Danehy was "no good" and was not worthy of being a judge.

20. Respondent was red in the face and gestured with his hands at Judge Danehy.

21. Respondent's friend and at least one other patron of the gas station observed the confrontation.

22. Judge Danehy was frightened and appeared shaken after the confrontation.

23. The Order of Protection involved a matter pending before Judge Danehy on June 16, 1994.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated the Rules Governing Judicial Conduct then in effect, 22 NYCRR 100.1, 100.2(a), 100.2(c) and 100.3(a)(4)*, and Canons 1, 2A, 2B and 3A(4) of the Code of Judicial Conduct. Charges I, II and III of the Formal Written Complaint are sustained insofar as they are consistent with the findings herein, and respondent's misconduct is established.

Using profane, threatening and menacing language and gestures, respondent intervened with authorities on behalf of family members on three occasions during the course

* Now Section 100.3(B)(6)

of eight months. His conduct could only have been meant to intimidate the police and another judge concerning a case then pending. Respondent was evidently trying to assert his authority in the community by making it known that other officials could not deal with his family without answering to him. Such conduct deviates from the high standards expected of every judge.

Even absent a bald request for favoritism, it is wrong for a judge to intervene in official matters when he or she is known as a judge. (See, Matter of Edwards v State Commission on Judicial Conduct, 67 NY2d 153, 155; Matter of DeLuca, 1985 Ann Report of NY Commn on Jud Conduct, at 119).

As the Court of Appeals observed:

Wherever he travels, a Judge carries the mantle of his esteemed office with him, and, consequently, he must always be sensitive to the fact that members of the public, including some of his friends, will regard his words and actions with heightened deference simply because he is a Judge.

(Matter of Steinberg v State Commission on Judicial Conduct, 51 NY2d 74, at 81).

Respondent's conduct in this matter makes it clear that two prior sanctions for using his judicial office to seek favors in cases before other courts (Matter of Chase, 1 Commission Determinations 123) and for his rude, loud and angry statements and giving the

appearance of bias (Matter of Chase, 1992 Ann Report of NY Commn on Jud Conduct, at 41) have not sensitized him to the high ethical standards placed upon him as a judge. Prior discipline for similar misconduct “is an aggravating factor militating in favor of the strictest sanction.” (Matter of Rater v State Commission on Judicial Conduct, 69 NY2d 208, at 209).

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

Mr. Berger, Mr. Coffey, Mr. Goldman, Judge Luciano, Judge Marshall, Judge Newton, Mr. Pope and Judge Salisbury concur.

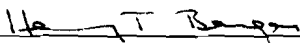
Ms. Crotty and Judge Thompson were not present.

Mr. Pope did not participate in the finding of misconduct.

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: June 10, 1997


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