

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

RICHARD F. OLCOTT,

**DETERMINATION**

a Justice of the Elizabethtown Town Court,  
Essex County.

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THE COMMISSION:

Joseph W. Belluck, Esq., Chair  
Taa Grays, Esq., Vice Chair  
Honorable Fernando M. Camacho  
Honorable John A. Falk  
Honorable Robert J. Miller  
Marvin Ray Raskin, Esq.  
Ronald J. Rosenberg, Esq.  
Graham B. Seiter, Esq.  
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Cathleen S. Cenci and S. Peter Pedrotty, Of  
Counsel) for the Commission

Russell, McCormick & Russell (Andrew J. Russell) for Respondent

Respondent, Richard F. Olcott, a Justice of the Elizabethtown Town Court,

Essex County, was served with a Formal Written Complaint (“Complaint”) dated January 9, 2023 containing two charges. Charge I of the Complaint alleged that in January 2022, respondent dismissed a traffic ticket issued to his son notwithstanding that the matter was assigned to respondent’s co-judge and that he was prohibited by Section 14 of the Judiciary Law from taking any part in proceedings in which his son was a party. Charge II of the Complaint alleged that from January 1, 2020, when he assumed judicial office, through March 2022, respondent did not mechanically record all Vehicle and Traffic proceedings, notwithstanding the requirements of Section 30.1 of the Rules of the Chief Judge (22 NYCRR §30.1) and Administrative Order 245/08. Respondent filed an Answer dated February 2, 2023.

On April 10, 2023, the Administrator, respondent’s counsel and respondent entered into an Agreed Statement of Facts (“Agreed Statement”) pursuant to Section 44, subdivision 5, of the Judiciary Law, stipulating that the Commission make its determination based upon the agreed facts, recommending that respondent be censured and waiving further submissions and oral argument.

On April 20, 2023, the Commission accepted the Agreed Statement and made the following determination:

1. Respondent has been a Justice of the Elizabethtown Town Court, Essex County since January 1, 2020. Respondent's term expires December 31, 2023. He is not an attorney.

As to Charge I of the Formal Written Complaint

2. At all times relevant to the matters herein, Peter Deming served as respondent's co-judge in the Elizabethtown Town Court.

3. Section 14 of the Judiciary Law states in part as follows:

A judge shall not sit as such in, or take any part in the decision of, an action, claim, matter, motion or proceeding to which he is a party, or in which he has been attorney or counsel, or in which he is interested, or if he is related by consanguinity or affinity to any party to the controversy within the sixth degree. The degree shall be ascertained by ascending from the judge to the common ancestor, descending to the party, counting a degree for each person in both lines, including the judge and party, and excluding the common ancestor.

4. [REDACTED] is respondent's adult son and is within the first degree of relationship to him, as measured pursuant to Section 14 of the Judiciary Law.

5. On January 10, 2022, respondent's son received a traffic ticket for operating an Unregistered Motor Vehicle. The ticket was returnable on February 10, 2022, in the Elizabethtown Town Court.

6. Respondent's son's ticket was returnable on February 10, 2022, before respondent's co-judge, Peter Deming, who was scheduled to preside that day. Respondent's next scheduled court date was January 20, 2022.

7. On January 12, 2022, *i.e.* two days after receiving the ticket, respondent's son registered his vehicle with the New York State Department of Motor Vehicles.

8. Between January 10, 2022, and January 20, 2022, respondent and his son communicated about [REDACTED]'s ticket and how to handle it. Respondent's son gave his Uniform Traffic Ticket to respondent.

9. On January 20, 2022, *i.e.* respondent's next scheduled court date, respondent asked Essex County First Assistant District Attorney Michael Langey about resolving respondent's son's ticket. Respondent's son was not present. Respondent did not disclose his relationship with [REDACTED] to Mr. Langey, who was unaware that the two were related. Respondent told Mr. Langey that [REDACTED] had registered his vehicle. Although respondent did not document this claim, Mr. Langey relied upon his representation, which was accurate, that the vehicle had since been properly registered.

10. On January 20, 2022, Mr. Langey filled out a Memorandum of Plea Agreement, in which he wrote that respondent's son's traffic ticket was dismissed "in furtherance of justice CPL 170.40" on the grounds of "Registration

now valid.” Mr. Langey and respondent signed the Memorandum of Plea Agreement, and respondent dismissed his son’s ticket. At the time of the dismissal, respondent’s son had not signed the Memorandum of Plea Agreement. After the fact, respondent called his son, told him that his ticket had been dismissed, and asked him to come to the court to sign the Memorandum. Respondent’s son did so.

11. Respondent failed to mechanically record the [REDACTED] proceeding, as required by Section 30.1 of the Rules of the Chief Judge (22 NYCRR §30.1) and Administrative Order 245/08.

As to Charge II of the Formal Written Complaint

12. From January 1, 2020, when he assumed judicial office, through March 2022, respondent did not mechanically record any Vehicle and Traffic proceedings, notwithstanding the requirements of Section 30.1 of the Rules of the Chief Judge (22 NYCRR §30.1) and Administrative Order 245/08, which went into effect on June 16, 2008, and provides that every town and village justice must mechanically record all proceedings in the court.

Additional Factors

13. Respondent has been contrite and cooperative with the Commission throughout this inquiry.

14. Respondent believed at the time that because his son had acted promptly to register his vehicle after being ticketed, disposition of the matter was ministerial and consistent with the way similar tickets were disposed when motorists promptly registered their vehicles. However, he now recognizes that he should not have handled his son's traffic ticket under any circumstances, notwithstanding the prosecutor's consent to its dismissal, because it created an appearance of favoritism and undermined public confidence in the integrity and independence of the judiciary as a whole. Respondent also recognizes that it was wrong for him not to advise ADA Langey that the recipient of the ticket was his son.

15. Respondent avers, and the Administrator has no evidence to the contrary, that from January 1, 2020, through March 2022, it was his general practice to mechanically record criminal and small claims proceedings, and that he mistakenly believed it was not required that he record Vehicle and Traffic Law matters. Respondent avers that, since April 2022, he has endeavored to mechanically record all proceedings, including Vehicle and Traffic matters.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.2(B), 100.2(C), 100.3(B)(1), 100.3(B)(6), 100.3(C)(1) and 100.3(E)(1)(d)(i) of the Rules Governing Judicial Conduct ("Rules") and should be disciplined for cause,

pursuant to Article VI, Section 22, subdivision a, of the New York State Constitution and Section 44, subdivision 1, of the Judiciary Law. Charges I and II of the Formal Written Complaint are sustained insofar as they are consistent with the above findings and conclusions and respondent's misconduct is established.

Respondent acted in a manner that was inconsistent with his obligations to maintain high standards of conduct and to "act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

(Rules, §§100.1, 100.2(A)) He admittedly allowed a family relationship to influence his judicial actions and improperly presided over a matter involving his son in violation of Sections 100.2(B) and 100.3(E)(1)(d)(i) of the Rules.

Respondent, who is not an attorney, also lent the prestige of his judicial office for the benefit of his son when he spoke with the prosecutor about resolving his son's ticket. Respondent's son's ticket was returnable before respondent's co-judge.

Nevertheless, respondent improperly dismissed the ticket prior to the return date pursuant to the plea agreement the prosecutor prepared after speaking with respondent about his son's matter.

Presiding over a matter involving a relative within the sixth degree of relation to the judge is specifically prohibited under Section 100.3(E)(1)(d)(i) of the Rules and Section 14 of the Judiciary Law. "Few principles are more fundamental to the integrity, fair-mindedness and impartiality of the judiciary than

the requirement that judges not preside over or otherwise intervene in judicial matters involving relatives.” *Matter of LaBombard*, 11 N.Y.3d 294, 297 (2008); *Matter of Wait*, 67 N.Y.2d 15, 18 (1986) (“The handling by a judge of a case to which a family member is a party creates an appearance of impropriety as well as a very obvious potential for abuse, and threatens to undermine the public’s confidence in the impartiality of the judiciary.”); *Matter of Menard*, 2011 NYSCJC Annual Report 126, 131 (judge improperly presided over traffic tickets issued to his nephews even where “there is no indication of favoritism in the dispositions accorded.”) By ignoring the specific prohibitions in the Judiciary Law and the Rules and dismissing his son’s traffic ticket, respondent undermined public confidence in the integrity and impartiality of the judiciary.

Section 100.2(C) of the Rules provides, “[a] judge shall not lend the prestige of judicial office to advance the private interests of the judge or others . . . .” In circumstances where the judge’s judicial status was known, judges have been disciplined for violating this ethical rule even when they did not specifically invoke their office. *Matter of Lonschein*, 50 N.Y.2d 569, 573 (1980) (“Judges must assiduously avoid those contacts which might create even the appearance of impropriety.”) When respondent asked the prosecutor about resolving respondent’s son’s traffic ticket, he violated the Rules and brought reproach upon the judiciary, particularly since respondent did not disclose that the matter involved



his son.

Furthermore, respondent admittedly failed to maintain competence in judicial administration when he failed to comply with Section 30.1 of the Rules of the Chief Judge and Administrative Order 245/08 by not mechanically recording Vehicle and Traffic proceedings, including the proceeding regarding his son, from the beginning of his term in office until March 2022. *Matter of Skinner*, 2019 NYSCJC Annual Report 239, 246 (“The absence of a recording in any proceeding is significant since it not only makes it more difficult to determine what transpired at the proceeding but also indicates lack of compliance with an administrative order, which is inconsistent with a judge's ethical responsibilities.”).

In accepting the jointly recommended sanction of censure, we have taken into consideration that respondent has acknowledged that his conduct was improper and warrants public discipline. We trust that respondent has learned from this experience and in the future will act in strict accordance with his obligation to abide by all the Rules Governing Judicial Conduct.

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

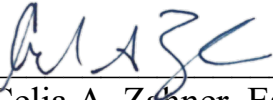
Mr. Belluck, Ms. Grays, Judge Camacho, Judge Falk, Judge Miller, Mr. Raskin, Mr. Rosenberg and Mr. Seiter concur.

Ms. Yeboah was not present.

CERTIFICATION

It is certified that the foregoing is the determination of the State Commission  
on Judicial Conduct.

Dated: May 16, 2023

  
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Celia A. Zahner, Esq.  
Clerk of the Commission  
New York State  
Commission on Judicial Conduct