

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

DAVID W. RANKE,

**Determination**

a Justice of the Dayton Town Court and  
an Acting Justice of the South Dayton  
Village Court, Cattaraugus 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 for the Commission  
Honorable David W. Ranke, pro se

The respondent, David W. Ranke, a justice of the Dayton  
Town Court and the South Dayton Village Court, Cattaraugus  
County, was served with a Formal Written Complaint dated  
March 11, 1991, alleging that he failed to remit court funds  
promptly to the state comptroller. Respondent answered the  
Formal Written Complaint by letter dated April 20, 1991.

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On June 24, 1991, the administrator of the Commission and respondent entered into an agreed statement of facts pursuant to Judiciary Law §44(5), waiving the hearing provided in Judiciary Law §44(4), stipulating that the Commission make its determination based on the pleadings and the agreed upon facts, jointly recommending that respondent be admonished and waiving further submissions and oral argument.

On June 27, 1991, the Commission approved the agreed statement and made the following determination.

1. Respondent has been a justice of the Dayton Town Court since 1979. He has been acting justice of the South Dayton Village Court since 1982.

2. From January 1985 to December 1988, as set forth in Schedule A appended hereto, respondent repeatedly failed to remit court funds to the state comptroller by the tenth day of the month following collection, as required by UJCA 2020 and 2021(1), Vehicle and Traffic Law §1803 and Town Law §27(1). All of respondent's reports for April through October 1987 were more than a year late; one was 577 days late. At all times between January 1985 and December 1988, respondent was aware that he was required to remit court funds to the comptroller by the tenth day of the month following collection.

3. On August 8, 1985, August 27, 1985, October 10, 1985, October 29, 1985, July 1, 1986, and August 4, 1986, the comptroller wrote to respondent, advising him that he had not

filed reports or remitted money. On May 14, 1985, January 30, 1987, and October 22, 1987, the comptroller asked the Dayton town supervisor to suspend respondent's salary pursuant to law because of his failure to file reports and remit funds.

4. On August 24, 1989, the Commission cautioned respondent to remit funds to the comptroller by the tenth day of the month following collection.

5. From June 1989 to August 1990, as set forth in Schedule B appended hereto, respondent repeatedly failed to remit court funds to the comptroller as provided by law. During this period, respondent's reports to the comptroller were from six to 88 days late.

6. On August 15, 1989, September 15, 1989, October 13, 1989, February 15, 1990, March 15, 1990, and April 13, 1990, the comptroller wrote to respondent, advising him that he had not filed reports or remitted money.

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(b)(1), and Canons 1, 2A, 3 and 3B(1) of the Code of Judicial Conduct. The charge in the Formal Written Complaint is sustained insofar as it is consistent with the findings herein, and respondent's misconduct is established.

Respondent failed to comply with the law by keeping court funds in his official account rather than promptly turning them over to the state comptroller. For much of 1987, respondent collected fines and other court fees and held them in the bank for more than a year.

This neglect of his administrative duties persisted, even though the comptroller repeatedly took steps to collect the money and the Commission cautioned respondent to comply with the law. The failure to heed a Commission warning exacerbates the misconduct. (Matter of Rater v. State Commission on Judicial Conduct, 69 NY2d 208, 209; Matter of Lenney v. State Commission on Judicial Conduct, 71 NY2d 456, 458-59).

The mishandling of public funds by a judge is misconduct, even when not done for personal profit. (Bartlett v. Flynn, 50 AD2d 401, 404 [4th Dept]). Although respondent failed to promptly remit court funds to the comptroller, he did deposit funds promptly in an official account. As a result, he was able at all times to account for the money that he collected. (See, Matter of Goebel, 1990 Ann Report of NY Commn on Jud Conduct, at 101).

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

Mr. Berger, Judge Altman, Mr. Bellamy, Judge Ciparick, Mr. Cleary, Mr. Goldman, Judge Salisbury, Mr. Sheehy and Judge Thompson concur.

Ms. Barnett and Mrs. Del Bello 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: September 30, 1991

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

Schedule A

<u>Month and Year</u>	<u>Date Received</u>	<u>Days Late</u>
1/85	02/25/85	15
2/85	05/22/85	73
3/85	06/12/85	63
4/85	06/14/85	35
5/85	07/02/85	22
6/85	09/13/85	65
7/85	09/11/85	32
8/85	11/25/85	76
9/85	11/13/85	34
10/85	11/14/85	4
11/85	01/08/86	29
12/85	no date available	---
1/86	03/19/86	37
2/86	05/07/86	58
3/86	05/06/86	26
4/86	05/06/86	0
5/86	08/05/86	56
6/86	08/05/86	26
7/86	08/29/86	19
8/86	03/30/87	201
9/86	02/05/87	118
10/86	02/09/87	91
11/86	02/06/87	58
12/86	02/06/87	27
1/87	03/30/87	48
2/87	03/30/87	20
3/87	01/19/88	284
4/87	12/07/88	577
5/87	11/28/88	537
6/87	12/05/88	514
7/87	no report filed	---
8/87	12/07/88	454
9/87	11/28/88	415
10/87	12/07/88	393
11/87	no report filed	---
12/87	11/28/88	323
1/88	12/15/88	309
2/88	12/14/88	279
3/88	12/23/88	257
4/88	12/23/88	227
5/88	01/09/89	213
6/88	12/19/88	162
7/88	12/19/88	131
8/88	12/19/88	100
9/88	12/23/88	74
10/88	12/19/88	39
11/88	12/19/88	9
12/88	01/11/89	1

Schedule B

<u>Month and Year</u>	<u>Date Received</u>	<u>Days Late</u>
6/89	10/06/89	88
7/89	10/11/89	62
8/89	10/26/89	46
9/89	10/26/89	16
10/89	11/27/89	17
11/89	2/23/90	75
12/89	2/20/90	41
1/90	4/13/90	62
2/90	4/13/90	34
3/90	4/16/90	6
4/90	5/25/90	15
5/90	7/09/90	29
6/90	7/17/90	7
7/90	10/12/90	63
8/90	10/12/90	32