

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

JOHN W. RIORDAN,

a Justice of the Gouverneur Town Court,
St. Lawrence County.

THE COMMISSION:

Honorable Thomas A. Klonick, Chair
Honorable Terry Jane Ruderman, Vice Chair
Honorable Rolando T. Acosta
Joseph W. Belluck, Esq.
Joel Cohen, Esq.
Richard D. Emery, Esq.
Paul B. Harding, Esq.
Nina M. Moore
Honorable Karen K. Peters
Richard A. Stoloff, Esq.

APPEARANCES:

Robert H. Tembeckjian (S. Peter Pedrotty, Of Counsel) for the Commission
Frederick E. Paddock for the Respondent

The respondent, John W. Riordan, a Justice of the Gouverneur Town Court,
St. Lawrence County, was served with a Formal Written Complaint dated July 5, 2011,
containing one charge. The Formal Written Complaint alleged that respondent regularly

held court in his chambers for approximately seven years. Respondent filed a verified answer dated July 27, 2011.

On September 19, 2011, the Administrator, respondent's counsel and respondent entered into an Agreed Statement of Facts pursuant to Judiciary Law §44(5), stipulating that the Commission make its determination based upon the agreed facts, recommending that respondent be admonished and waiving further submissions and oral argument.

On November 3, 2011, the Commission accepted the Agreed Statement and made the following determination.

1. Respondent has been a Justice of the Gouverneur Town Court, St. Lawrence County, since January 1996. Respondent's current term expires December 31, 2013. He is not an attorney.
2. From fall 2003 until July 2010, as a matter of practice, respondent regularly held court proceedings in chambers as opposed to the courtroom.
3. Respondent held court proceedings in chambers for his personal convenience.
4. The courtroom, the court clerk's office and respondent's chambers (which is an office) are located on the second floor of a building complex in the Village of Gouverneur.
5. The courtroom is well-equipped and spacious. It can accommodate numerous members of the public who wish to observe court proceedings.

6. In contrast, respondent's office, which he uses as chambers, is much smaller. It is furnished with, *inter alia*, filing cabinets, respondent's desk and only a few chairs. When respondent, the parties and their attorneys were in chambers for court proceedings, no space remained for members of the public to observe the proceedings.

7. A doorway connects chambers to the rear of the courtroom. Although respondent usually left this door open when he conducted proceedings in chambers, it was unlikely that anyone sitting in the courtroom could have heard the events and discussions occurring in chambers.

8. On several occasions between fall 2003 and July 2010, Gouverneur Deputy Court Clerk Irma Ashley, Gouverneur Court Clerk Lauri Andrews and St. Lawrence County Conflict Defender Amy Dona each expressed to respondent their view that he should hold court in the courtroom.

9. In or about July 2009, respondent and the court clerks attended a training session sponsored by the Office of Court Administration. One of the instructors discussed the need to hold court proceedings in the courtroom. Shortly thereafter, respondent acknowledged to the court clerks that he should hold court in the courtroom, but nevertheless continued to hold court in his chambers until in or about July 2010.

10. In July 2010, after a Commission investigator visited respondent's court to observe where proceedings were being conducted, examine records and interview witnesses, respondent began to hold court proceedings in the courtroom.

11. Respondent acknowledges that Section 4 of the Judiciary Law

requires that “the sittings of every court within the state shall be public, and every citizen may freely attend the same.”

12. Respondent agrees that he will regularly conduct future proceedings in the courtroom, in accordance with the Judiciary Law.

Mitigating Factors

13. Since July 2010, respondent has conducted and continues to conduct court proceedings in the courtroom.

Prior Cautions

14. Respondent was cautioned in 2002 and 2005 for conduct unrelated to the subject matter herein.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A) and 100.3(B)(1) of the Rules Governing Judicial Conduct (“Rules”) and should be disciplined for cause, pursuant to Article 6, Section 22, subdivision a, of the New York State Constitution and Section 44, subdivision 1, of the Judiciary Law. Charge I of the Formal Written Complaint is sustained, and respondent’s misconduct is established.

With limited exceptions not applicable here, Section 4 of the Judiciary Law requires that the “sittings of every court within this state shall be public, and every citizen may freely attend the same.” Section 214.2(a) of the Uniform Civil Rules for the Justice Courts provides:

It is the policy that the public is best served by justice courts which function in facilities provided by the municipality When facilities are provided by the municipality, the sessions of the court shall be held therein.

Notwithstanding the clear language of these mandates, which require that court proceedings be held at a location that is readily accessible by members of the public, respondent, for reasons of personal convenience, regularly held court proceedings in his chambers, rather than in the adjoining courtroom, for a period of approximately seven years. The judge's chambers contained no space for members of the public to observe the proceedings, and although the connecting door between the judge's chambers and the courtroom was "usually" kept open, it has been stipulated that anyone sitting in the courtroom was likely unable to hear the events and discussions occurring in chambers. The totality of these circumstances establishes that by conducting court proceedings in his chambers, respondent effectively excluded members of the public and thereby violated the statutory mandate (Jud. Law §4) and his ethical obligation to be faithful to the law (Rules, §100.3[B][1]). At the very least, the public nature of court proceedings was severely compromised, which impairs public confidence in the fair and proper administration of justice.

Compounding his misconduct, respondent inexplicably continued to hold court in his chambers even after: (i) his court clerks and an attorney advised him on several occasions that court proceedings should take place in the courtroom; (ii) he attended an OCA training session in 2009 where the issue was addressed; and (iii) he acknowledged to his court clerks that court proceedings should take place in the

courtroom. Not until a Commission investigator visited respondent's court in July 2010 did he discontinue his improper practice and begin to conduct court proceedings in the courtroom.

The Commission notes that respondent has agreed that in the future he will hold court proceedings in the courtroom, as required by law. The Commission also notes that respondent was cautioned in 2002 and 2005 for conduct unrelated to the misconduct described herein.

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

Judge Klonick, Judge Ruderman, Judge Acosta, Mr. Cohen, Mr. Emery, Mr. Harding, Ms. Moore, Judge Peters and Mr. Stoloff concur.

Mr. Belluck was not present.

CERTIFICATION

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

Dated: November 9, 2011

A handwritten signature in black ink, reading "Jean M. Savanyu", is written over a horizontal line.

Jean M. Savanyu, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct