

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

I. RONALD SIEBERT,

a Justice of the Wells Town Court,
Hamilton County.

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 (Cathleen S. Cenci, Of Counsel) for the
Commission

Caputo, Aulisi and Skoda (By Richard T. Aulisi; Robert
M. Cohen, Of Counsel) for Respondent

The respondent, I. Ronald Siebert, a justice of the
Wells Town Court, Hamilton County, was served with a Formal
Written Complaint dated January 2, 1992, alleging that he drove
while intoxicated and caused a three-car accident. Respondent
answered the Formal Written Complaint by letter dated January 17,
1992.

By order dated February 7, 1992, the Commission designated John T. O'Friel, Esq., as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on April 28, 1992, and the referee filed his report with the Commission on September 28, 1992.

By motion dated October 2, 1992, the administrator of the Commission moved to confirm the referee's report and for a determination that respondent be censured. Respondent opposed the motion by cross motion dated November 23, 1992. The administrator filed a reply on December 2, 1992.

On December 18, 1992, the Commission heard oral argument, at which respondent appeared by counsel, and thereafter considered the record of the proceeding and made the following findings of fact.

1. Respondent is a justice of the Wells Town Court and was during the time herein noted.

2. On October 4, 1990, at about 7:25 P.M., respondent drove his pick-up truck while in an intoxicated condition at Route 28 and Golf Course Road in the Town of Warrensburg, Warren County.

3. Respondent's truck left Route 28 and struck a station wagon driven by Susan Boggia. Ms. Boggia's car in turn struck a truck driven by Patricia Ryan. Ms. Boggia and Ms. Ryan were stopped at a stop sign on Golf Course Road, waiting for respondent's vehicle to pass before making a left turn onto Route 28.

4. Respondent, Ms. Ryan, Ms. Boggia and a passenger, Ms. Boggia's nine-year-old daughter, were injured in the crash. Ms. Boggia was hospitalized for two days. The vehicles of Ms. Boggia and Ms. Ryan were extensively damaged.

5. After the accident, respondent told Deputy Sheriff Victor J. Grant that he had "had a few" at a bar. The deputy saw three or four empty beer cans on the floor of respondent's truck.

6. After administering a breath test, Deputy Grant told respondent that he was being charged with Driving While Intoxicated. Respondent replied, "I thought so."

7. Respondent was also charged with Driving With Blood Alcohol Content of More Than .10 Percent and No Seat Belt.

8. Respondent was cooperative during his arrest and did not mention to Deputy Grant that he was a judge in another county.

9. Respondent was given a blood test at 9:04 P.M. at Glens Falls Hospital. His blood showed an alcohol content of .19 percent. Driving with a blood alcohol content of more than .10 percent is a misdemeanor, pursuant to Vehicle and Traffic Law §§1192(2), 1193.

10. On July 29, 1991, respondent pleaded guilty in the Warrensburg Town Court to Driving While Ability Impaired in satisfaction of all of the charges against him.

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 and 100.2(a), and Canons 1 and 2A of the Code of Judicial Conduct. The charge in the Formal Written Complaint is sustained, and respondent's misconduct is established.

A judge who drives while his ability to do so is impaired by alcohol consumption violates the law and endangers public welfare. (Matter of Innes, 1985 Ann Report of NY Commn on Jud Conduct, at 152, 154). Respondent drove while highly intoxicated and caused an accident in which he and others were injured and which damaged the property of innocent bystanders.

In the past, the Commission has, in some instances, dismissed complaints and privately cautioned judges who acknowledged driving while under the influence of alcohol. In one such case, the judge admitted having three or four drinks before driving. In another, the judge had eight drinks in the course of an evening. In none of these cases was there any finding of assertion of influence or abuse of the police. However, the Commission has always considered mitigating and/or aggravating circumstances in reaching its determinations. In Innes (supra), the judge was found to have driven with a blood alcohol content of .18 percent and to have crashed into the patrol car of the policeman who stopped him. Although he was cooperative during the arrest, the Commission admonished Judge Innes. In Matter of Kremenick (1986 Ann Report of NY Commn on

Jud Conduct, at 133), the Commission admonished a judge who, while intoxicated, drove off the road. There, the judge did assert his judicial office and abused the police. On the other hand, he was given credit for seeking treatment for an acknowledged drinking problem. Similarly, the judge was admonished in Matter of Winkworth (unreported, NY Commn on Jud Conduct, Sept. 23, 1992), although he was found only to have been impaired by alcohol.

Two judges were censured who drove while intoxicated after having had prior drinking-and-driving incidents and who were extremely abusive during their arrests. (Matter of Quinn v. State Commission on Judicial Conduct, 54 NY2d 386; Matter of Barr, 1981 Ann Report of NY Commn on Jud Conduct, at 139).

We find that our past dispositions--both public and private--have adequately taken into account distinctions in the level of intoxication, the conduct of the judge after arrest and the need and willingness of the judge to seek treatment. Because he was highly intoxicated but did not assert the influence of his office or abuse the arresting officer, we conclude that respondent, like Judge Innes, is deserving of "a reminder...that his conduct was substandard and to refrain from a repetition," (see, Matter of Fromer, 1985 Ann Report of NY Commn on Jud Conduct, at 135, 140 [Bower, dissenting]).

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

Mr. Berger, Judge Altman, Ms. Barnett, Mr. Bellamy, Judge Ciparick, Mr. Goldman and Judge Salisbury concur.

Mrs. Del Bello dissents as to sanction only and votes that respondent be censured.

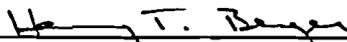
Judge Thompson dissents as to sanction only and votes that respondent be issued a confidential letter of dismissal and caution.

Mr. Cleary and Mr. Sheehy 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: January 27, 1993


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