

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

ARTHUR H. STEVENS,

a Justice of the Whitehall Town Court,
Washington County.

Determination

THE COMMISSION:

Henry T. Berger, Esq., Chair
Jeremy Ann Brown
Stephen R. Coffey, Esq.
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 for the Commission

Michael S. Martin for Respondent

The respondent, Arthur H. Stevens, a justice of the Whitehall Town Court,
Washington County, was served with a Formal Written Complaint dated August 4, 1998,

* The vote in this matter was on October 1, 1998. Judge Thompson resigned on October 6, 1998, and was succeeded by the Honorable Daniel W. Joy.

alleging that he improperly interfered in a police investigation of a dispute between his son and a neighbor. Respondent filed an answer dated September 1, 1998.

On October 1, 1998, the administrator of the Commission, respondent and respondent's counsel entered into an Agreed Statement of Facts pursuant to Judiciary Law §44(5), stipulating that the Commission make its determination based on the agreed upon facts, jointly recommending that respondent be admonished and waiving further submissions and oral argument.

On October 1, 1998, the Commission approved the agreed statement and made the following determination.

1. Respondent has been a justice of the Whitehall Town Court since 1987.
2. On October 26, 1997, Whitehall Village Police Officer Jeffrey Whalen was dispatched to the home of Virgil Holcomb to investigate his complaint that someone had pulled up fence posts near his property line and that of Michael Stevens, who is respondent's son. A survey stake marking the boundary had also been removed.
3. Respondent arrived at the driveway of his son's home while Officer Whalen was investigating the incident.
4. In the presence of Mr. Holcomb, respondent angrily shouted to Officer Whalen that Mr. Holcomb was "crazy" and a "son of a bitch." Respondent twice urged the officer to arrest Mr. Holcomb for pulling up his own fence posts and survey stake.

Respondent accused Mr. Holcomb of cutting tree limbs that were on Michael Stevens's property. Although he had no factual basis to support a charge against Mr. Holcomb, respondent advised Officer Whalen to charge him with Criminal Mischief.

5. When Officer Whalen refused to make any arrest, respondent asked what evidence it would take in order to arrest someone under such circumstances.

6. Respondent was aware that Officer Whalen, who had appeared before him in court, knew that he was a justice of the Whitehall Town Court.

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) and 100.2(C). Charge I of the Formal Written Complaint is sustained, and respondent's misconduct is established.

Respondent used the prestige of his office to advance his son's interests in a private dispute. (See, Matter of Straite, 1988 Ann Report of NY Commn on Jud Conduct, at 226, 227, 233). His angry, rude and vulgar manner in so doing was unbecoming a judge. (See, Matter of Chase, 1998 Ann Report of NY Commn on Jud Conduct, at 75).

It was especially improper for respondent to implore the police officer to charge Mr. Holcomb with Criminal Mischief without any factual basis for such a charge.

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

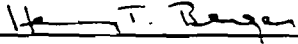
Mr. Berger, Ms. Brown, Mr. Goldman, Judge Marshall, Judge Newton, Mr. Pope, Judge Salisbury and Judge Thompson concur.

Mr. Coffey and Judge Luciano 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: December 23, 1998



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