

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

CLAUDE C. BARCLAY,

a Justice of the Town Court of Parma,
Monroe County.

Determination

BEFORE: Mrs. Gene, Robb, Chairwoman
Honorable Fritz W. Alexander, II
Dolores DelBello
Michael M. Kirsch, Esq.
Victor A. Kovner, Esq.
William V. Maggipinto, Esq.
Honorable Felice K. Shea
Carroll L. Wainwright, Jr.

APPEARANCES:

Gerald Stern (Christopher B. Ashton, Of
Counsel) for the Commission

William G. Easton for Respondent

The respondent, Claude C. Barclay, a justice of the Town Court of Parma, Monroe County, was served with a Formal Written Complaint dated April 20, 1979, alleging misconduct in three traffic cases. Respondent filed an answer on May 15, 1979.

By order dated November 19, 1979, the Commission designated the Honorable John J. Darcy as referee to hear and report proposed findings of fact and conclusions of law. The hearing was conducted on April 25, 1980, and the report of the referee was filed on July 9, 1980.

By motion dated September 17, 1980, the administrator of the Commission moved to confirm the referee's report and for a determination that respondent be admonished. Respondent opposed the motion on October 10, 1980, and cross-moved to dismiss the Formal Written Complaint or, in the alternative, for a non-public sanction.

The Commission heard oral argument on the motions on October 31, 1980, thereafter considered the record of the proceeding and now makes the following findings of fact.

1. Respondent serves part-time as justice of the Town Court of Parma. His principal occupation is as a public accountant.

2. On March 31, 1976, respondent sent a letter to Justice Leroy Ramsey of the Town Court of Greece, confirming an earlier conversation and requesting special consideration on behalf of the defendant in People v. Dean F. Strussenberg, in which the charge was speeding. The defendant was the son of one of respondent's clients.

3. On January 29, 1975, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. Alvin B. Clement, as a result of a letter he received from Justice Charles M. Betts of the Town Court of Hartland, seeking special consideration on behalf of the defendant.

4. On May 1, 1974, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of speeding in People v. Douglas F. Taylor, as a result of a letter he received from Justice Roy J. Burley of the Town Court of Ogden, seeking special consideration on behalf of the defendant.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 33.1, 33.2, 33.3(a)(1) and 33.3(a)(4) of the Rules Governing Judicial Conduct and Canons 1, 2 and 3A of the Code of Judicial Conduct. Charges I through III of the Formal Written Complaint are sustained, and respondent's misconduct is established.

It is improper for a judge to seek to persuade another judge, on the basis of personal or other special influence, to alter or dismiss a traffic ticket. A judge who accedes to such a request is guilty of favoritism, as is the judge who makes the request. By making an ex parte request of another judge for a favorable disposition for the defendant in a traffic case, and by acceding to such requests from other judges, respondent violated the Rules and Code canons enumerated above.

Courts in this and other states, as well as the Commission, have found that favoritism is serious judicial misconduct and that ticket-fixing is a form of favoritism.

Respondent suggests that, by the standards of the community in which he presides, his actions do not constitute misconduct, and he submitted a written resolution to that effect from the Town Board of Parma.

The standard to which respondent must be held is not one to be defined by the community in which he sits. The Rules Governing Judicial Conduct are a statewide standard and apply equally to all judges in the state. Those standards are not meant to be applied

unevenly throughout the state by this Commission or selectively, observed by judges in individual communities. Public confidence in our legal system requires that there be one set of standards for ethical judicial behavior, and that it be of the highest order.

Respondent has failed to observe the applicable standards.

The Commission considered that censure might be appropriate in light of the recalcitrance and apparent insensitivity to these issues by respondent. However, in view of the limited number of specific transgressions with which respondent was charged, admonition is more appropriate.

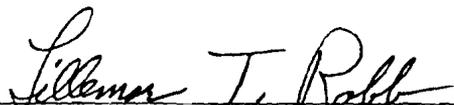
By reason of the foregoing, the Commission determines that the appropriate sanction is admonition.

All concur.

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 6, 1981
Albany, New York


Lillemor T. Robb, Chairwoman
New York State Commission on
Judicial Conduct