

**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

GEORGE J. BREIGLE,

**Determination**

a Justice of the Sand Lake Town Court,  
Rensselaer County.

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BEFORE: Mrs. Gene Robb, Chairwoman  
Honorable Fritz W. Alexander, II  
Honorable Richard J. Cardamone  
David Bromberg  
Dolores DelBello  
Michael M. Kirsch  
Victor A. Kovner  
William V. Maggipinto  
Honorable Isaac Rubin  
Honorable Felice K. Shea  
Carroll L. Wainwright, Jr.

Respondent, George J. Breigle, a justice of the Town Court of Sand Lake, Rensselaer County, was served with a Formal Written Complaint dated October 10, 1978, setting forth five charges relating to the improper assertion of influence in traffic cases. Respondent filed an amended answer dated July 17, 1979.

The administrator of the Commission, respondent and respondent's counsel entered into an agreed statement of facts on October 2, 1979, pursuant to Section 44, subdivision 5, of the Judiciary Law, waiving the hearing provided for by Section 44, subdivision 4, of the Judiciary Law and stipulating that the Commission make its determination on the pleadings and the facts

as agreed upon. The Commission approved the agreed statement of facts, as submitted, on October 25, 1979, determined that no outstanding issue of fact remained, and scheduled oral argument with respect to determining (i) whether the facts establish misconduct and (ii) an appropriate sanction, if any. The administrator submitted a memorandum on the issues herein. The Commission heard oral argument on December 13, 1979, thereafter, in executive session, considered the record in this proceeding, and upon that record makes the following findings of fact.

1. As to Charge I, on June 17, 1974, respondent sent a letter to the judge of the Albany City Court, seeking special consideration on behalf of the defendant, his son, in People v. Thomas Breigle, a case then pending in the Albany City Court.

2. As to Charge II, on August 13, 1976, respondent sent a letter to the justice of the Greenfield Town Court, seeking special consideration on behalf of the defendant in People v. Robert J. Thrasher, a case then pending in the Greenfield Town Court.

3. As to Charge III, on July 28, 1975, respondent sent a letter to the justice of the Greenfield Town Court, seeking special consideration on behalf of the defendant in People v. James Dally, a case then pending in the Greenfield Town Court.

4. As to Charge IV, on April 4, 1977, respondent sent a letter to the justice of the Queensbury Town Court, seeking special consideration on behalf of the defendant in People v. Joseph Griffith, Jr., a case then pending in the Queensbury Town Court.

5. As to Charge V, on May 10, 1976, respondent reduced a charge of speeding to illegal parking in People v. Edward Benesch as a result of a communication he received from Judge Thomas J. Delaney of the Rensselaer City Court 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 V 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 made the request. By making ex parte requests of other judges for favorable dispositions for the defendants in traffic cases, and by granting such a request, respondent violated the Rules enumerated above, which read in part as follows:

Every judge...shall himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. [Section 33.2]

A judge shall respect and comply with the law and shall conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. [Section 33.2(a)]

No judge shall allow his family, social or other relationships to influence his judicial conduct or judgment. [Section 33.2(b)]

No judge...shall convey or permit others to convey the impression that they are in a special position to influence him...  
[Section 33.3(c)]

A judge shall be faithful to the law and maintain professional competence in it....  
[Section 33.3(a)(1)]

A judge shall...except as authorized by law, neither initiate nor consider ex parte or other communications concerning a pending or impending proceedings....  
[Section 33.3(a)(4)]

In his letters to other judges, respondent also indicated his willingness to accomodate requests for consideration similar to those he himself was making. Such offers of reciprocity only compound respondent's misconduct.

Courts in this state and other jurisdictions have found that favoritism is serious judicial misconduct and that ticket-fixing is a form of favoritism.

In Matter of Byrne, 420 NYS2d 70 (Ct. on the Judiciary 1978), the court declared that a "judicial officer who accords or requests special treatment or favoritism to a defendant in his court or another judge's court is guilty of malum in se misconduct constituting cause for discipline." In that case, ticket-fixing was equated with favoritism, which the court stated was "wrong and has always been wrong." Id. at 71-72.

By reason of the foregoing, the Commission determines by vote of 10 to 1 that the appropriate sanction is censure. Judge Rubin dissents only with respect to sanction and votes that the appropriate sanction is admonition.

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.

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

Dated: March 11, 1980  
Albany, New York

APPEARANCES:

Gerald Stern (Robert H. Straus, Of Counsel) for the Commission  
Arnold Peer for Respondent