

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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In the Matter of the Proceeding : DETERMINATION
Pursuant to Section 44, subdivision 4, :
of the Judiciary Law in Relation to :

CARLTON M. CHASE, :

a Justice of the Village Court of :
Chittenango, Madison County. :

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

The respondent, Carlton M. Chase, a justice of the Village Court of Chittenango, Madison County, was served with a Formal Written Complaint dated October 16, 1978, setting forth four charges of misconduct relating to the improper assertion of influence in traffic cases. In his answer, dated November 21, 1978, respondent admitted the factual allegations set forth in the Formal Written Complaint.

The administrator of the Commission, respondent and respondent's counsel entered into an agreed statement of facts dated February 26, 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, as submitted, on February 27, 1979, determined that no outstanding issue of fact remained, and set a date for oral argument to determine (i) whether to make a finding of misconduct and (ii) an appropriate sanction, if any. The administrator submitted a memorandum in lieu of oral argument. Respondent waived both a memorandum and oral argument.

The Commission considered the record in this proceeding on May 22, 1979, and upon that record finds the following facts:

1. On September 24, 1973, respondent sent a letter to Judge Lawrence F. Finley of the Oneida City Court, seeking special consideration on behalf of the defendant in People v. Marion C. Barrett, a case then pending before Judge Finley.

2. On October 8, 1974, respondent sent a letter to the Brutus Town Court, seeking special consideration on behalf of the defendant in People v. Valere H. Upchurch, a case then pending in that court.

3. On July 17, 1975, respondent sent a letter to the DeWitt Town Court, seeking special consideration on behalf of the defendant in People v. Dawn V. Hallinan, a case then pending in that court.

4. On September 19, 1975, respondent sent a letter to Judge Thomas Haberneck of the Newstead Town Court, seeking special

consideration on behalf of the defendant in People v. James P. Conway, a case then pending before Judge Haberneck.

Based 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 IV of the Formal Written Complaint are sustained, and respondent is thereby guilty of misconduct.

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 makes such a request is guilty of favoritism, as is the judge who accedes to the request. By making requests for favorable dispositions for defendants in traffic cases, 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 33.1]

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 33.2(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)]

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, N.Y.L.J. April 20, 1978, vol. 179, p. 5 (Ct. on the Judiciary), the Court on the Judiciary 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.

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

This determination constitutes the findings of fact and conclusions of law required by Section 44, subdivision 7, of the Judiciary Law.

All concur.

Dated: July 10, 1979

APPEARANCES:

Bruce O. Jacobs for Respondent

Gerald Stern for the Commission (Edith Holleman, Judith Siegel-Baum, Of Counsel)