

**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

MICHAEL W. CIENAVA,

a Justice of the New York Mills  
Village Court, Oneida County.

---

**Determination**

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

Respondent, a justice of the Village Court of New York Mills, Oneida County, was served with a Formal Written Complaint dated May 9, 1979, setting forth nine charges relating to the improper assertion of influence in traffic cases. Respondent filed an answer dated June 19, 1979.

By notice dated October 17, 1979, the administrator of the Commission moved for summary determination pursuant to Section 7000.6(c) of the Commission's rules (22 NYCRR 7000.6[c]). Respondent did not oppose the motion. The Commission granted the motion on November 13, 1979, found respondent's misconduct established with respect to all nine charges in the Formal Written Complaint, and set a date for oral argument on the issue of an

appropriate sanction. The administrator submitted a memorandum in lieu of oral argument. Respondent waived oral argument but submitted a letter from his attorney on the issue of sanction.

The Commission considered the record in this proceeding on December 13, 1979, and upon that record makes the following findings of fact.

1. As to Charge I, on April 8, 1975, respondent, or someone at his request, communicated with Justice Vincent Scholl of the Town Court of Kirkland, seeking special consideration on behalf of the defendant in People v. William Rowlands, a case then pending before Judge Scholl.

2. As to Charge II, on September 18, 1975, respondent, or someone at his request, communicated with Justice Fred Schrader of the Village Court of Canajoharie, seeking special consideration on behalf of the defendant in People v. Stanley J. Potrzeba, a case then pending before Judge Schrader.

3. As to Charge III, on September 9, 1974, respondent reduced a charge of speeding to failure to keep right in People v. Arthur R. Mann, Jr. as a result of a written communication he received from Justice Vincent P. Scholl of the Town Court of Kirkland, seeking special consideration on behalf of the defendant.

4. As to Charge IV, on December 8, 1975, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. Michael J. Costello as a result of a written communication he received from Justice Philip S. Caponera of the Town Court of Colonie, seeking special consideration on behalf of the defendant.

5. As to Charge V, on September 10, 1974, respondent dismissed a charge of no inspection in People v. Carol A. Comenale as a result of a written communication he received from Trooper Maynard A. Cosnett, seeking special consideration on behalf of the defendant.

6. As to Charge VI, on January 7, 1975, respondent reduced a charge of speeding to disobedience of traffic laws in People v. Michael W. Reynolds as a result of a written communication he received from Trooper A.L. Broccoli, seeking special consideration on behalf of the defendant.

7. As to Charge VII, on January 28, 1975, respondent reduced a charge of passing a red light to failure to obey traffic laws in People v. Theresa L. Campbell as a result of a written communication he received from Justice Stanley Wolanin of the Town Court of Whitestown, seeking special consideration on behalf of the defendant.

8. As to Charge VIII, on January 14, 1975, respondent reduced a charge of passing a red light to driving with an unsafe tire in People v. Gary P. Kennerknecht as a result of a written communication he received from Police Officer Donald Wolanin, seeking special consideration on behalf of the defendant.

9. As to Charge IX, on April 13, 1976, respondent reduced a charge of speeding to driving with an unsafe tire in People v. Richard E. Braun as a result of a written communication he received from Casimer Krul, Chief of Police of the Village of New York Mills, 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 IX 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 requests from judges and other persons of influence, respondent violated the Rules enumerated above.

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

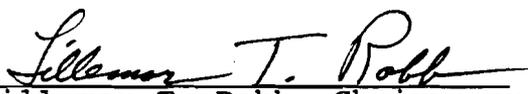
By reason of the foregoing, the Commission determines that the appropriate sanction is admonition.

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.

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

Dated: March 11, 1980  
Albany, New York

APPEARANCES:

Gerald Stern for the Commission

Ray & Lafache (By Anthony J. Lafache) for respondent