

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

WILLIAM J. FOLTMAN,

a Justice of the Town Court of
Princeton, Schenectady County.

Determination

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

APPEARANCES:

Gerald Stern (Seth A. Halpern, Of Counsel)
for the Commission

Gordon, Siegel, Mullaney & Gordon (Arnold M. Gordon,
Of Counsel) for Respondent

The respondent, William J. Foltman, a justice of the Town Court of Princeton, Schenectady County, was served with a Formal Written Complaint dated June 25, 1979, alleging misconduct in three traffic cases. Respondent filed an answer dated July 12, 1979.

By order dated September 4, 1979, the Commission designated the Honorable Raymond Reisler as referee to hear and report proposed findings of fact and conclusions of law. The hearing was

conducted on June 24, 1980, and the report of the referee was filed on August 25, 1980.

By motion dated September 24, 1980, the administrator of the Commission moved to confirm the referee's report and for a determination that respondent be admonished. Respondent submitted an answering affidavit dated October 7, 1980. Oral argument was waived.

The Commission considered the record of this proceeding on October 30, 1980, and makes the following findings of fact.

1. Respondent serves part-time as justice of the Town Court of Princeton. He is not an attorney. His principal occupation is as a mechanical designer.

2. On September 27, 1973, respondent communicated with Justice Edward J. Longo of the Town Court of Rotterdam, seeking special consideration on behalf of the defendant, who was charged with failing to obey a red light, in People v. Vincent C. Trimarchi, a case then pending before Judge Longo. The defendant is one of respondent's co-workers. Respondent believed that his request as a town court justice would carry more weight with Judge Longo than the request of one who is not a town court justice.

3. On October 18, 1973, respondent communicated with Justice Edward J. Longo of the Town Court of Rotterdam, seeking special consideration on behalf of the defendant, who was charged with failing to stop at a stop sign, in People v. Gary F. Rackowski, a case then pending before Judge Longo. The defendant and respondent are cousins. Respondent believed that his request as a town court justice would carry more weight with Judge Longo

than the request of one who is not a town court justice.

4. Between January 25, 1976, and April 2, 1976, respondent communicated with State Trooper O.J. Barr and with officials of the Town Court of Lake George, seeking special consideration on behalf of the defendant, who was charged with speeding, in People v. Amarjit S. Gill, a case then pending before Justice James Corkland of that court. The defendant is one of respondent's co-workers.

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 makes such a request is guilty of favoritism. By making an ex parte request of another judge for a favorable disposition for the defendant in a traffic case, 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.

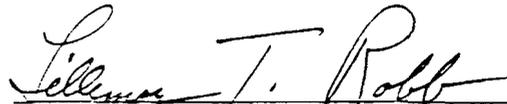
By reason of the foregoing, the Commission determines that the appropriate sanction is admonition.

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: February 6, 1981
New York, New York


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