

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

VICTOR A. JURHS,

a Justice of the Kendall Town
Court, Orleans County.

Determination

THE COMMISSION:

Mrs. Gene Robb, Chairwoman
Honorable Fritz W. Alexander, II
John J. Bower, Esq.
David Bromberg, Esq.
E. Garrett Cleary, Esq.
Dolores DelBello
Victor A. Kovner, Esq.
Honorable William J. Ostrowski
Honorable Isaac Rubin
Honorable Felice K. Shea
Carroll L. Wainwright, Jr., Esq.

APPEARANCES:

Gerald Stern (Cody B. Bartlett, Of
Counsel) for the Commission

Victor A. Jurhs, Respondent Pro Se

The respondent, Victor A. Jurhs, a justice of the Kendall Town Court, Orleans County, was served with a Formal Written Complaint dated January 14, 1982, alleging inter alia that he failed to make timely deposits and remittances of court funds and that he failed to keep accurate records of his court accounts. Respondent filed an answer dated February 11, 1982.

By order dated March 16, 1982, the Commission designated John J. Darcy, Esq., as referee to hear and report proposed findings of fact and conclusions of law. The hearing was held on April 5 and 7, 1982, and the referee filed his report with the Commission on June 10, 1982.

By motion dated September 27, 1982, the administrator of the Commission moved to confirm the referee's report and to return the matter to the referee for further proceedings and additional findings relative to respondent's most current accounting and record keeping practices. Respondent did not file papers in opposition to the administrator's motion but appeared for oral argument before the Commission on October 29, 1982. Thereafter the Commission made the following findings of fact.

1. Respondent has been a justice of the Kendall Town Court since his first election to that office in 1963. He is not a lawyer. The Town of Kendall does not provide respondent with any clerical, secretarial or administrative assistance.

2. Respondent maintained his official court bank account at the Marine Midland Bank in Holley, New York, where he also maintained his personal bank account. The bank is approximately eight miles from both respondent's home and the town hall in which he holds court.

3. From January 1, 1976, to September 30, 1981, respondent failed to deposit all monies received in his official capacity within 72 hours of receipt, as required.

4. In 48 of the 81 months from January 1975 through September 1981, respondent failed to make deposits of court funds, although he received funds in his official capacity in those months, as set forth in Schedule A appended to the Formal Written Complaint and accepted into evidence by the referee, as amended, as Exhibit 60. Respondent made a practice of accumulating such official funds for varying periods and then making lump sum deposits. Respondent used a portion of the undeposited funds as petty cash from which he made change for defendants in his court.

5. From January 1, 1975, to September 30, 1981, respondent failed to report and remit as required to the State Comptroller, within the first 10 days of the month following receipt, all fines, bail forfeitures and civil fees received by him, as set forth in Schedule B appended to the Formal Written Complaint. The average delay in reporting during this period was 56 days. Eleven reports were over 100 days late, including three which were over 200 days late and two which were over 300 days late. Respondent received numerous communications from the Department of Audit and Control with respect to the law on timely report filing, and in September 1976 his salary was stopped because of his failure to file timely reports.

6. From January 1, 1975, to September 30, 1981, respondent did not maintain a cashbook at all times, as required. Respondent did not issue receipts for official monies received from the Orleans County Sheriff's Department but did issue receipts for official monies received from all other sources.

7. At no time did respondent misappropriate funds or act in a dishonest manner.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 2020 and 2021(1) of the Uniform Justice Court Act, Section 27 of the Town Law, Section 1803 of the Vehicle and Traffic Law, Section 30.9 of the Uniform Justice Court Rules, Sections 100.1, 100.2(a), 100.3(a)(5) and 100.3(b)(1) of the Rules Governing Judicial Conduct (formerly Sections 33.1, 33.2[a], 33.3[a][5] and 33.3[b][1]) and Canons 1, 2A, 3A(5) and 3B(1) of the Code of Judicial Conduct. The charge in the Formal Written Complaint (Charge I, paragraphs a through g) is sustained and respondent's misconduct is established. The administrator's motion requesting additional proceedings before the referee is denied.

Respondent is habitually tardy in making the reports, remittances and administrative records required of him by law and rules. Those who assume judicial office are obliged to find the time and make the sacrifices necessary to discharge their administrative duties promptly and accurately. While occasional lapses may be unavoidable, respondent's oversights and omissions over a six-year period were both frequent and protracted and thus require public discipline.

We note that respondent's honesty and integrity are not in issue and that there is no suggestion that official funds were misappropriated or used for other than court-related purposes.

By reason of the foregoing, the Commission determines that respondent should be admonished.

Mrs. Robb, Judge Alexander, Mr. Bromberg, Mrs. DelBello, Mr. Kovner, Judge Ostrowski and Judge Rubin concur.

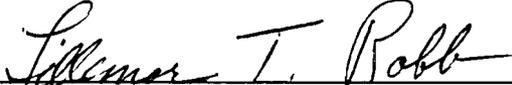
Mr. Cleary and Mr. Wainwright dissent as to sanction only and vote that the matter be closed with a confidential letter of dismissal and caution to the judge.

Mr. Bower and Judge Shea were not present.

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 11, 1983



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