

**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

BURTON LEDINA,

**Determination**

a Justice of the Village Court of  
Monticello, Sullivan County.

---

BEFORE: Mrs. Gene Robb, Chairwoman  
Honorable Fritz W. Alexander, II  
David Bromberg, Esq.  
Honorable Richard J. Cardamone  
Dolores Del Bello  
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 (Barry M. Vucker, Of Counsel) for  
the Commission

Oppenheim, Drew & Kane (Stephen L. Oppenheim,  
Of Counsel) for Respondent

The respondent, Burton Ledina, was served with a  
Formal Written Complaint dated November 27, 1978, alleging mis-  
conduct with respect to 15 traffic cases. Respondent filed an  
answer on November 29, 1978.

The administrator of the Commission, respondent and  
respondent's counsel entered into an agreed statement of facts  
on July 1, 1980, 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 agreed upon facts. The Commission approved the agreed statement and scheduled oral argument as to whether the facts establish misconduct and, if so, an appropriate sanction. Both counsel submitted memoranda on the issues. The Commission heard oral argument on October 30, 1980, thereafter considered the record of this proceeding and now makes the determination herein.

Charges XII and XIV of the Formal Written Complaint are not sustained and therefore are dismissed. With respect to the remaining charges, the Commission makes the following findings of fact.

1. Respondent was a justice of the Village Court of Monticello, Sullivan County, from April 1969 to January 1978 and has been a justice of the Town Court of Thompson, Sullivan County, since November 1977. He serves on the bench part-time and is a practicing attorney in Sullivan County.

2. Charge I: On June 26, 1973, respondent sent a letter on behalf of the defendant in People v. Richard Kazansky to Fallsburg Town Court Justice Michael Altman, before whom the case was pending. Judge Altman serves as a justice part-time and is also a practicing attorney in Sullivan County. Respondent's letter (i) referred to a prior telephone conversation he had with Judge Altman about the case and (ii) advised Judge Altman that the defendant would plead guilty to a reduced charge of driving with an inadequate muffler. By his actions in conversing with and

writing to Judge Altman, respondent sought special consideration on behalf of the defendant.

3. Charge II: On May 28, 1978, respondent sent a letter on behalf of his client, the defendant in People v. Ilse Brassat, to Liberty Town Court Justice Jack Levine, before whom the case was pending. Respondent's letter (i) referred to a prior discussion with Judge Levine about the case and (ii) advised Judge Levine that the defendant would be willing to enter a plea to a non-moving violation. Respondent thus acted as an attorney in a criminal proceeding within the county of his residence in violation of Section 839.3 of the Rules of Practice of the Appellate Division, Third Department.

4. Charge III: On February 5, 1975, respondent dismissed a charge of speeding and accepted a plea of guilty to a charge of failure to keep right in People v. Peter J. Sanfilippo as a result of a letter he received on judicial stationery from Wappingers Falls Village Court Justice Harold H. Reilly, seeking special consideration on behalf of the defendant.

5. Charge IV: On April 10, 1974, respondent dismissed a charge of passing a stop sign in People v. Saul Polonsky as a result of a communication he received from Wawarsing Town Court Justice Joseph Polonsky, seeking special consideration on behalf of his father, the defendant.

6. Charge V: On September 25, 1973, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. Saul Margolies as a result of a letter he received on

judicial stationery from Bethel Town Court Justice Stanley Liese, seeking special consideration on behalf of the defendant.

7. Charge VI: On September 25, 1973, respondent reduced a charge of passing a red light to driving with an unsafe tire in People v. Saul Margolies as a result of a letter he received from Bethel Town Court Justice Stanley Liese, seeking special consideration on behalf of the defendant.

8. Charge VII: On November 23, 1976, respondent reduced a charge of speeding to failure to keep right in People v. Douglas Ketcham as a result of a communication he received from Wawarsing Town Court Justice Joseph Polonsky, seeking special consideration on behalf of the defendant.

9. Charge VIII: On November 18, 1976, respondent reduced a charge of speeding to failure to keep right in People v. Edward C. Silver as a result of a communication he received from Myron Blackman, seeking special consideration on behalf of the defendant.

10. Charge IX: On December 2, 1975, respondent dismissed a charge of speeding in People v. Juan C. Voldina as a result of a communication he received from Police Officer Gonzales, seeking special consideration on behalf of his nephew, the defendant.

11. Charge X: On November 18, 1976, respondent reduced a charge of speeding to failure to keep right in People v. Francis Striffler as a result of a communication he received from Nat Mandel, seeking special consideration on behalf of the defendant.

12. Charge XI: On May 20, 1974, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. Kenneth Curry as a result of a communication he received from Patrolman Paul Goldman, who was not the arresting officer, seeking special consideration on behalf of the defendant.

13. Charge XIII: On August 21, 1975, respondent sent a letter on behalf of his client, the defendant in People v. Andres DiMarco, to Liberty Town Court Justice Richard Hering, before whom the case was pending. Respondent thereby acted as an attorney in a criminal proceeding within the county of his residence in violation of Section 839.3 of the Rules of Practice of the Appellate Division, Third Department.

14. Charge XV: On May 11, 1977, respondent reduced a charge of passing a red light to driving with unsafe tires in People v. Dosie Walker as a result of a communication he received from Patrolman Robert Martin, seeking special consideration on behalf of the defendant, whom the patrolman identified as a relative of another police officer.

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, Canons 1, 2 and 3A of the Code of Judicial Conduct and Section 839.3 of the Rules of Practice of the Appellate Division, Third Department. Charges I through XI and Charges XIII and XV 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, as is the judge who accedes to it. By making ex parte requests of other judges for favorable dispositions for defendants in traffic cases, and by acceding to such requests from judges and others with influence, 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 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.

In Matter of Byrne, 47 NY2d(b) (Ct. on the Judiciary 1979), 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 (c).

As one who is trained in and practices law, respondent must be especially sensitive to the applicable ethical provisions incumbent on a judge as well as the Appellate Division rules pertinent to the practice of law by part-time justices, which state that a judge "who is permitted to practice law shall not appear or act as an attorney in any criminal action or proceeding within the county of his residence" (Section 839.3 of the Rules of the Appellate Division, Third Department).

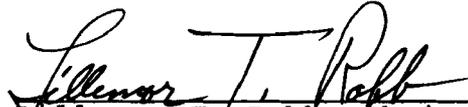
By reason of the foregoing, the Commission determines that the appropriate sanction is censure.

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

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