

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

RONALD LEMON,

a Justice of the Town Court of
Allegany, Cattaraugus County.

Determination

BEFORE: Mrs. Gene Robb, Chairwoman
Honorable Fritz W. Alexander, II
David Bromberg, Esq.
E. Garrett Cleary, Esq.
Dolores DelBello
Michael M. Kirsch, Esq.
Victor A. Kovner, Esq.
Honorable Felice K. Shea
Carroll L. Wainwright, Jr., Esq.

APPEARANCES:

Gerald Stern, (John J. Postel, Of Counsel)
for the Commission

William H. Mountain for Respondent

The respondent, Ronald Lemon, a justice of the Town Court of Allegany, Cattaraugus County, was served with a Formal Written Complaint dated February 25, 1981, alleging various deficiencies in his court accounts and records. Respondent filed an answer dated March 23, 1981.

By order dated June 10, 1981, the Commission designated the Honorable John S. Marsh referee to hear and report proposed findings of fact and conclusions of law. The hearing was held on July 28, 1981, and the referee filed his report with the Commission on October 7, 1981.

By motion dated December 24, 1981, the administrator of the Commission moved to confirm the referee's report and for a determination that respondent be removed from office. Respondent did not oppose the motion. Oral argument was not requested.

The Commission considered the record of this proceeding on January 20, 1982, and made the following findings of fact.

1. Respondent has been a justice of the Town Court of Allegany since June 1969.

As to Charge I of the Formal Written Complaint:

2. From February 1, 1978, to March 14, 1980, respondent failed to deposit in his court bank account monies received in his judicial capacity within the time required by law and court rules, resulting in a deficiency of \$2,431.

3. Respondent converted to his own use more than \$2,000 in funds received by him in his judicial capacity by failing to deposit them as required and by using them for his personal benefit.

4. On March 14, 1980, respondent obtained a personal loan of \$3,000, which he used to replace the court funds he had previously converted.

5. Respondent's testimony on September 19, 1980, during the Commission's investigation of this matter, and at the hearing before the referee, lacked candor in that he knowingly gave less than truthful answers to questions put to him relating to the conversion of funds.

6. Respondent does not believe it was wrong to use court funds for his personal benefit.

As to Charge III of the Formal Written Complaint:

7. On August 27, 1979, respondent received \$600 in payment of a criminal fine from Bruce L. Steck.

8. On September 24, 1979, respondent received \$502.50 in payment of a civil fine from George C. Van Cleef.

9. On September 24, 1979, respondent deposited the \$1,102.50 he received in the Steck and Van Cleef cases into his official court account. Respondent did not report the dispositions in these two cases or remit the fines received to the State Comptroller until March 8, 1980.

10. Between September 24, 1979, and March 8, 1980, respondent used the \$1,102.50 to cover in part a pre-existing deficiency in his court bank account.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Section 27(1) of the Town Law, Section 30.7 of the Uniform Justice Court Rules, Sections 33.1, 33.2(a), 33.3(a)(5) and 33.3(b)(1) of the Rules Governing Judicial Conduct and Canons 1, 2A, 3A(5) and 3B(1) of the Code of Judicial Conduct. Charges I and III of the Formal Written Complaint are sustained and respondent's misconduct is established. Charge II is not sustained and therefore is dismissed.

Respondent's failure to deposit and remit monies collected in his official capacity and his use of more than \$2,000 in court funds for personal matters are flagrant misuses of the public

money entrusted to his care. Compounding his original misconduct, respondent then attempted to cover part of his court account deficiency by depositing \$1,102.50 received from cases whose dispositions he did not report. Though he later secured a personal loan to cover the remaining court account deficiency, this in no way mitigates his having converted court money to his personal use. Such a breach of the public trust, standing alone, would warrant respondent's removal from office. (See, Matter of Cooley v. Commission, 53 NY2d 64 [1981] and Bartlett v. Flynn, 50 AD2d 401 [1976].)

Respondent's misconduct is further compounded by his lack of candor regarding the conversion of his court funds. As the referee noted in his report:

Respondent's testimony...revealed a complete lack of candor on his part and a disposition to withhold and misrepresent relevant facts until circumstances developed during his examination indicated to him the apparent expediency to change his testimony...[Ref. Rep. 10].

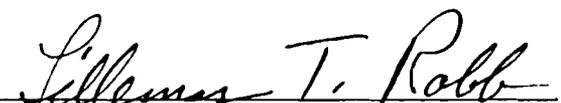
By reason of the foregoing, the Commission determines that respondent should be removed from office.

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: March 15, 1982


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