

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 LEW,

Determination

a Justice of the Village Court of
Waterville, Oneida County.

BEFORE: Mrs. Gene Robb, Chairwoman
David Bromberg, Esq.
E. Garrett Cleary, Esq.
Dolores DelBello
Michael M. Kirsch, Esq.
Victor A. Kovner, Esq.
Honorable William J. Ostrowski
Honorable Isaac Rubin
Honorable Felice K. Shea
Carroll L. Wainwright, Jr., Esq.

APPEARANCES:

Gerald Stern (Stephen F. Downs, Of
Counsel) for the Commission

Ronald Lew, Respondent Pro Se

The respondent, Ronald Lew, a justice of the Village Court of Waterville, Oneida County, was served with a Formal Written Complaint dated November 25, 1981, alleging various financial and record keeping improprieties and deficiencies. Respondent did not submit an answer.

By motion dated December 31, 1981, the administrator of the Commission moved for summary determination and a finding that respondent's misconduct was established. Respondent did not oppose the motion or file any papers in response thereto.

By determination and order dated January 26, 1982, the Commission granted the administrator's motion, found respondent's misconduct established and set a schedule for argument as to appropriate sanction. The administrator submitted a memorandum in lieu of oral argument. Respondent neither submitted a memorandum nor requested oral argument.

The Commission considered the record of this proceeding on February 25, 1982, and made the following findings of fact.

1. Charge I: Between February 1975 and September 1980, respondent wrote 71 checks to "cash" on his official court account totaling \$2,690, and cashed the checks at two supermarkets.

2. Charge II: From January 1979 through November 1981, respondent (i) failed to report to the Department of Audit and Control 55 cases disposed of during this period, (ii) under-reported the fine collected in a 56th case and (iii) failed to remit to the State Comptroller \$1,295 in fines received in connection with these cases, as set forth in Schedule A appended to the Formal Written Complaint. Respondent did not have sufficient funds in his court account to make payment for the fines he received, and he failed to deposit sufficient funds in his court account to make up the deficiency, despite notice in January 1981 from the Department of Audit and Control.

3. Charge III: Between December 1976 and May 1979, in the eight cases set forth in Schedule B appended to the Formal Written Complaint, respondent received funds totaling \$150 but reported only \$90 to the Department of Audit and Control.

4. Charge IV: On January 6, 1981, respondent's court account was deficient by \$1,512.21. On November 25, 1981, his court

account was still deficient by \$1,355.

5. Charge V: From May 1981 through November 1981, in the 40 cases set forth in Schedule C appended to the Formal Written Complaint, respondent received \$625 in fines but did not report the cases or remit the money to the State Comptroller.

6. Charge VI: Between January 1978 and October 1981, respondent failed to file reports or remit money to the Department of Audit and Control within ten days of the month following collection, as set forth in Schedule D appended to the Formal Written Complaint.

7. Charge VII: Between October 1975 and November 1980, respondent failed to maintain in his official court account sufficient funds to cover his liabilities, and his account was overdrawn 35 times, as set forth in Schedule E appended to the Formal Written Complaint.

8. Charge VIII: From January 1979 through November 1981, respondent failed to perform his administrative duties in that he (i) failed to keep complete and accurate dockets of his court activities, (ii) failed to keep a complete and accurate cashbook and (iii) failed to keep a complete and accurate account of moneys received.

9. Charge IX: Respondent failed to cooperate with a duly authorized Commission investigation in that he refused to appear to testify under oath before a member of the Commission on the matters addressed herein, despite having been duly notified that his appearance was required.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 2019, 2019-a, 2020 and 2021(1) of the Uniform Justice Court Act, Sections 30.7(a) and 30.7(b) of the Uniform Justice Court Rules, Section 1803 of the Vehicle

and Traffic Law, Section 4-410 of the Village Law, 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.

Respondent's failure to deposit court funds in official court bank accounts, and his failure to report dispositions and remit such funds to the State Comptroller, constitute a gross neglect of his statutory and ethical obligations and are grounds for removal from office. Matter of Petrie v. State Commission on Judicial Conduct, 54 NY2d 807 (1981); Matter of Cooley v. State Commission on Judicial Conduct, 53 NY2d 64 (1981); and Bartlett v. Flynn, 50 AD2d 401 (4th Dept. 1976).

In the instant matter, respondent's negligence is exacerbated by his apparent conversion of court funds for his personal use. Those funds which respondent in fact deposited in his official court accounts were promptly withdrawn by checks which he drew to "cash". Such conduct is intolerable.

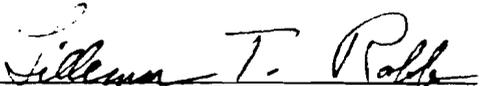
By reason of the foregoing, the Commission determines that respondent should be removed from office.

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: April 22, 1982


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