

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

LUVERN W. MOORE,

a Justice of the Kinderhook Town Court,
Columbia 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
John J. Sheehy, Esq.

APPEARANCES:

Gerald Stern (Henry S. Stewart, Of Counsel)
for the Commission

The respondent, Luvern W. Moore, a justice of the Kinderhook Town Court, Columbia County, was served with a Formal Written Complaint dated August 3, 1983, alleging that he had made false entries in his court records. Respondent did not answer the Formal Written Complaint.

By motion dated September 16, 1983, 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 October 17, 1983, 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.

On November 4, 1983, the Commission considered the record of the proceeding and made the following findings of fact.

As to Charge I of the Formal Written Complaint:

1. On August 10, 1982, respondent fined the defendant in People v. Miroslaw Kozlowski \$40 on a charge of Speeding.
2. Respondent received \$40 in cash from the defendant and issued a receipt, number 3145, to the defendant for \$40.
3. On the same date, at about 7:00 P.M., respondent wrote a second receipt, number 3020, falsely stating that he had received \$30 from the defendant. Respondent also marked on a copy of the Uniform Traffic Ticket that he had received only \$30.
4. Respondent made the false entry intentionally and knowingly in an attempt to conceal his larceny of \$10.

5. On May 20, 1983, respondent was charged with violating Section 175.10 of the Penal Law, Falsifying Business Records, First Degree, a Class E felony.

6. On the same date, respondent pled guilty to the reduced charge of Falsifying Business Records, Second Degree, a Class A misdemeanor (Section 175.05 of the Penal Law).

7. On June 20, 1983, respondent was sentenced to three years probation on the condition that he make restitution of \$1,070 and resign his judicial office.

As to Charge II of the Formal Written Complaint:

8. Between April 28, 1981, and November 30, 1982, in 34 cases, respondent wrote bogus receipts which falsely stated that he had received lesser amounts of money in fines from defendants than he had actually received.

9. Respondent kept the false receipts as part of his official court records and reported and remitted to the Department of Audit and Control only the lesser amounts listed on the false receipts.

10. Respondent withheld from the Department of Audit and Control amounts ranging from \$5 to \$100 from each of the defendants in the 34 cases. The total amount withheld was \$1,015.

Upon the foregoing findings of fact, the Commission determines as a matter of law that respondent violated Sections 100.1, 100.2(a) and 100.3(a)(1) of the Rules Governing Judicial Conduct; Canons 1, 2A and 3A(1) of the Code of Judicial Conduct; Sections 107, 2019, 2019-a, 2020 and 2021(1) of the Uniform Justice Court Act; Section 1803 of the Vehicle and Traffic Law; and Section 27(1) of the Town Law. Charges I and II of the Formal Written Complaint are sustained, and respondent's misconduct is established.

Respondent was plainly engaged in a scheme to misappropriate funds received in his official capacity and to conceal his misconduct by falsifying court records. Deception is antithetical to the role of a judge who is sworn to uphold the law and seek the truth. Matter of Steinberg v. State Commission on Judicial Conduct, 51 NY2d 74, 78 (1980).

By falsely certifying the receipt of public monies and maintaining personal control over them for extended periods of time, respondent violated the legal, administrative and ethical duties of a judge. Such misconduct warrants removal. Matter of James O. Kane, unreported (Com. on Jud. Conduct, March 5, 1979); Matter of Hollebrandt, unreported (Com. on Jud. Conduct, Nov. 12, 1980); Matter of Godin, unreported (Com. on Jud. Conduct, Jan. 26, 1983).

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

This determination is rendered pursuant to Section 47 of the Judiciary Law in view of respondent's resignation from the bench.

Mrs. Robb, Mr. Bower, Mr. Bromberg, Mr. Cleary, Mrs. DelBello, Mr. Kovner, Judge Ostrowski, Judge Shea and Mr. Sheehy concur.

Judge Alexander and Judge Rubin 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: New York, New York
November 10, 1983


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