

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

EMMETT J. RASKOPF,

a Justice of the Cambria Town Court,
Niagara County.

Determination

BEFORE: Mrs. Gene Robb, Chairwoman
Honorable Fritz W. Alexander, II
David Bromberg, Esq.
Honorable Richard J. Cardamone
Dolores DelBello
Michael M. Kirsch, Esq.
Victor A. Kovner, Esq.
William V. Maggipinto, Esq.
Honorable Isaac Rubin
Honorable Felice K. Shea
Carroll Wainwright, Jr., Esq.

APPEARANCES:

Gerald Stern (Lester C. Goodchild
and Christopher R. Ashton, of
Counsel) for the Commission.

John P. Bartolomei for the
Respondent.

Respondent, Emmett J. Raskopf, a justice of the Cambria
Town Court, Niagara County, was served with a Formal Written Com-
plaint dated October 10, 1978, setting forth eleven charges of
improper influence in traffic cases. Respondent filed an answer
dated October 19, 1978.

By order dated March 9, 1979, the Commission appointed Albert Hessberg, Esq., as referee to hear and report to the Commission with respect to the facts herein. A hearing was held on June 12 and 13, 1979, and the report of the referee, dated November 30, 1979, was filed with the Commission.

By notice dated April 1, 1980, the administrator moved to confirm the referee's report and for a determination that respondent be censured. By notice dated April 17, 1980, respondent cross-moved to disaffirm the referee's report and for a determination dismissing the Formal Written Complaint. The administrator filed an affirmation in opposition to respondent's motion.

The Commission heard oral argument on May 21, 1980, thereafter, in executive session, considered the record in this proceeding, and upon that record makes the following findings of fact and conclusions of law.

Charge I of the Formal Written Complaint is not sustained, and therefore is dismissed.

1. Charge II: On or about April 4, 1974, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. Charles E. Snyder as a result of a written communication he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

2. Charge III: On or about April 1, 1974, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. Jane M. Terrameo as a result of a written communication he received from Justice Sebastian Lombardi of the Town Court of Lewiston,

seeking special consideration on behalf of the defendant.

3. Charge IV: On or about May 7, 1974, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of speeding in People v. Kevin C. Allen as a result of a written communication he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

4. Charge V: On or about April 17, 1973, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of speeding in People v. Peter A. Anderson as a result of a written communication he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

5. Charge VI: On or about December 11, 1973, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of speeding in People v. John J. Baldassara as a result of a written communication he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

6. Charge VII: On or about March 13, 1973, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of speeding in People v. Philip D. Bosso, Jr., as a result of a written communication he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

7. Charge VIII: On or about December 3, 1974, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of speeding in People v. N.A. Christopher as a result of a written communication he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

8. Charge IX: On or about February 13, 1973, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of speeding in People v. Martin M. Gerbasi as a result of a written communication he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

9. Charge X: On or about March 27, 1973, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of speeding in People v. Mary E. Lops as a result of a written communication he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

10. Charge XI: On or about July 11, 1972, respondent accepted the forfeiture of bail in lieu of further prosecution of a charge of speeding in People v. Wilhelm Jakobi as a result of a written communication he received from Justice Sebastian Lombardi of the Town Court of Lewiston, seeking special consideration on behalf of the defendant.

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 3(A) of the Code of Judicial Conduct and Canons 4, 5, 13, 14, 17 and 34 of the Canons of Judicial Ethics. Charges II through XI 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 accedes to such a request is guilty of favoritism, as is the judge who made the request. By granting ex parte requests from another judge for favorable dispositions for defendants in traffic cases, 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, 420 NYS2d 70 (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 71-72.

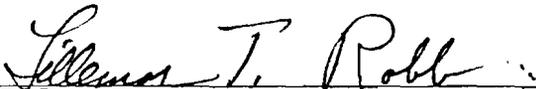
By reason of the foregoing, the Commission determines that the appropriate sanction is censure.

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: June 26, 1980
Albany, New York


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