

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

JAMES H. REEDY,

a Justice of the Town Court of
Galway, Saratoga 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 Isaac Rubin
Honorable Felice K. Shea
Carroll L. Wainwright, Jr., Esq.

APPEARANCES:

Gerald Stern (Jack J. Pivar, Of Counsel)
for the Commission

Morris D. Strauss for Respondent

The respondent, James H. Reedy, a justice of the Town Court of Galway, Saratoga County, was served with a Formal Written Complaint dated June 25, 1980, alleging various discrepancies in his deposits of court funds and financial reports to the Department of Audit and Control. Respondent filed an answer on July 29, 1980.

By order dated August 22, 1980, the Commission designated Martin M. Goldman, Esq., referee to hear and report proposed findings of fact and conclusions of law. The hearing was held on December

5, 1980, and the referee filed his report on May 15, 1981.

By motion dated June 17, 1981, the administrator of the Commission moved to confirm the referee's report and for a determination that respondent be removed from office. Respondent opposed the motion on August 5, 1981. The Commission heard oral argument on the motion on October 22, 1981, thereafter considered the record of the proceeding and made the following findings of fact:

1. Respondent has been a justice of the Town Court of Galway for 10 years. He is also a justice of the Village Court of Galway.

2. Respondent suffered a heart attack in 1974. From 1975 through 1977, during respondent's convalescence, his wife, Florence Reedy, acted as his court clerk in charge of records. Under respondent's direction, Mrs. Reedy assumed responsibility for respondent's official court accounts and his deposit, remittance and reporting requirements. Mrs. Reedy was not trained to fulfill these responsibilities but attempted to qualify herself by taking an adult education course in bookkeeping.

3. Between 1975 and 1977, respondent and his wife would place court funds, including checks and cash received from fines paid to the court, in an unlocked desk drawer in their home prior to depositing them in the official court bank account.

4. Between March 1975 and November 1977, respondent and his wife (i) failed to deposit in the official court bank

account \$752 in fine monies received by respondent in his judicial capacity, (ii) omitted references to 23 cases in reports to the Department of Audit and Control amounting to \$567 of the \$752 deficiency, as set forth in Schedule A appended to the Formal Written Complaint, and (iii) under-reported to the Department of Audit and Control the fines received in nine cases amounting to \$185 of the \$752 deficiency, as set forth in Charge II of the Formal Written Complaint. Respondent's certification of the accuracy of his reports to the Department of Audit and Control was erroneous.

5. After respondent's records and funds were audited by the Department of Audit and Control, Mrs. Reedy filed an amended report, correcting the errors and omissions noted in paragraph 4 above and paying out of her personal funds the \$752 discrepancy.

6. Between March 1975 and November 1977, respondent's individual docket sheets accurately reflected the amounts of the fines received in the 32 cases referred to in paragraph 4 above. There is no indication that respondent's records and bookkeeping were deficient prior to 1975 or after 1977.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 33.1, 33.2(a) and 33.3(b)(1) of the Rules Governing Judicial Conduct and Canons 1, 2A and 3B(1) of the Code of Judicial Conduct. Charges I and II of the Formal Written Complaint are sustained and respondent's misconduct is established.

Respondent's failure to supervise the preparation and handling of court accounts, reports and records resulted in a \$752 deficiency in court funds as well as inaccurate reports and incomplete remittances of official funds to the Department of Audit and Control from 1975 through 1977. (Respondent's medical fitness to serve during this period, when he was recovering from a heart attack, is not in issue, since respondent presided over cases and otherwise performed his judicial duties.)

The placement of court monies by respondent in an unlocked desk drawer in his home constituted negligence in his management of the public money entrusted to his care. His assertion that \$25 of that money may have been stolen by the child of a neighbor illustrates one consequence of his carelessness in leaving court funds unprotected, but neither accounts for the unexplained \$752 deficiency in his court accounts nor excuses the failure to report nine cases and the under-reporting of 23 others to Audit and Control.

The Commission notes in mitigation that respondent's records and remittances have otherwise been accurate, that the referee did not find that the unreported money had been converted to respondent's personal use, and that respondent and his wife complied with bookkeeping suggestions and directions made by Audit and Control after the discovery of the discrepancy.

By reason of the foregoing, the Commission determines that respondent should be admonished.

All concur, except Mrs. DelBello and Mr. Kirsch dissent with respect to sanction and vote that respondent should be censured.

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: December 28, 1981


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