State of New York
Commission on Judicial Conduct

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In the Matter of the Proceeding Pursuant to Section 44,
subdivision 4, of the Judiciary Law in Relation to

     DAVID H. RIVENBURGH,

a Justice of the Ghent Town Court,
Columbia County.

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Determination

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

       Respondent, a justice of the Town Court of Ghent, Columbia
County, was served with a Formal Written Complaint dated May 31,
1979, setting forth three charges relating to the improper assertion
of influence in traffic cases. Respondent filed an answer dated
July 27, 1979.

       By notice dated October 22, 1979, the administrator of
the Commission moved for summary determination pursuant to Section
7000.6(c) of the Commission's rules (22 NYCRR 7000.6[c]).
Respondent did not oppose the motion. The Commission granted the
motion on November 13, 1979, found respondent's misconduct
established with respect to all three charges in the Formal Written
Complaint, and set a date for oral argument on the issue of an

appropriate sanction. The administrator submitted a memorandum in lieu of oral argument. Respondent waived oral argument but submitted a letter on sanction from his attorney.

The Commission considered the record in this proceeding on December 13, 1979, and upon that record makes the following findings of fact.

1. As to Charge I, on January 15, 1976, respondent sent a letter to Justice George E. Carl of the Town Court of Catskill, seeking special consideration on behalf of the defendant in People v. Robert J. Boll, a case then pending before Judge Carl.

2. As to Charge II, on July 29, 1975, respondent sent a letter to Justice James B. Lamb of the Town Court of Nassau, seeking special consideration on behalf of the defendant in People v. Charles March, a case then pending before Judge Lamb.

3. As to Charge III, on July 16, 1974, respondent reduced a charge of speeding to driving with unsafe tires in People v. Michael Drawjchak as a result of a communication he received from Justice Marvin Pechtel of the Town Court of Kinderhook, 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 and Canons 1, 2 and 3A of the Code of Judicial Conduct. Charges I through III 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 making ex parte requests of other judges for favorable dispositions for the defendants in traffic cases, and by granting such a request, respondent violated the Rules enumerated above.

In one of his letters to another judge, respondent also indicated his willingness to accomodate a request for consideration similar to the one he himself was making. Such an offer of reciprocity only compounds respondent's misconduct.
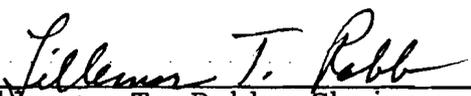
Courts in this state and other jurisdictions have found that favoritism is serious judicial misconduct and that ticket-fixing is a form of favoritism.

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

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.

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

Dated: March 19, 1980
    Albany, New York

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APPEARANCES:
Gerald Stern (Jeanne A. O'Connor, Of Counsel) for the Commission
Robert G. Leyden for Respondent