

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

**Determination**

RONALD C. ROBERT,

a Justice of the Chester Town Court,  
Warren County.

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THE COMMISSION:

Henry T. Berger, Esq., Chair  
Stephen R. Coffey, Esq.  
Mary Ann Crotty  
Lawrence S. Goldman, Esq.  
Honorable Daniel F. Luciano  
Honorable Frederick M. Marshall  
Honorable Juanita Bing Newton  
Honorable Eugene W. Salisbury  
Barry C. Sample  
Honorable William C. Thompson

APPEARANCES:

Gerald Stern (Cathleen S. Cenci, Of Counsel) for the  
Commission

Honorable Ronald C. Robert, pro se

The respondent, Ronald C. Robert, a justice of the Chester Town Court, Warren County, was served with a Formal Written Complaint dated October 19, 1995, alleging that he presided over numerous cases involving close friends and that he went to her place of employment to criticize a defendant who had made remarks critical of respondent. Respondent filed an answer dated November 20, 1995.

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By order dated December 14, 1995, the Commission designated Vincent D. Farrell, Esq., as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on February 8, 1996, and the referee filed his report with the Commission on May 15, 1996.

By motion dated July 3, 1996, the administrator of the Commission moved to confirm the referee's report and for a determination that respondent be removed from office. Respondent did not file any papers in response thereto and waived oral argument.

On September 12, 1996, 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. Respondent has been a justice of the Chester Town Court since January 1, 1992.

2. Respondent has known Charles Redmond since about 1970, when respondent was an environmental conservation officer and Mr. Redmond was a state trooper. Respondent and Mr. Redmond took a cross-country motorcycle trip together in 1978. They have fished together and have socialized in each other's homes. He and Trooper Redmond often had coffee together in a local diner. Respondent has characterized their relationship as "good friends" and has described Trooper Redmond as a "personal friend."

3. Between September 15, 1993, and August 1995, as set forth in the appended Schedule A, respondent presided over four

criminal cases and 17 contested motor vehicle cases in which Trooper Redmond was the arresting officer. In People v Steven R. Harding on February 1, 1994, respondent conducted a trial in which Trooper Redmond acted as prosecutor and the sole prosecution witness. Respondent found Mr. Harding guilty.

4. Respondent never advised Mr. Harding or the 20 other defendants of his relationship with Trooper Redmond, who has since retired from the state police.

5. Respondent has known James Panos since 1992. He also has coffee regularly with Mr. Panos, and they discuss their common interest in guns.

6. Respondent has known Mr. Panos's son, James G. Panos, since 1993. They also have coffee together at the diner. Respondent and the younger Mr. Panos have hunted and fished together. Respondent buys equipment from the younger Mr. Panos and visits him at his place of business. They have visited each other's homes and, on two or three occasions, respondent rode with Mr. Panos on a 75-mile trip to Ticonderoga. On February 14, 1994, respondent had his snowblower lifted to the roof of Mr. Panos's building and removed the snow for him as a favor. Respondent has described James G. Panos as "a friend of mine."

7. Notwithstanding his relationships with James Panos and James G. Panos, respondent presided over 17 cases, as set forth in the appended Schedule B, in which John Panos was the defendant. John Panos is the son of James Panos and the brother of James G. Panos.

8. James G. Panos is the animal control officer for the Town of Chester. Notwithstanding his relationship with James G. Panos, respondent has presided over five animal control violation cases filed by Mr. Panos, as set forth in the appended Schedule C. Respondent never notified any of the defendants of his relationship with Mr. Panos.

9. Respondent was notified on July 14, 1994, that the Commission was investigating his handling of cases brought by Trooper Redmond and those involving the Panos family. He gave testimony during the investigation on January 5, 1995. Thirteen of the cases involving Trooper Redmond and 17 of the cases involving the Panos family were heard by respondent after July 1994.

10. At the hearing in this matter on February 8, 1996, respondent testified that he did not believe it was improper for him to preside over cases involving Trooper Redmond and the Panos family, and he said that he would not disqualify himself from such cases in the future.

As to Charge II of the Formal Written Complaint:

11. On March 21, 1994, the North Country Gazette published a letter by Hilda J. VanDerwarker in which she was critical of respondent's handling of her Speeding ticket.

12. The following day, respondent went to the dentist's office where Ms. VanDerwarker was employed as a dental assistant and spoke to her and her employer. Ms. VanDerwarker

testified that respondent said that he was "hurt" by her letter to the editor of the newspaper; respondent testified that he did not mention the letter and maintained that he went to the dentist's office to complain that Ms. VanDerwarker had discussed his handling of her case with a patient.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated the Rules Governing Judicial Conduct then in effect, 22 NYCRR 100.1, 100.2 and 100.3(c)(1)\*, and Canons 1, 2 and 3C(1) of the Code of Judicial Conduct. Charges I and II of the Formal Written Complaint are sustained insofar as they are consistent with the findings herein\*\*, and respondent's misconduct is established.

Respondent's attempt to stifle Ms. VanDerwarker's criticism of him was grossly improper whether he was--as she

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\*Now Section 100.3(E)(1)

\*\*Charge I refers to a Letter of Dismissal and Caution sent to respondent on September 14, 1993, at the conclusion of an earlier investigation. The Commission's Operating Procedures and Rules, 22 NYCRR 7000.4, do not permit us to consider that Letter of Dismissal and Caution in this proceeding. Section 7000.4 provides that a Letter of Dismissal and Caution issued prior to a hearing in an earlier proceeding may not be used to establish misconduct in a subsequent proceeding unless the conduct that was at issue in the earlier proceeding is charged and proven in the subsequent proceeding. Since the conduct underlying the caution was not charged in this proceeding, respondent has had no due-process opportunity to contest the earlier conduct. Only in that event may the prior Letter of Dismissal and Caution "be considered by the commission in determining the sanction to be imposed." Therefore, we may not consider in this proceeding that the conduct charged here is exacerbated by the fact that it may be a repetition of earlier conduct.

testified--attacking her letter to the editor or--as he insists--discouraging her from talking about his handling of her case. In either event, by going to her place of employment and talking to her employer, respondent was attempting to inhibit Ms. VanDerwarker in her exercise of a fundamental constitutional protection: the right of the citizenry to criticize public officials.

Respondent's handling of cases involving Trooper Redmond and the Panos family was also wrong. "A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned...." (Rules Governing Judicial Conduct, 22 NYCRR 100.3[E][1], formerly Section 100.3[c][1]). A defendant might reasonably question whether a judge could be impartial in a matter in which the arresting officer and prosecuting authority was a close friend with whom the judge took trips, went fishing, regularly had coffee and visited in his home. Thus, respondent should have disqualified himself in cases brought to his court by Trooper Redmond.

Respondent's relationships with James Panos and his son, James G. Panos, also involve hunting and fishing and other trips, personal favors and socializing in homes and restaurants. These associations raise similar issues concerning his handling of John Panos's cases and those brought by James G. Panos as animal control officer.

It is beside the point that none of the litigants complained about these relationships--a fact that respondent did not divulge--and that he showed no favoritism or prejudice, as respondent has testified was the case. The Rules Governing Judicial Conduct counsel a judge to avoid even the appearance of impropriety (22 NYCRR 100.2), and they require disqualification whenever the judge's impartiality is in question. Respondent is unable to make the distinction between the fact of bias and its appearance.

Judges have been sanctioned for presiding in cases involving friends or others with close associations, even when there is no evidence of favoritism. (See, Matter of Fabrizio v State Commission on Judicial Conduct, 65 NY2d 275 [judge presided over small claims case brought by his dentist of ten years]; Matter of Wright, 1989 Ann Report of NY Commn on Jud Conduct, at 147 [judge decided, inter alia, motions in housing matter involving tenant on whose behalf he had written letters eight years earlier]; Matter of Merkel, 1989 Ann Report of NY Commn on Jud Conduct, at 111 [judge presided over case in which her court clerk was complaining witness]; Matter of Mills, 1985 Ann Report of NY Commn on Jud Conduct, at 196 [judge arraigned a defendant five days after they had engaged in sexual relations]).

Respondent's misconduct is compounded by the fact that he continued to hear cases involving Trooper Redmond and the Panos family after he knew that the Commission was investigating the complaint that led to this proceeding. (See, Matter of Sims

v State Commission on Judicial Conduct, 61 NY2d 349, at 357). His failure to recognize that this conduct is improper and his insistence that he will continue to hear such cases lead us to conclude that he lacks sensitivity to the ethical constraints placed upon him as a judge and that he should be removed. (See, Matter of Shilling v State Commission on Judicial Conduct, 51 NY2d 397, at 404; Matter of Sims, supra).

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

Mr. Berger, Mr. Coffey, Ms. Crotty, Judge Luciano, Judge Marshall and Judge Thompson concur, except that Judge Marshall and Judge Thompson would also base the sanction on a finding that respondent previously received a Letter of Dismissal and Caution concerning similar conduct.

Mr. Goldman, Judge Newton and Judge Salisbury dissent as to sanction only and vote that respondent be censured.

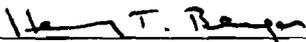
Mr. Sample was not present.

#### 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: September 17, 1996

  
Henry T. Berger, Esq., Chair  
New York State  
Commission on Judicial Conduct

Schedule A

<u>Defendant</u>	<u>Charge</u>	<u>Disposition</u>
David S. Raymond	Criminal Mischief	10/11/94
Todd R. Pidgeon	Criminal Trespass	07/26/94
Robert T. Mueller	Harassment	12/12/94
William J. Mueller	Harassment	12/12/94
LeRoy H. Backity	Speeding	02/10/94
Kim D. Marshall	Unsafe Backing; Leaving The Scene Of An Accident; Unsafe Start	10/12/93
Alice M. Nagengast	Unnecessary Smoke	11/30/93
Steven R. Harding	Speeding	02/01/94
Mbenca Mapassas	Speeding	01/02/94
Judith A. Pfiester	Speeding	08/24/94
Henry T. Yatzak	No Seat Belt	07/05/94
Robert P. Dutcher	Speeding	08/18/94
Serge Albert	Operated With Revoked Registration; Speeding; Aggravated Unlicensed Operation	07/25/94
John W. Cote	Reckless Driving; No Seat Belt	11/30/94
Ronald A. Backer	Speeding	03/30/95
Shulem C. Goldenberg	Speeding	12/20/94
Joseph E. Cautela	Operated With Revoked License	03/15/95

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<u>Defendant</u>	<u>Charge</u>	<u>Disposition</u>
Douglas A. Norton	Driving While Intoxicated; Unlicensed Operation; No Tail Lights	Pending as of 10/19/95
Walter D. Dubuque, Jr.	Failure To Keep Right	03/09/95
Frank P. Cavoli	Passed Stop Sign	Pending as of 10/19/95
Billy J. Hayes	Speeding	4/19/95

Schedule B

<u>Charge</u>	<u>Disposition</u>
Trespass	10/12/93
Trespass	01/11/94
Petit Larceny	01/11/94
Failure To Use Flashers	01/17/95
Driving While Intoxicated	05/10/95
Failure To Keep Right	05/10/95
Failure To Signal	05/10/95
Inadequate Head Light	05/02/95
Alcohol In Motor Vehicle	05/10/95
No Left Side Mirror	05/02/95
Resisting Arrest	06/13/95
Escape, Third Degree	06/13/95
Possession Of Marijuana	06/13/95
Aggravated Unlicensed Operation, Second Degree	07/11/95
No Seat Belt	07/11/95
Aggravated Unlicensed Operation, Second Degree	Pending as of 10/19/95
Operating In Violation Of License Restrictions	Pending as of 10/19/95

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Schedule C

<u>Defendant</u>	<u>Offense</u>	<u>Disposition</u>
Catherine D. Wolf	Allowing A Dog To Run At Large	04/29/94
Catherine D. Wolf	Habitual Barking	07/25/95
Raymond Bean	Failure To License A Dog	07/19/94
Mike T. Baker	Unlicensed Dog; Allowing A Dog To Run At Large	03/06/95
Frank Della Speranza	Failure To License A Dog	07/25/95