

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

Determination

STEVE A. SKRAMKO,

a Justice of the Warren Town Court,
Herkimer County.

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 (Stephen F. Downs, Of Counsel) for the
Commission

Scalise and Cooley (By Carl G. Scalise) for Respondent

The respondent, Steve A. Skramko, a justice of the
Warren Town Court, Herkimer County, was served with a Formal
Written Complaint dated January 25, 1984, alleging that he

requested special consideration for two defendants appearing in other courts. Respondent filed an answer dated February 13, 1984.

By order dated March 1, 1984, the Commission designated H. Wayne Judge, Esq., as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on April 26, 1984, and the referee filed his report with the Commission on May 31, 1984.

By motion dated June 20, 1984, the administrator of the Commission moved to confirm the referee's report and for a finding that respondent be removed from office. Respondent did not file any papers in response thereto. Oral argument was waived. On August 21, 1984, the Commission considered the record of the proceeding and made the following findings of fact.

Preliminary findings:

1. Respondent was a justice of the Warren Town Court, Herkimer County, for 16 years. He resigned effective May 1, 1984.

2. On May 20, 1980, the Commission determined that respondent be censured for five instances of seeking special consideration for defendants in other courts and for one instance of granting special consideration at the request of another judge.

As to Charge I of the Formal Written Complaint:

3. On June 4, 1983, Trooper Eileen B. Waterman of the New York State Police ticketed Rodger A. Quaif for Speeding in the Town of Otsego. The ticket was returnable on June 13, 1983, before the Honorable Donald Davis of the Otsego Town Court.

4. Mr. Quaif is a neighbor of respondent. Respondent uses without charge a field on the Quaif property to exercise horses. He is also permitted to take wood from the Quaif property without charge.

5. A couple of days after Mr. Quaif received the traffic ticket, his mother went to respondent's home. Mrs. Quaif showed respondent her son's ticket and asked him what her son should do. Respondent recommended that she retain an attorney, Cecilia Fagan-Celi. Mrs. Quaif called Ms. Fagan-Celi from respondent's home and retained her to represent Mr. Quaif.

6. From reading the ticket, respondent learned that it was returnable before Judge Davis.

7. On or about June 8, 1983, respondent went to Judge Davis' office. Respondent told Judge Davis that a friend, Mr. Quaif, had received a traffic ticket and suggested that the matter be "settled" by reducing the charge to one that carries no points on a driver's license and imposing a \$50 fine.

8. Judge Davis told respondent, "I refuse to have anything to do with it because I don't do business that way."

9. Respondent told Judge Davis, "Us judges do that all the while." When Judge Davis again rebuffed respondent's request, respondent said, "If you won't do me a favor, I will turn it over to my lawyer."

10. Respondent acknowledged that in speaking to Judge Davis he was attempting to "help" the Quaifs because they were "great neighbors."

11. Respondent then spoke to Trooper Waterman. He told her that Mr. Quaif was a friend who had recently obtained his driver's license. Respondent asked the trooper to talk to Judge Davis and "take care of the matter."

12. Trooper Waterman responded, "I don't care. Talk to the judge."

13. Respondent acknowledged that in speaking to Trooper Waterman he was trying to obtain a reduction in the charge to one that carries two points on a driver's license.

14. On July 14, 1983, Judge Davis reduced the charge against Mr. Quaif with the consent of Trooper Waterman and Ms. Fagan-Celi. Mr. Quaif was fined \$50.

As to Charge II of the Formal Written Complaint:

15. On May 23, 1983, Deputy Sheriff George T. Zeller of the Otsego County Sheriff's Department ticketed Ignazio Restivo for Speeding in the Town of Laurens. The ticket was returnable on June 9, 1983, in the Laurens Town Court.

16. Mr. Restivo had appeared before respondent in response to a previous traffic ticket. About three days after he received the ticket in the Town of Laurens, Mr. Restivo spoke to respondent and asked for help with the ticket.

17. Respondent then approached Deputy Sheriff Glenn M. Davis of the Otsego County Sheriff's Department and asked him whether he could "take care of" Mr. Restivo's ticket. Respondent told the deputy that Mr. Restivo was a friend and that respondent did business with him.

18. Deputy Davis told respondent that he was not the issuing officer. Respondent asked Deputy Davis to take the ticket to the issuing officer and tell him that respondent would "appreciate" anything that could be done.

19. Respondent then approached Undersheriff Orrin D. Higgins of the Otsego County Sheriff's Department. Respondent told the undersheriff that one of his men had ticketed Mr. Restivo and asked what he could do. The undersheriff replied, "Nothing."

20. At the time respondent spoke to Deputy Davis and the undersheriff, the case was pending in the Laurens Town Court.

21. The charge against Mr. Restivo was subsequently reduced in the Laurens Town Court to Failure To Obey A Traffic-Control Device.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2, 100.3(a)(1) and 100.3(a)(4) of the Rules Governing Judicial Conduct and Canons 1, 2, 3A(1) and 3A(4) of the Code of Judicial Conduct. Charges I and II of the Formal Written Complaint are sustained, and respondent's misconduct is established.

Requests for favoritism made by judges cannot be tolerated and have been condemned by the courts and this Commission. Matter of Dixon v. State Commission on Judicial Conduct, 47 NY2d 523 (1979); Matter of Bulger v. State Commission on Judicial Conduct, 48 NY2d 32 (1979); Bartlett v. Enea, 45 AD2d 471 (4th Dept. 1974); Matter of Byrne, 47 NY2d (b) (Ct. on the Judiciary, 1979); Matter of Montaneli, unreported (Com. on Jud. Conduct, Sept. 10, 1982).

Judge Davis and the law enforcement officers commendably rejected respondent's outrageous requests.

Respondent himself has been censured for similar attempts to use his judicial office to influence the outcome of cases. Matter of Skramko, unreported (Com. on Jud. Conduct, May 20, 1980). His refusal to abide by ethical standards in the face of previous discipline for similar conduct demonstrates his unfitness for judicial office.

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

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.

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

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: August 23, 1984


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