

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

EDWARD J. WILLIAMS,

a Justice of the Kinderhook Town and Valatie
Village Courts, Columbia County.

THE COMMISSION:

Henry T. Berger, Esq., Chair
Honorable Frederick M. Marshall, Vice Chair
Honorable Frances A. Ciardullo
Stephen R. Coffey, Esq.
Lawrence S. Goldman, Esq.
Christina Hernandez, M.S.W.
Honorable Daniel F. Luciano
Honorable Karen K. Peters
Alan J. Pope, Esq.
Honorable Terry Jane Ruderman

APPEARANCES:

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

Gerstenzang, O'Hern, Hickey & Gerstenzang (By Thomas J. O'Hern)
for Respondent

The respondent, Edward J. Williams, a justice of the Kinderhook Town
Court and Valatie Village Court, Columbia County, was served with a Formal Written

Complaint dated September 5, 2000, containing four charges. Respondent filed an answer dated September 25, 2000.

On June 8, 2001, the Administrator of the Commission, respondent and respondent's counsel entered into an Agreed Statement of Facts pursuant to Judiciary Law §44(5), stipulating that the Commission make its determination based upon the agreed facts, jointly recommending that respondent be admonished and waiving further submissions and oral argument.

On June 18, 2001, the Commission approved the agreed statement and made the following determination.

1. Respondent has been a justice of the Valatie Village Court since 1982 and a justice of the Kinderhook Town Court since 1984. He is not a lawyer. Respondent has attended and successfully completed all required training sessions for judges.

As to Charge I of the Formal Written Complaint:

2. In or about September 1998, respondent conveyed the appearance that he was engaged in partisan political activity by providing transportation for his court clerk, although respondent knew that his court clerk was delivering posters for John Sweeney's campaign for the U.S. House of Representatives to the Republican booth at the Columbia County Fair. Respondent transported his court clerk and the posters in his

van to the Republican booth at the County Fair, where the political posters were unloaded by others. Respondent parked his vehicle and waited until the delivery was completed.

As to Charge II of the Formal Written Complaint:

3. In or about March 1999, in People v. Bruce Kruppenbacker, after the defense attorney rejected an offer of a plea bargain whereby the defendant would plead guilty to the charge of Sexual Misconduct in satisfaction of that charge and a charge of Unlawfully Dealing With A Child, respondent stated in court to the assistant district attorney in a loud voice that he was tired of the district attorney's office's refusal to offer adequate plea bargains and, without a basis for the comment, alleged that the district attorney's office was making prosecutorial decisions for political reasons.

As to Charge III of the Formal Written Complaint:

4. On or about April 12, 1999, without basis and in violation of Section 4 of the Judiciary Law, respondent ordered the victim's attorney to leave the courtroom during the public trial of People v. Walter Baker, Jr. and Kelly Baker. The victim's attorney wanted to attend the trial only as an observer, but respondent refused to permit him to be in the courtroom.

As to Charge IV of the Formal Written Complaint:

5. On or about January 18, 2000, in Patricia Betar v. Mary Ballard and

Kirt George, respondent held a summary proceeding on the plaintiff landlord's petition for eviction and back rent. The plaintiff was represented by counsel, but the defendants were *pro se*. After a discussion at the bench, in which the defendants agreed to leave the premises but raised a defense that the past due rents should be abated due to inadequate heat, respondent signed a judgment, awarding the plaintiff possession and \$6,300 plus costs, which was the full amount of the claim, without according the defendants full opportunity to be heard on the issue of the abatement of the rent. The defendants did not agree to the judgment, and respondent failed to conduct a hearing on the contested issues.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.3(B)(1), 100.3(B)(3), 100.3(B)(6), 100.5(A)(1)(c), 100.5(A)(1)(d) and 100.5(A)(1)(e) of the Rules Governing Judicial Conduct. Charges I through IV of the Formal Written Complaint are sustained insofar as they are consistent with the above facts, and respondent's misconduct is established.

By his actions both on and off the bench, respondent failed to observe high standards of conduct and violated well-established ethical precepts (Section 100.1 of the Rules Governing Judicial Conduct).

By providing transportation for his court clerk, who was delivering

campaign posters in support of a candidate for public office, respondent conveyed the impression that he was engaged in partisan political activity, which is prohibited by Section 100.5(A)(1)(c) of the Rules. Respondent, who was aware that his clerk was delivering campaign materials, drove his van to the Republican booth at the County Fair and waited in the van while the political posters were unloaded. Under such circumstances, an observer might reasonably conclude that respondent himself was engaging in political activity in support of the candidate. As the Court of Appeals has stated: "...Judges must hold themselves aloof and refrain from engaging in political activity, except to the extent necessary to pursue their candidacies during their public election campaigns." Matter of Maney v. State Commn on Jud Conduct, 70 NY2d 27, 30 (1987); *see also* Matter of Rath, 1990 Ann Report of NY Comm. on Jud Conduct 150.

Respondent's unwarranted public criticism of the prosecutor in the Kruppenbacker case was also inappropriate. By ascribing political motives to the prosecutor, apparently because of his dissatisfaction with a plea offer he deemed inadequate, respondent himself injected politics into the case and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules. Such conduct also violated his obligation to be patient, dignified and courteous to an attorney with whom he dealt in an official capacity (Section 100.3[B][3] of the Rules).

It was also improper for respondent to bar an attorney from the courtroom

in a criminal case. “The sittings of every court within this state shall be public, and every citizen may freely attend the same...” (Jud Law §4). The right to public proceedings belongs not only to a defendant, but to the public and press as well. Westchester Rockland Newspapers v. Leggett, 48 NY2d 430, 437 (1979). Only when public proceedings would jeopardize a defendant’s right to a fair trial may they be closed (*Id.* at 438).

In Betar v. Ballard, respondent failed to comply with the law by signing a judgment without holding a hearing on the contested issues or according the *pro se* defendants full opportunity to be heard. Every judge -- lawyer or non-lawyer -- is required to be competent in the law and to insure that all those with a legal interest in a proceeding have a full opportunity to be heard according to law. Matter of Curcio, 1984 Ann Report of NY Comm. on Jud Conduct 80. As a judge since 1982, respondent should be fully familiar with basic procedures of law as well as the ethical rules.

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

Mr. Berger, Judge Ciardullo, Mr. Coffey, Mr. Goldman, Ms. Hernandez, Judge Luciano, Judge Peters and Judge Ruderman concur.

Judge Marshall and Mr. Pope were not present.

CERTIFICATION

It is certified that the foregoing is the determination of the State
Commission on Judicial Conduct.

Dated: November 19, 2001



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