

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

FRANK J. BLANGIARDO,

Determination

a Judge of the Civil Court of the City of
New York, and Acting Supreme Court Justice,
1st Judicial District, New York County.

THE COMMISSION:

Mrs. Gene Robb, Chairwoman
John J. Bower, Esq.
David Bromberg, Esq.
Honorable Carmen Beauchamp Ciparick
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 (Alan W. Friedberg, Of Counsel) for the
Commission

Weiss, Molod, Berkowitz & Godosky, P.C. (By Richard
Godosky) for Respondent

The respondent, Frank J. Blangiardo, a judge of the
New York City Civil Court, New York County, and acting justice
of the Supreme Court, First Judicial District, was served with a
Formal Written Complaint dated July 29, 1986, alleging that
during a court proceeding he swatted an attorney's hand and

said, "I like to hit girls because they are soft." Respondent filed an answer dated August 20, 1986.

By order dated September 16, 1986, the Commission designated the Honorable Morton B. Silberman as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on November 5, 1986, and the referee filed his report with the Commission on February 12, 1987.

By motion dated April 22, 1987, the administrator of the Commission moved to confirm in part and disaffirm in part the referee's report and for a finding that respondent be admonished. Respondent opposed the motion on May 5, 1987. The administrator filed a reply on May 14, 1987.

On May 21, 1987, the Commission heard oral argument, at which respondent appeared by counsel, and thereafter considered the record of the proceeding and made the following findings of fact.

1. Respondent is a judge of the New York City Civil Court and an acting justice of the Supreme Court. He has been a judge since January 1, 1959.

2. During the night session beginning February 8, 1986, respondent presided in an arraignment part of the New York City Criminal Court.

3. Margaret Alverson, a Legal Aid Society lawyer, appeared before respondent in People v. Carabalo and Allison.

4. During legal arguments at a bench conference, Ms. Alverson reached for a law book that was laying on respondent's bench.

5. Respondent swatted at Ms. Alverson's hand with some legal papers that he was holding and told her that she was rude.

6. Ms. Alverson asked respondent why he had swatted at her.

7. Respondent was embarrassed. In an attempt to relieve the tension between Ms. Alverson and him, he replied, "I like to hit girls because they are soft."

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2 and 100.3(a)(3) of the Rules Governing Judicial Conduct; Canons 1, 2 and 3A(3) of the Code of Judicial Conduct, and Sections 604.1(e)(1) and 604.1(e)(5) of the Special Rules Concerning Court Decorum of the Appellate Division, First Department. The charge in the Formal Written Complaint is sustained, and respondent's misconduct is established.

Whatever his motivation, respondent's references to Ms. Alverson as a "girl" and "soft" were demeaning and undignified. Such remarks undermine an attorney's role in a

courtroom by indicating that she is not to be taken seriously and may hinder her from properly representing her client.

Respondent's remarks were insensitive in view of recent attention in the court system to eliminating gender bias. See, "Report of the New York Task Force on Women in the Courts," reprinted in 15 Fordham Urban Journal 8 (1986-87). Respondent should have been aware of the offensive nature of the term "girl" in referring to a female attorney. Matter of Jordan, 1984 Annual Report 104 (Com. on Jud. Conduct, Jan. 26, 1983). Although the circumstances here are significantly different from those in Jordan, that well-publicized decision put judges on notice that expressions such as "girl" are "insulting, belittling and inappropriate" and "diminish the dignity of the court." Jordan, supra at 106.

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

Mrs. Robb, Mr. Bromberg, Mrs. DelBello, Judge Ostrowski, Judge Shea and Mr. Sheehy concur.

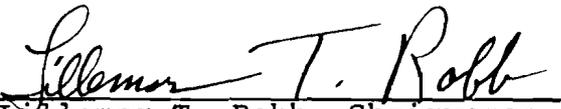
Mr. Bower, Judge Ciparick and Judge Rubin dissent as to sanction only and vote that respondent be issued a confidential letter of dismissal and caution.

Mr. Cleary and Mr. Kovner did not participate.

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: July 23, 1987


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