

STATE OF NEW YORK
STATE COMMISSION ON JUDICIAL CONDUCT

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In the Matter :
- of - :
C. H. DU MOND : DETERMINATION
A Justice of the Town of :
Hurley, County of Ulster :
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STATE COMMISSION ON
JUDICIAL CONDUCT

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DETERMINATION OF THE
STATE COMMISSION ON JUDICIAL CONDUCT
IN THE MATTER OF HURLEY
TOWN JUSTICE C. H. DuMOND

PRELIMINARY STATEMENT

This Determination of the State Commission on Judicial Conduct (hereinafter the "Commission") is submitted in accordance with Article VI, Section 22k, of the Constitution of the State of New York, and Article 2-A of the Judiciary Law, for transmittal by the Chief Judge of the Court of Appeals to the Honorable C. H. DuMond.

Judge DuMond is a justice of the Town Court of Hurley in Ulster County. He is not an attorney. He first took office in January 1970. His current term of office expires on December 31, 1981.

Pursuant to Section 43, subdivision 2, of the Judiciary Law, the present investigation of Judge DuMond commenced on May 25, 1977. In the course of its investigation, the Commission discovered six instances in which Judge DuMond made ex parte requests of other judges for favorable dispositions for defendants in traffic cases, and one instance in which Judge DuMond granted a favorable disposition to a defendant in a traffic case pursuant to a request from a third party.

JUSTICE DuMOND'S REQUESTS FOR FAVORABLE DISPOSITIONS
FOR DEFENDANTS IN TRAFFIC CASES

On or about December 17, 1974, Judge DuMond, or someone at his request, communicated with Judge Wayne Smith of the Town Court of Plattekill on behalf of the defendant, who was charged with

speeding, in People v. Leland E. Johnson, a case then pending before Judge Smith.

On or about April 2, 1975, Judge DuMond, or someone at his request, communicated with Judge Arthur A. Reilly of the Town Court of Ulster on behalf of the defendant, who was charged with speeding, in People v. Charles J. Maltese, a case then pending before Judge Reilly.

On or about May 24, 1976, Judge DuMond, or someone at his request, communicated with Judge Arthur A. Reilly of the Town Court of Ulster on behalf of the defendant, who was charged with driving with studded tires, in People v. Marvel J. Priest, a case then pending before Judge Reilly.

On or about June 9, 1976, Judge DuMond, or someone at his request, communicated with Judge Arthur A. Reilly of the Town Court of Ulster on behalf of the defendant, who was charged with speeding, in People v. Charles J. Maltese, a case then pending before Judge Reilly.

On or about November 22, 1976, Judge DuMond, or someone at his request, communicated with Judge Joseph Polonsky of the Town Court of Wawarsing on behalf of the defendant, who was charged with speeding, in People v. Herbert F. Schuler, a case then pending before Judge Polonsky.

On or about January 19, 1977, Judge DuMond, or someone at his request, communicated with Judge Arthur A. Reilly of the Town Court of Ulster on behalf of the defendant, who was charged with speeding, in People v. Wilson Stokes, a case then pending before Judge Reilly.

JUSTICE DuMOND'S GRANT OF A FAVORABLE DISPOSITION
FOR THE DEFENDANT IN A TRAFFIC CASE

On or about December 22, 1976, Judge DuMond reduced a charge of speeding to driving with an inadequate muffler in People v. Ernest M. Davis as a result of a letter he received on behalf of the defendant from Judge Joseph Polonsky of the Town Court of Wawarsing.

JUSTICE DuMOND'S WAIVER OF A SCHEDULED HEARING
BEFORE THE COMMISSION

Pursuant to Section 43, subdivision 3, of the Judiciary Law, the Commission requested that Judge DuMond appear before a panel of its members. Judge DuMond replied with an affidavit dated July 28, 1977. In the affidavit Judge DuMond acknowledged making the requests in the Johnson, Schuler, and the two Maltese cases, as well as granting Judge Polonsky's request in the Davis case. Judge DuMond denied any independent recollection of the Stokes and Priest cases.

Pursuant to Section 43, subdivision 5, of the Judiciary Law, the Commission determined that cause existed to conduct a hearing with respect to the judge's apparent conduct in all of the cases noted above. On November 25, 1977, Judge DuMond was served with a Notice of Hearing and a Formal Written Complaint detailing the factual allegations in the seven cases. In an Answer dated December 2, 1977, Judge DuMond admitted all the factual allegations but stated he had had no intention of committing improper conduct. In a letter from his attorney dated December 27, 1977, Judge DuMond waived his right to the scheduled hearing.

CONCLUSION

By making ex parte requests of other judges for favorable dispositions for defendants in traffic cases, and by granting a favorable disposition to a defendant in a traffic case at the request of a third party, Judge DuMond was in violation of Sections 33.1, 33.2, 33.3(a) (1) and 33.3(a) (4) of the Rules Governing Judicial Conduct of the Administrative Board of the Judicial Conference, and Canons 1, 2 and 3(A) of the Code of Judicial Conduct which read in part as follows:

Every judge...shall himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. [Section 33.1]

A judge shall respect and comply with the law and shall conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. [Section 33.2(a)]

No judge shall allow his family, social or other relationships to influence his judicial conduct or judgment. [Section 33.2(b)]

No judge...shall convey or permit others to convey the impression that they are in a special position to influence him.... [Section 33.2(c)]

A judge shall be faithful to the law and maintain professional competence in it.... [Section 33.3(a) (1)]

A judge shall...except as authorized by law, neither initiate nor consider ex parte or other communications concerning a pending or impending proceedings.... [Section 33.3(a) (4)]

DETERMINATION

By reason of the foregoing, in accordance with Article VI, Section 22k, of the Constitution of the State of New York, and Section 43, subdivision 7, of the Judiciary Law, the State Commission on Judicial Conduct has determined that Judge DuMond should be publicly censured.

Respectfully submitted,
State Commission on Judicial
Conduct

Dated: February 16, 1978
New York, New York

APPEARANCES:

Gerald Stern (Barry M. Vucker, Of Counsel) for the Commission

Robert A. MacKinnon for Respondent