

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

JOHN H. DUDLEY,

a Justice of the Village Court of Cato,
Cayuga County.

Determination

PRESENT: Mrs. Gene Robb, Chairwoman
David Bromberg
Honorable Richard J. Cardamone
Dolores DelBello
Michael M. Kirsch
Honorable Isaac Rubin
Honorable Felice K. Shea
Carroll L. Wainwright, Jr.

The respondent, John H. Dudley, a Justice of the Village Court of Cato, Cayuga County, was served with a Formal Written Complaint, dated October 31, 1978, alleging numerous acts of misconduct over a ten year period relating primarily to his failure to keep records, file reports and dispose of official funds as required by law.

The allegations of misconduct were embodied in 16 separate charges against him, all of which were admitted by respondent by reason of his failure to answer the Formal Written Complaint. See, Operating Rules of the State Commission on Judicial Conduct ("Commission Rules"), §7000.6(b), 22 NYCRR §7000.6(b).

The Administrator of the Commission on Judicial Conduct ("Administrator") moved for summary determination on January 10, 1979. Respondent did not oppose the motion, and since there was present no genuine issue of material fact, a hearing on the issue of misconduct was unnecessary. The Commission therefore granted summary determination on the pleadings on February 1, 1979, and set the matter down for a hearing on the issue of a sanction on February 27, 1979. Both the Administrator and respondent were afforded the opportunity to appear or submit a memorandum on the sanction issue. The Administrator submitted such a memorandum, but respondent declined either to appear or submit a memorandum.

Upon the record before us the Commission finds as follows:

1. For 119 of the 125 months between April 1, 1968, and September 10, 1978, respondent failed to report his judicial activities and to remit to the State Comptroller within the first ten days of the succeeding month monies he had received in his judicial capacity.
2. From April 1968 to the present, respondent has failed to make timely deposits in his official bank account of monies he has received in his judicial capacity. In three separate instances such deposits were made only following advice to respondent by State auditors that such monies were undeposited.
3. Respondent failed to report and remit to the State Comptroller various sums which he received in his judicial capacity until his failure to do so was brought to his attention by State auditors, as follows: from January 1969 through December 10, 1971, \$662.00; from April 1972 through October 10, 1974, \$842.00; from June 1976 through April 10, 1977, \$157.00.
4. During two separate periods -- from June 1, 1968, to December 29, 1971, and from January 7, 1972, to October 9, 1974 -- respondent's official bank account plus undeposited cash, were less than respondent's official liabilities by \$282.00 and \$63.00, respectively.
5. From June 1, 1968, to the present, respondent has failed to issue proper receipts for all fines and bails received by him in his judicial capacity.
6. From July 1, 1974, to the present, respondent has failed to maintain a cashbook chronologically itemizing all monies received and disbursed in his judicial capacity.
7. Respondent has failed to properly dispose of \$270.00 representing bails posted from July 1967 to April 1975.
8. Respondent failed to properly dispose of \$36.60 in filing, jury, and service of process fees, collected from October 1973 to September 1974.
9. Respondent failed to cooperate with the Commission's investigation by failing to respond to written inquiries sent to him by the Commission on January 16 and January 25, 1978.
10. During the periods (i) from January 1973 to September 1978 and (ii) from October 1974 to September 1978, respondent failed to maintain and preserve dockets of (i) motor vehicle proceedings and (ii) all civil and criminal proceedings, respectively, held before him.

11. Respondent has failed to dispose of 53 motor vehicle cases, involving 47 defendants, which were brought before him during the period from June 1971 to June 1976.

12. From December 1971 to November 1976, respondent failed to certify to the Department of Motor Vehicles convictions in all traffic cases.

13. In five separate instances since 1971, respondent has failed to dispose of motor vehicle cases pending before him for a number of years and has failed to keep the requisite records and to take the requisite administrative steps in connection with such cases.

14. From April 1968 to the present, respondent has failed to establish or maintain a small claims part and has failed to schedule at least one session of court every other week for the hearing of small claims.

By reason of the foregoing, we conclude that respondent violated the statutory provisions, rules and canons set forth in Charges I through XVI* of the Formal Written Complaint.

Respondent's behavior clearly was improper, constituting at least negligence and bordering on wanton disregard for the legal and ethical constraints upon him. Similar, though less egregious, conduct has been found to constitute "gross neglect" and to justify removal. Bartlett v. Flynn, 50 AD2d 401, 378 NYS2d 145 (4th Dept. 1976), app. dismissed, 39 NY2d 942, 386 NYS2d 1029.

Having found that respondent repeatedly violated provisions of the General Municipal Law, Uniform Justice Court Act, Vehicle and Traffic Law and Village Law; sections of the Rules Governing Judicial Conduct (22 NYCRR §33.1 et seq.); and canons of the Code of Judicial Conduct and Canons of Judicial Ethics, the Commission hereby determines that the appropriate sanction is removal.

The foregoing constitutes the findings of fact and conclusions of law required by Section 44, subdivision 7, of the Judiciary Law.

Dated: March 5, 1979
Albany, New York

*The reference in Charge VII of the Formal Written Complaint to Section 20.9 of the Uniform Justice Court Rules appears inadvertent. The correct reference is to Section 30.9.