

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

DOUGLAS BRIAN HORTON,

a Justice of the Mexico Town Court,
Oswego County.

THE COMMISSION:

Honorable Thomas A. Klonick, Chair
Honorable Terry Jane Ruderman, Vice Chair
Honorable Rolando T. Acosta
Joseph W. Belluck, Esq.
Joel Cohen, Esq.
Richard D. Emery, Esq.
Paul B. Harding, Esq.
Nina M. Moore
Richard A. Stoloff, Esq.
Honorable David A. Weinstein

APPEARANCES:

Robert H. Tembeckjian (John J. Postel and Kathleen Martin, Of Counsel)
for the Commission

James K. Eby for the Respondent

The respondent, Douglas Brian Horton, a Justice of the Mexico Town
Court, Oswego County, was served with a Formal Written Complaint dated June 1, 2012,

containing one charge. The Formal Written Complaint alleges that respondent physically assaulted his girlfriend while attending a banquet. Respondent filed an answer dated June 20, 2012.

On September 24, 2012, the Administrator, respondent's counsel and respondent 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, recommending that respondent be admonished and waiving further submissions and oral argument.

On December 6, 2012, the Commission accepted the Agreed Statement and made the following determination.

1. Respondent has been a Justice of the Mexico Town Court, Oswego County, since 2008. His current term expires on December 31, 2013. He is not an attorney.

2. Respondent has been a member of the Mexico Volunteer Fire Department since 1986.

3. On or about March 27, 2010, respondent and Lisa Cote, his longtime girlfriend, attended the annual dinner of the Mexico Town Volunteer Fire Department at the Eis House, a local restaurant/banquet hall. At the time, respondent and Ms. Cote had been romantically involved for approximately nine years, had lived together for approximately eight years and had a five year-old son. For months prior to the event, Ms. Cote and respondent had been experiencing problems in their relationship.

4. At the event, respondent and Ms. Cote each consumed multiple alcoholic drinks. At about midnight, as they prepared to leave the event, respondent and Ms. Cote entered the foyer that also served as a coatroom. Ms. Cote asked respondent about why he had been dancing with other women, but not with her. Respondent told Ms. Cote to “[s]hut the fuck up,” or words to that effect, and an argument ensued.

5. When Ms. Cote opened the door of the coatroom in order to re-enter the bar area, respondent hooked his arm across Ms. Cote, pulling her back into the coatroom. As respondent and Ms. Cote continued to argue, respondent pushed her into the cloakroom wall, causing her to fall to the floor. Ms. Cote was not physically injured and did not require medical attention.

6. Kenneth Dingman, another guest, came to Ms. Cote’s assistance, helping her up off the floor and saying to respondent, “Does that make you feel like a big man,” or words to that effect. Respondent and Mr. Dingman argued. Other banquet guests appeared in the coatroom and separated the two men. Respondent left the restaurant without Ms. Cote and returned home.

7. Someone called 911 and two New York State Troopers responded by appearing at the restaurant. Ms. Cote told the Troopers that she did not want to file a complaint against respondent. Thereafter, one of the other banquet guests drove her home.

8. On April 1, 2010, as a result of the incident with Ms. Cote, respondent was suspended from the Mexico Volunteer Fire Department for 30 days,

directed to seek counseling and prohibited from drinking alcoholic beverages at Fire Department events for the next six months.

9. Ms. Cote and respondent ended their relationship in November 2010.

Additional Factors

10. Respondent has no previous disciplinary record.

11. The confrontation of March 27, 2010, took place within the context of the end of a long-term relationship.

12. Respondent and Ms. Cote terminated their relationship in the fall of 2010 and have worked out mutually agreeable arrangements concerning the shared custody of their child.

13. Since respondent and Ms. Cote terminated their relationship, there have been no further confrontations between them.

14. Respondent states that he deeply regrets having engaged in a physical confrontation with Ms. Cote, and he apologizes for having brought disrepute to the judiciary by virtue of his conduct.

15. Respondent has been contrite and cooperative with the Commission throughout its inquiry.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A) and 100.4(A)(2) of the Rules Governing Judicial Conduct (“Rules”) and should be disciplined for cause, pursuant to Article 6, Section 22, subdivision a, of the New York State Constitution and Section 44,

subdivision 1, of the Judiciary Law. Charge I is sustained and respondent's misconduct is established.

By engaging in an unseemly public altercation with his longtime girlfriend that culminated in him pushing her and causing her to fall to the ground, respondent engaged in conduct that detracted from the dignity of his judicial office and brought the judiciary as a whole into disrepute. That they had been arguing and had both consumed "multiple alcoholic drinks" prior to the incident is not an excuse. Respondent has stipulated that his conduct was inconsistent with the high ethical standards which judges are obliged to observe "at all times," both on and off the bench (Rules, §100.1).

As the Court of Appeals has stated, even off the bench every judge remains "clothed figuratively with his black robe of office devolving upon him standards of conduct more stringent than those acceptable for others." *Matter of Kuehnel*, 49 NY2d 465, 469 (1980). Any conduct, on or off the bench, "inconsistent with proper judicial demeanor subjects the judiciary as a whole to disrespect and impairs the usefulness of the individual judge to carry out his or her constitutionally mandated function" (*Id.*).

For one who holds a position of public trust and who presides over cases involving domestic violence in which he is called upon to pass judgment over the actions of others, such conduct adversely affects respondent's ability to administer the law effectively and impartially (*see, Matter of Roeppe*, 2002 Annual Report 153). The fact that respondent's girlfriend decided not to file a complaint against him with the troopers who were called to the scene does not mitigate the wrongfulness of his conduct.

In accepting the recommended sanction of admonition, we note that respondent has no previous disciplinary record and has had no further confrontations with Ms. Cote since they ended their relationship in late 2010. We also note that respondent is contrite and apologizes for having brought disrepute to the judiciary by his conduct.

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

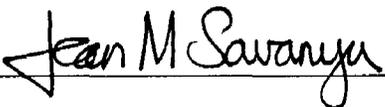
Judge Klonick, Judge Ruderman, Judge Acosta, Mr. Cohen, Mr. Emery, Mr. Harding, Ms. Moore, Mr. Stoloff and Judge Weinstein concur.

Mr. Belluck was not present.

CERTIFICATION

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

Dated: December 10, 2012



Jean M. Savanyu, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct