

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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In the Matter of the Proceeding :
Pursuant to Section 44, subdivision 4, :
of the Judiciary Law in Relation to :

JACK LEVINE, :

COMMISSION
DETERMINATION

a Justice of the Town Court of :
Liberty, Sullivan County. :

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PRESENT: Mrs. Gene Robb, Chairwoman
Honorable Fritz W. Alexander, II
David Bromberg
Dolores DelBello
Michael M. Kirsch
Victor Kovner
William V. Maggipinto
Honorable Isaac Rubin
Honorable Felice K. Shea
Carroll L. Wainwright, Jr.

The respondent, Jack Levine, a justice of the Town Court of Liberty, Sullivan County, was served with a Formal Written Complaint dated October 10, 1978, setting forth eight charges of misconduct relating to the improper assertion of influence in traffic cases. In his answer, dated October 31, 1978, respondent admitted the material allegations set forth in the Formal Written Complaint.

The administrator of the Commission moved for summary determination on January 17, 1979, pursuant to Section 7000.6(c) of the Commission's Rules (22 NYCRR 7000.6[c]). The Commission granted the motion on January 24, 1979, finding respondent guilty of misconduct and setting a date for oral argument on the issue

of an appropriate sanction. The administrator submitted a memorandum in lieu of oral argument. Respondent waived oral argument and declined to submit a memorandum.

The Commission finds as follows:

1. On or about April 30, 1974, respondent imposed an unconditional discharge in People v. Patrick M. Dolan as a result of a written communication he received from Joseph Wasser, Sheriff of Sullivan County, seeking special consideration on behalf of the defendant.

2. On or about February 24, 1975, respondent reduced a charge of speeding to driving with an unsafe tire in People v. Joseph H. Rooney as a result of a written communication he received from Justice Michael Altman of the Fallsburgh Town Court, seeking special consideration on behalf of the defendant.

3. On or about March 3, 1975, respondent reduced a charge of speeding to driving with an unsafe tire in People v. Franklin Smith as a result of a communication he received from Justice James Gorman of the Neversink Town Court, or someone at Judge Gorman's request, seeking special consideration on behalf of the defendant.

4. On or about November 1, 1976, respondent reduced a charge of speeding to failure to keep right in People v. Herbert Stern as a result of a written communication he received from Justice Murray Pudalov of the Massapequa Park Village Court, seeking special consideration on behalf of the defendant.

5. On or about June 3, 1974, respondent reduced a charge of speeding to failure to keep right in People v. Leonard

G. Waltz as a result of a written communication he received from Justice Lloyd Houck of the Hancock Town Court, seeking special consideration on behalf of the defendant.

6. On or about June 10, 1974, respondent reduced a charge of speeding to driving with unsafe tires in People v. David Kosofsky as a result of a communication he received from a state trooper seeking special consideration on behalf of the defendant.

7. On or about November 17, 1975, respondent reduced a charge of speeding to driving with an unsafe tire in People v. Rosa M. Albrecht as a result of a communication he received from Justice Milton Sardonia of the Bethel Town Court, or someone at Judge Sardonia's request, seeking special consideration on behalf of the defendant.

8. On or about May 3, 1976, respondent reduced a charge of speeding to driving with an inadequate muffler in People v. Arthur H. Grae as a result of a communication he received from Justice Burton Ledina of the Monticello Village Court on behalf of the defendant.

9. By reason of the foregoing, respondent violated Sections 33.1, 33.2, 33.3(a)(1) and 33.3(a)(4) of the Rules Governing Judicial Conduct and Canons 1, 2 and 3A of the Code of Judicial Conduct.

It is improper for a judge to seek to persuade another judge, on the basis of personal or other special influence, to alter or dismiss a traffic ticket. A judge who accedes to such a request is guilty of favoritism, as is the judge who made

the request. By granting ex parte requests from judges and others with influence for favorable dispositions for defendants in traffic cases, respondent violated the Rules enumerated above, 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)]

Courts in this state and other jurisdictions have found that favoritism is serious judicial misconduct and that ticket-fixing is a form of favoritism.

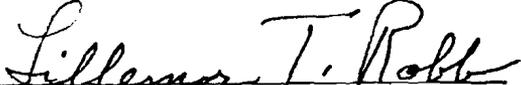
In Matter of Byrne, N.Y.L.J. April 20, 1978, vol. 179, p. 5 (Ct. on the Judiciary), the Court on the Judiciary declared that a "judicial officer who accords or requests special treatment or favoritism to a defendant in his court or another judge's

court is guilty of malum in se misconduct constituting cause for discipline." In that case, ticket-fixing was equated with favoritism, which the court stated was "wrong and has always been wrong." Id.

By reason of the foregoing, the Commission determines that respondent should be censured.

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

All concur.


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

Dated: May 29, 1979
Albany, New York

APPEARANCES:

Jack Levine, Respondent *Pro Se*

Gerald Stern for the Commission (Edith Holleman, Judith Siegel-Baum,
Of Counsel)