

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

THOMAS R. MILLS,

a Justice of the Schroepfel Town Court,
Oswego County.

THE COMMISSION:

Mrs. Gene Robb, Chairwoman
Honorable Fritz W. Alexander, II
John J. Bower, Esq.
David Bromberg, Esq.
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 (John J. Postel, Of Counsel)
for the Commission

John F. Henry for Respondent

The respondent, Thomas R. Mills, a justice of the
Schroepfel Town Court, Oswego County, was served with a Formal
Written Complaint dated February 23, 1984, alleging that he
offered a favorable disposition to a female defendant of a

criminal charge in exchange for sexual favors and alleging that he had failed to perform his administrative and adjudicative responsibilities. Respondent filed an answer dated March 16, 1984.

By order dated March 21, 1984, the Commission designated the Honorable John S. Marsh as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on April 17, 18, 26 and 27, 1984, and the referee filed his report with the Commission on June 11, 1984.

By motion dated June 13, 1984, the administrator of the Commission moved to confirm the referee's report and for a finding that respondent be removed from office. Respondent opposed the motion on June 21, 1984. Oral argument was waived. On August 21, 1984, the Commission considered the record of the proceeding and made the following findings of fact.

As to Charge I of the Formal Written Complaint:

1. Respondent was a justice of the Schroepel Town Court from January 1976 to March 1, 1984.

2. Respondent has been acquainted with Brenda Thomas and members of her family for many years. Ms. Thomas knew respondent to be a Schroepel Town Justice.

3. On February 3, 1983, Ms. Thomas, who was then 17 years old, was charged with Criminal Nuisance as the result of a fire at J. C. Birdlebough High School in Phoenix where she was a student.

4. Ms. Thomas received an appearance ticket returnable in the Schroepel Town Court on February 9, 1983. Ms. Thomas believed that she would appear before respondent.

5. During the night of February 4 through 5, 1983, respondent and Ms. Thomas met at a bar in Fulton.

6. Respondent and Ms. Thomas talked at the bar and then drove in separate cars to respondent's home.

7. Ms. Thomas told respondent that she had been in trouble at school and was scheduled to appear before him.

8. Respondent consulted his law books and advised Ms. Thomas that she would probably receive probation and community service.

9. After their conversation concerning the case, respondent and Ms. Thomas engaged in sexual relations before she left his home the next morning.

10. On February 9, 1983, Ms. Thomas appeared before respondent for arraignment. She pled not guilty. Respondent released her in her own recognizance and adjourned the case to March 1, 1983.

11. Respondent did not reveal his personal relationship with Ms. Thomas or disqualify himself from the case.

12. On or about February 17, 1983, respondent learned that the State Police were investigating allegations that he had been sexually involved with a female defendant.

13. Respondent then sent a letter dated February 17, 1983, to the Oswego County District Attorney disqualifying himself from Ms. Thomas' case.

14. On March 1, 1983, respondent transferred the case file to his co-judge.

15. Respondent and Ms. Thomas continued to have a sexual relationship until early 1984.

As to Charge II of the Formal Written Complaint:

16. Respondent failed to properly perform his administrative and judicial duties in that he:

(a) Failed to dispose of 425 cases pending in his court, some for nearly six years;

(b) failed to enter in his court dockets 429 cases pending in his court;

(c) failed to make any records for 117 cases pending in his court;

(d) failed to report to law enforcement agencies the disposition of 430 cases brought by those agencies notwithstanding that he was notified by numerous law enforcement agencies that his court had not reported the dispositions;

(e) failed to submit to the Department of Motor Vehicles certificates of conviction in 308 cases disposed of in his court;

(f) failed to return driver's licenses in 33 cases to defendants who sent in their licenses in connection with a plea of guilty to a traffic charge; and,

(g) failed to maintain case files and indices of cases for any cases in his court.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2, 100.3(a)(1), 100.3(a)(5), 100.3(b)(1) and 100.3(c)(1) of the Rules Governing Judicial Conduct; Canons 1, 2, 3A(1), 3A(5), 3B(1) and 3C(1) of the Code of Judicial Conduct; Sections 107, 2019 and 2019-a of the Uniform Justice Court Act; Sections 105.1 and 105.3 of the Recordkeeping Requirements for Town and Village Courts; Section 91.12 of the Regulations of the Commissioner of the Department of Motor Vehicles; and Section 30.9 of the Uniform Justice Court Rules. Charges I and II of the Formal Written Complaint are sustained, except for that part of Charge I that alleges that respondent offered the defendant a favorable disposition in exchange for sexual favors, and respondent's misconduct is established.

Knowing a young woman was to appear before him, respondent entered into a sexual relationship with the defendant. Thereafter, he arraigned and released without bail the defendant. He did not disclose the relationship or disqualify himself for 13

days after he learned of the pending case, until he knew of a criminal investigation into his conduct. He clearly violated Section 100.3(c) of the Rules Governing Judicial Conduct which requires a judge to disqualify himself in any case in which his impartiality might reasonably be questioned.

In addition, respondent has been derelict in the performance of his administrative and judicial duties. He failed to dispose of hundreds of cases pending for as long as six years, and he failed to keep proper records of the matters before him. Such neglect of a judge's obligations is serious misconduct (see, Matter of Rogers v. State Commission on Judicial Conduct, 51 NY2d 224 [1980]; Matter of Cooley v. State Commission on Judicial Conduct, 53 NY2d 64 [1981]), and, when extended over a long period, constitutes an irreparable breach of the public's trust in a judge's performance (Matter of New, unreported [Com. on Jud. Conduct, Dec. 8, 1982]).

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

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

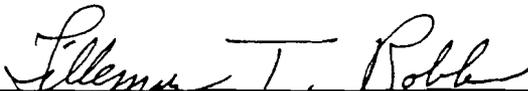
Judge Alexander and Judge Rubin were not present.

This determination is rendered pursuant to Section 47 of the Judiciary Law in view of respondent's resignation from the bench.

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: August 30, 1984


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