

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

BRUCE R. MOSKOS,

a Justice of the New Lisbon Town Court,
Otsego County.

THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Paul B. Harding, Esq., Vice Chair
Honorable Rolando T. Acosta
Joel Cohen, Esq.
Jodie Corngold
Richard D. Emery, Esq.
Honorable Thomas A. Klonick
Honorable Leslie G. Leach
Richard A. Stoloff, Esq.
Honorable David A. Weinstein

APPEARANCES:

Robert H. Tembeckjian (S. Peter Pedrotty, Of Counsel) for the Commission

Michael A. Santo for the Respondent

The respondent, Bruce R. Moskos, a Justice of the New Lisbon Town Court, Otsego County, was served with a Formal Written Complaint dated March 28, 2016, containing one charge. The Formal Written Complaint alleged that on three

occasions respondent asserted the prestige of judicial office while attempting to enter a county-owned building in possession of a firearm, in violation of local law.

Respondent filed a Verified Answer dated April 14, 2016.

On August 31, 2016, the Administrator, respondent's counsel and respondent entered into an Agreed Statement of Facts pursuant to Section 44, subdivision 5, of the Judiciary Law, 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 September 15, 2016, the Commission accepted the Agreed Statement and made the following determination.

1. Respondent has been a Justice of the New Lisbon Town Court, Otsego County, since 1981. Respondent's current term expires on December 31, 2017. He is not an attorney.

2. On three separate occasions in July 2013, May 2015 and June 2015, as set forth below, respondent asserted the prestige of judicial office while attempting to enter an Otsego County-owned building in possession of a firearm, in violation of a local law prohibiting the possession of weapons in county buildings.

3. The Meadows Office Complex (hereinafter "the Meadows") is a building owned by Otsego County and located in the Town of Middlefield, Otsego County. It houses offices of the Otsego County Board of Elections and the Department of Social Services, among other county departments.

4. At all times relevant to the matters herein, a sign was posted by the exterior door to the public entrance of the Meadows, stating “No Weapons Permitted.” Posted below this sign was a copy of County of Otsego Local Law No. 2 of 1995, titled “A Local Law Banning Possession of Firearms and Other Dangerous Weapons in Otsego County Buildings” (hereinafter “Local Law”).

5. The Local Law prohibits, *inter alia*, “any individual from bearing or having in his/her possession, either openly or concealed, any firearm ... in any building owned, leased, or operated by the County of Otsego,” and further states, “This local law shall not apply to law enforcement officials only” (emphasis in original). Failure to comply with the Local Law is punishable by confinement in the Otsego County Correctional Facility for a term not to exceed three months and/or a fine not to exceed \$500.

6. At all times relevant to the matters herein, a walk-through metal detector was located just inside the public entrance to the Meadows.

7. At all times relevant to the matters herein, respondent possessed a license to carry a concealed firearm and carried a .380-caliber Ruger pistol in his pants pocket.

The July 2013 Incident

8. On July 10, 2013, respondent entered the public entrance to the Meadows and started to walk around the metal detector without going through it. Security Officer B. Eric Ashley stopped respondent and advised him that he had to empty

his pockets and walk through the metal detector before proceeding. Respondent replied that he was not required to do so because he was a judge.

9. At one point during this exchange, respondent told Mr. Ashley, in sum or substance, that he knew Deputy Chief Administrative Judge Michael Coccoma.

10. Ultimately, respondent emptied some items from his pockets and walked through the metal detector, setting off the alarm. Mr. Ashley used a handheld metal detector and discovered respondent's pistol in his pocket. Respondent asserted to Mr. Ashley that he was permitted to bring the pistol into the building because he was a judge. Mr. Ashley told respondent that he could not bring the gun into the building. When respondent repeated that he should be allowed to enter the building with his pistol, Mr. Ashley directed respondent's attention to the "No Weapons Permitted" sign and the posted Local Law.

11. Respondent left the building and returned several minutes later without the pistol and was permitted to enter the building.

12. At no time in his conversations with Mr. Ashley did respondent raise his voice or display anger.

The May 2015 Incident

13. In May 2015 respondent entered the public entrance to the Meadows and started to walk around the metal detector without going through it. Security Officer Chris Trong, who at the time was busy screening several other individuals, directed respondent to stop and return to the metal detector. Respondent replied, "It's okay, I'm a

judge,” and attempted to proceed around the metal detector. Mr. Trong again directed respondent to return to the metal detector, which respondent did.

14. After Mr. Trong finished screening the other individuals, respondent twice attempted to walk around the metal detector while telling Mr. Trong, “I’m a judge. Everybody knows me.” At one point, Mr. Trong stepped in front of respondent to block his path and respondent placed his hand lightly on Mr. Trong’s chest, but did not push or otherwise exert force. After Mr. Trong advised respondent that he would call the sheriff’s department if respondent did not comply, respondent emptied some items from his pockets, but not his pistol. He then walked through the metal detector, setting off its alarm.

15. Mr. Trong used a handheld metal detector and detected respondent’s pistol in one of his pockets. When Mr. Trong asked respondent what was in his pocket, respondent replied that he needed to go to his car, but did not tell Mr. Trong that the item in his pocket was a pistol. Respondent then left the building and returned several minutes later without the pistol.

16. At no time in his conversations with Mr. Trong did respondent raise his voice or display anger.

The June 2015 Incident

17. On June 10, 2015, respondent entered the public entrance of the Meadows. Mr. Ashley recognized respondent and asked if he was carrying his pistol. Respondent said yes and stated that he was permitted to carry his firearm into the

building.

18. Mr. Ashley directed respondent's attention to the "No Weapons Permitted" sign and the posted Local Law. Respondent stated that he had just left another county building where he had been permitted to carry his pistol inside.

19. Mr. Ashley told respondent he could either secure his pistol in his vehicle or secure it in the office of an investigator for the Otsego County District Attorney's Office. Respondent chose the latter, and Mr. Ashley escorted respondent to the office of Investigator William Davis.

20. Respondent identified himself to Mr. Davis as New Lisbon Town Justice Bruce Moskos and stated that he visits courts all over the state and that he frequently enters government and/or court buildings, without having to surrender his pistol, including Otsego County buildings and buildings in New York City. Respondent further stated that he had just attempted to visit Judge Burns during lunchtime and asked whether Mr. Ashley and Mr. Davis would subject Judge Coccoma or Judge Burns to the same treatment. Respondent was referring to Otsego County Court Judge Brian Burns.

21. Mr. Davis secured respondent's pistol in a lockbox. Respondent later returned to Mr. Davis' office to retrieve his pistol.

Additional Factors

22. Respondent has no previous disciplinary history over his lengthy career on the bench.

23. Respondent has been cooperative throughout the Commission's

inquiry.

24. While respondent now understands that his conduct in identifying himself as a judge during these three incidents was inappropriate and created at least the appearance that he was attempting to use the prestige of his judicial office to enter the building with his pistol, respondent avers that he did so because he believed at the time that his status as a judge exempted him from security procedures in county buildings.

25. Respondent avers that he does not recall seeing the sign of the Local Law posted on the entrance to the Meadows, but acknowledges that he nevertheless should have been aware of the law and the sign.

26. Respondent avers – and the Administrator has no evidence to the contrary – that following the June 10, 2015 incident, he has not carried or attempted to carry his pistol into Otsego County buildings. Respondent avers that he will continue to refrain from such activity in the future.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A) and 100.2(C) 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 of the Formal Written Complaint is sustained, and respondent’s misconduct is established.

On three occasions respondent asserted his judicial position in an attempt to

circumvent a county-owned building's security procedures and avoid being compelled to relinquish his firearm. His actions, as stipulated, "created at least the appearance that he was attempting to use the prestige of his judicial office to enter the building with his pistol," contrary to County of Otsego Local Law No. 2 of 1995. By engaging in such conduct, he violated his ethical duty to respect and comply with the law, to avoid even the appearance of impropriety, and to refrain from using his judicial status to advance his private interests (Rules, §§100.2[A], 100.2[C]).

Throughout the incidents, respondent repeatedly referred to his judicial status and asserted that his judicial position exempted him from security procedures and compliance with the local law prohibiting possession of a weapon in county buildings. Notwithstanding his professed belief that, as a judge, he was entitled to special treatment for security purposes, the local law, which was posted at the entrance to the building, exempts "law enforcement officials only." Since that law was enacted in 1995, it seems unlikely that respondent – as a judge for 35 years and a gun owner – would have been unfamiliar with it. It was specifically brought to his attention in the first two incidents. Indeed, the fact that in the first two incidents he did not reveal that he had a gun or produce it when he emptied his pockets suggests that he was attempting to conceal the gun because he knew that bringing it into the building was prohibited. Regardless of whether the security procedures were enforced on other occasions, he was obligated to comply with those requirements when they were properly enforced by security officials. Even if he was not abusive or discourteous in confronting the security officers, he should

have recognized that his repeated insistence that his judicial status entitled him to special treatment would place them in a more difficult position in carrying out their assigned responsibilities.

At the very least, the first incident put respondent on notice that he was expected to comply with the security procedures in place at that location. Thus, each subsequent incident was increasingly improper because of his prior experience. If he believed that he should not be subjected to the same procedures and standards required of the general public, he could have pursued the subject within the law by appealing to officials who might have given him an exception to the law, rather than by confronting the security personnel on subsequent occasions with the same arguments and assertions of his judicial status. Moreover, his gratuitous allusions to two administrative judges, apparently to bolster his assertion of special influence, appeared to assume that those individuals would receive special treatment because of their judicial status, thereby extending the appearance of impropriety to the judiciary as a whole.

In accepting the stipulated sanction, we note that off the bench, every judge must observe “standards of conduct on a plane much higher than for those of society as a whole.” *Matter of Kuehnel*, 49 NY2d 465, 469 (1980). Any departure from this exacting standard of personal conduct may undermine and impair the public’s respect for the judiciary. We also note that despite his efforts to circumvent the required procedures and avoid complying with the law, respondent ultimately cooperated with security personnel and relinquished his firearm, and he has agreed he will not attempt to bring his gun into

county buildings in the future.

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

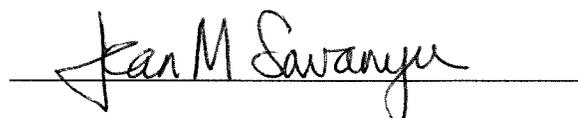
Mr. Belluck, Mr. Harding, Judge Acosta, Mr. Cohen, Ms. Corngold, Mr. Emery, Judge Klonick, Mr. Stoloff and Judge Weinstein concur.

Judge Leach did not participate.

CERTIFICATION

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

Dated: October 3, 2016

A handwritten signature in cursive script, reading "Jean M. Savanyu", is written over a horizontal line.

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