

**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

EDWIN P. SEATON,

**Determination**

a Justice of the Town Court of  
Chautauqua, Chautauqua County.

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

The respondent, Edwin P. Seaton, a justice of the Town Court of Chautauqua, Chautauqua County, from 1962 to the present, and formerly a justice of the Village Court of Mayville, Chautauqua County, from April 6, 1964, to December 20, 1977, was served with a Formal Written Complaint dated August 10, 1979, alleging (i) that he presided over two motor vehicle cases in 1974 in which his son was the defendant and (ii) that from July 1969 through June 1979 he has failed to observe numerous fiduciary and record keeping obligations and statutory requirements. Respondent's answer was received and filed on September 9, 1979.

By notice dated December 19, 1979, the administrator of the Commission moved for summary determination, pursuant to Section 7000.6(c) of the Commission's rules (22 NYCRR 7000.6 [c]).

Respondent submitted a letter in response to the motion.

By order dated January 30, 1980, the Commission granted the administrator's motion, found respondent's misconduct established and set a date for oral argument with respect to an appropriate sanction. The administrator submitted a memorandum and respondent submitted correspondence in lieu of oral argument.

The Commission considered the record of this proceeding in executive session on March 20, 1980, and now upon that record makes the following findings of fact.

1. On January 5, 1974, respondent presided over and disposed of two charges involving the improper use of a snowmobile in People v. Daniel P. Seaton, notwithstanding that the defendant is respondent's son, in violation of Section 14 of the Judiciary Law. Respondent dismissed one charge and imposed a \$5 fine on the other.

2. On September 28, 1974, respondent presided over and disposed of a charge of driving with a modified muffler in People v. Daniel P. Seaton, notwithstanding that the defendant is respondent's son, in violation of Section 14 of the Judiciary Law. Respondent imposed an unconditional discharge.

3. From August 1, 1969, to February 1, 1978, respondent, as town court justice of Chautauqua, failed to maintain properly his official court records in that he did not enter numerous cases in his docket books and did not take measures to ensure that court records would not be lost.

4. From September 1, 1974, to December 20, 1977, respondent, as village court justice of Mayville, failed to maintain properly his official court records in that he did not enter numerous cases in his docket books and did not maintain proper safeguards to ensure that court records would not be lost.

5. From July 1969 to November 1977, on 74 occasions as set forth in Schedule A appended hereto, respondent failed to report and remit to the State Comptroller monies he had received in his capacity as town court justice of Chautauqua in the first ten days of the month following collection, in violation of Section 2021(1) of the Uniform Justice Court Act.

6. From April 1972 to November 1977, on 42 occasions as set forth in Schedule B appended hereto, respondent failed to report and remit to the State Comptroller monies he had received in his capacity as village court justice of Mayville in the first ten days of the month following collection, in violation of Section 2021(1) of the Uniform Justice Court Act and Section 4-410 of the Village Law.

7. From September 12, 1972, to November 2, 1978, respondent failed to deposit in his official court bank account within 72 hours of receipt all monies received in his capacity as town court justice of Chautauqua and village court justice of Mayville, in violation of Section 30.7(a) of the Uniform Justice Court Rules.

8. From June 25, 1976, to February 1, 1978, respondent failed to correct the record keeping deficiencies and failed to perform the fiduciary duties noted in paragraphs 3 through 7 herein, despite being advised by the State Department of Audit and Control, and this Commission, of the deficiencies and breaches of fiduciary duties heretofore noted, in violation of Section 31 of the Town Law and Sections 107, 2019 and 2019-a of the Uniform Justice Court Act.

9. From September 12, 1972, to November 2, 1978, respondent failed to issue consecutively-numbered receipts for all monies received in his capacity as town court justice of Chautauqua and village court justice of Mayville, in violation of Section 99-b of the General Municipal Law.

10. From May 1, 1971, through October 31, 1978, respondent failed to docket an undetermined number of traffic cases and in certain of these cases (i) took no action to effect a final disposition, or (ii) sent notices of license suspensions to the Department of Motor Vehicles but took no other action to effect final dispositions and made no record that such notices had been sent or (iii) effected final dispositions and collected fines but made no record of the dispositions, in violation of Sections 107, 2019 and 2019-a of the Uniform Justice Court Act.

11. As of January 1, 1979, respondent had (i) failed to report the disposition of the cases below to the State Comptroller and the Department of Motor Vehicles, (ii) failed to remit to the State Comptroller the monies received therefrom, and (iii) failed

to enter these cases in his official dockets, in violation of Sections 107, 2019, 2020 and 2021(1) of the Uniform Justice Court Act, Section 514(1)(a) of the Vehicle and Traffic Law, Section 4-410(1) of the Village Law and Section 91.12 of the Regulations of the Commissioner of Motor Vehicles.

In the Town Court of Chautauqua:

People v. Ivan Hannold, June 20, 1972;  
People v. Danny L. Kelly, June 23, 1973;  
People v. Debra Hanson, February 15, 1975;  
People v. Gerald Near, October 4, 1975;  
People v. R.E. Jordan, October 7, 1975; and  
People v. Daniel J. Kelly, March 13, 1976.

In the Village Court of Mayville:

People v. Danny L. Kelly, October 30, 1973;  
People v. Michael Moss, September 6, 1975;  
People v. David Batchelar, October 7, 1975;  
People v. John Fergus, October 7, 1975;  
People v. Rolland Pierce, October 7, 1975;  
People v. McCleary, October 11, 1975; and  
People v. Edna Brown, October 25, 1975.

12. Respondent commingled with his personal funds and converted to his own use \$105 properly belonging to his town court cash and assets account, in violation of Section 2020 of the Uniform Justice Court Act, thus producing a deficiency of liabilities over assets in said account of \$105 as of November 2, 1978.

13. Respondent commingled with his personal funds and converted to his personal use \$528 that properly belonged in his village court cash and assets account, in violation of Section 2020 of the Uniform Justice Court Act and Section 4-410(1)(a)

of the Village Law, thus producing a deficiency of liabilities over assets in said account of \$528 as of November 2, 1978.

14. As of June 14, 1979, notwithstanding that respondent resigned as village court justice of Mayville on December 20, 1977, and notwithstanding the abolition of the village court by the Village Board of Mayville on April 1, 1978, respondent (i) failed to deliver the records of the village court to the clerk of the village (ii) retained control over the records and (iii) retained, control over the village court bank account, in violation of Section 2019-a of the Uniform Justice Court Act.

15. On June 13, 1977, respondent received \$150 in cash from the town clerk of Chautauqua to be remitted as partial restitution to Victor Sawkins, the complaining witness in People v. Weary. Respondent failed to deposit the \$150 in his official court account within 72 hours of receipt, in violation of Section 2020 of the Uniform Justice Court Act and Section 30.7(a) of the Uniform Justice Court Rules, and he did not remit the money to Mr. Sawkins until December 13, 1978.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 33.1, 33.2(a), 33.3(b)(1) and 33.3(c)(1)(iv)(a) of the Rules Governing Judicial Conduct, Canons 1, 2A, 3B(1) and 3C(1)(d)(i) of the Code of Judicial Conduct and Canons 6 and 8 of the Canons of Judicial Ethics. Charges I through XII of the Formal Written Complaint are sustained, and respondent's misconduct is established.

It is improper for a judge to render a decision in any judicial proceeding on the basis of a personal, and in this case a familial, relationship with one of the parties. By presiding over two cases in which his son was the defendant, respondent violated those provisions of the Judiciary Law and the Rules Governing Judicial Conduct which prohibit a judge from presiding over a case if he is related within the sixth degree of consanguinity to one of the parties (Jud. L. §14; Rules §33.3[c][1][iv][a].) Even in the absence of specific statutory and ethical prohibitions, a judge should know that presiding over cases involving a relative is improper and diminishes public confidence in the integrity and impartiality of the judiciary.

Section 33.3(b)(1) of the Rules requires a judge to "diligently discharge his administrative responsibilities, [and] maintain professional competence in judicial administration...." The record herein demonstrates that for nearly ten years respondent has been unable or unwilling to comply with the most elementary administrative responsibilities required of a judge: docketing cases, disposing of cases in a timely manner, depositing court receipts in official accounts, reporting and remitting all receipts promptly to the State Comptroller, issuing receipts to litigants, maintaining a proper record of monies received and disbursed, and maintaining a balance between court assets and liabilities. Despite notice as early as 1976, by the Commission and the State Department of Audit and Control, that his court records and accounts were deficient to a serious degree, respondent

did not take steps to reform his administrative procedures or improve the state of his court records. Indeed, respondent's failure to meet his administrative obligations resulted in the conversion to his own use of \$633 in court funds and a delay of 18 months in remitting \$150 due as partial restitution to the complaining witness in a criminal case.

In Bartlett v. Flynn, 50 AD2d 401, 404, the Appellate Division stated:

Although...[respondent] did not misuse public monies for his own profit, the careless manner in which he handled funds entrusted to his care and the disdain he demonstrated, not only for statutory record keeping but also for deposit and remittance requirements constituted a breach of trust and violation of Canon 3B [of the Code of Judicial Conduct] requiring his removal from office.

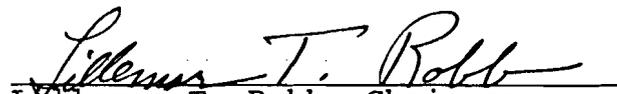
By reason of the foregoing, the Commission determines that the appropriate sanction is removal from office.

All concur, except that Mrs. Robb, Judge Rubin and Mr. Wainwright dissent only with respect to sanction and vote that the appropriate sanction is censure.

#### 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.

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

Dated: May 8, 1980  
Albany, New York

APPEARANCES:

Gerald Stern (Christopher B. Ashton, Of Counsel) for the Commission

Edwin P. Seaton, Respondent *Pro Se*

SCHEDULE A

<u>Month of Collection</u>	<u>Date of Filing</u>
June 1969	July 13, 1969
July 1969	August 11, 1969
September 1969	October 12, 1969
November 1969	December 21, 1969
December 1969	January 18, 1970
January 1970	February 17, 1970
February 1970	March 17, 1970
March 1970	April 28, 1970
April 1970	June 1, 1970
May 1970	July 1, 1970
June 1970	August 1, 1970
July 1970	September 1, 1970
August 1970	October 2, 1970
September 1970	November 10, 1970
October 1970	December 20, 1970
November 1970	January 18, 1971
December 1970	January 18, 1971
January 1971	March 24, 1971
February 1971	March 24, 1971
March 1971	May 18, 1971
April 1971	May 18, 1971
May 1971	July 12, 1971
June 1971	July 12, 1971
July 1971	September 7, 1971
September 1971	November 16, 1971
October 1971	November 16, 1971
November 1971	January 19, 1972
December 1971	January 19, 1972
January 1972	March 14, 1972
February 1972	March 14, 1972
March 1972	May 2, 1972
May 1972	June 21, 1972
June 1972	August 5, 1972
September 1972	November 11, 1972
October 1972	November 11, 1972
November 1972	January 3, 1973
January 1973	February 28, 1973
May 1973	July 26, 1973
June 1973	July 19, 1973
August 1973	September 21, 1973
September 1973	October 23, 1973
October 1973	November 24, 1973
November 1973	December 27, 1973

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February 1974  
April 1974  
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February 11, 1974  
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January 21, 1975  
February 14, 1975  
March 25, 1975  
April 14, 1975  
May 20, 1975  
June 16, 1975  
October 1, 1975  
October 20, 1975  
December 2, 1975  
January 16, 1976  
January 16, 1976  
February 12, 1976  
March 15, 1976  
April 17, 1976  
May 17, 1976  
June 17, 1976  
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November 13, 1976  
December 13, 1976  
June 14, 1977  
August 20, 1977  
September 16, 1977  
October 19, 1977  
November 17, 1977

SCHEDULE B

<u>Month of Collection</u>	<u>Date of Filing</u>
March 1972	May 2, 1972
May 1972	June 21, 1972
June 1972	August 5, 1972
August 1972	September 12, 1972
September 1972	November 11, 1972
October 1972	November 11, 1972
November 1972	January 3, 1973
January 1973	February 27, 1973
October 1973	November 24, 1973
November 1973	December 27, 1973
January 1974	February 11, 1974
February 1974	March 26, 1974
April 1974	May 16, 1974
September 1974	October 22, 1974
November 1974	January 4, 1975
December 1974	January 21, 1975
January 1975	February 14, 1975
February 1975	March 25, 1975
April 1975	May 20, 1975
May 1975	June 16, 1975
June 1975	August 22, 1975
July 1975	September 16, 1975
August 1975	October 1, 1975
September 1975	October 20, 1975
October 1975	December 2, 1975
December 1975	January 16, 1976
January 1976	February 12, 1976
February 1976	March 15, 1976
March 1976	April 17, 1976
April 1976	May 17, 1976
May 1976	June 17, 1976
June 1976	July 11, 1976
July 1976	August 12, 1976
August 1976	September 12, 1976
September 1976	October 16, 1976
October 1976	November 13, 1976
November 1976	December 18, 1976
May 1977	June 14, 1977
July 1977	August 20, 1977
August 1977	September 16, 1977
September 1977	October 19, 1977
October 1977	November 17, 1977