

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

MATTHEW J. TURNER,

a Judge of the Troy City Court,
Rensselaer County.

DETERMINATION

THE COMMISSION:

- Honorable Thomas A. Klonick, Chair
- Stephen R. Coffey, Esq., Vice Chair
- Joseph W. Belluck, Esq.
- Richard D. Emery, Esq.
- Paul B. Harding, Esq.
- Elizabeth B. Hubbard
- Marvin E. Jacob, Esq.
- Honorable Jill Konviser
- Nina M. Moore
- Honorable Karen K. Peters
- Honorable Terry Jane Ruderman

APPEARANCES:

Robert H. Tembeckjian (Thea Hoeth, Of Counsel) for the Commission

Anderson, Moschetti & Taffany, PLLC (by Peter J. Moschetti, Jr.)
for the Respondent

The respondent, Matthew J. Turner, a Judge of the Troy City Court,

Rensselaer County, was served with a Formal Written Complaint dated March 3, 2009,

containing two charges. The Formal Written Complaint alleged that respondent failed to render timely decisions and failed to report delayed matters to his administrative judge. Respondent filed a verified answer dated March 11, 2009.

On April 15, 2009, the Administrator of the Commission, 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 May 14, 2009, the Commission accepted the Agreed Statement and made the following determination.

1. Respondent has been a Judge of the Troy City Court, Rensselaer County, since 1999. From January 1999 until January 1, 2003, respondent's judicial position was half-time. Since January 1, 2003, respondent's position has been three-quarter time. Respondent was admitted to practice law in New York State in 1991. At all times while he has been a judge, respondent has maintained a private law practice.

As to Charge I of the Formal Written Complaint:

2. From December 2004 to December 2007, as set forth more fully on Schedule A annexed to the Agreed Statement of Facts, in seven small claims actions and one civil suit, respondent failed to render judgments for periods of up to 27 months, notwithstanding that Section 1304 of the Uniform City Court Act requires a judgment to

be rendered within 30 days after a hearing or final submission.

3. From November 2001 to December 2007, as set forth more fully on Schedule A annexed to the Agreed Statement of Facts, in 15 civil actions, four summary proceedings and two small claims actions, respondent failed to render decisions on submitted motions for periods of up to six years, notwithstanding that Section 1001 of the Uniform City Court Act and Section 4213(c) of the Civil Practice Law and Rules require decisions to be rendered within 60 days of final submissions.

As to Charge II of the Formal Written Complaint:

4. From April 2006 to October 2007, as set forth more fully on Schedule A annexed to the Agreed Statement of Facts, for periods ranging from two to six quarters, respondent failed to report to his administrative judge ten cases that were pending longer than 60 days, notwithstanding the requirements of Section 4.1(a) of the Rules of the Chief Judge (22 NYCRR §4.1[a]).

Supplemental Findings:

5. Respondent is one of two judges of the Troy City Court, which is a high volume court.

6. There is no evidence that respondent's delays and reporting deficiencies were intentional or the result of anything other than poor management.

7. Respondent has implemented new case-tracking procedures to help assure his compliance with statutory and administrative requirements.

8. Respondent is remorseful and has been cooperative and forthright with the Commission throughout its inquiry in this matter.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.3(A), 100.3(B)(1), 100.3(B)(7) and 100.3(C)(1) 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. Charges I and II of the Formal Written Complaint are sustained, and respondent’s misconduct is established.

The ethical standards require every judge to dispose of court matters “promptly, efficiently and fairly,” and further provide that “the judicial duties of a judge take precedence over all the judge’s other activities” (Rules, §§100.3[B][7], 100.3[A]). Here, over a six-year period, respondent failed to render timely decisions in 29 cases, including small claims, civil actions and summary proceedings. Respondent’s delays in issuing decisions, coupled with his failure to report some of the delayed cases as required to court administrators, constitute a dereliction of his responsibilities as a judge.

In eight matters (seven small claims and one civil action), respondent failed to render judgments within 30 days, as required by law (Uniform City Court Act §1304). Respondent’s decisions in these cases were issued from six months to 27 months after final submission; in two of the cases, the delays were more than two years. In addition,

in 21 cases (15 civil actions, four summary proceedings and two small claims), he failed to issue decisions on motions within the required 60 days (CPLR §4213[c]). The delays ranged from two months up to six years; in 15 matters the delays were a year or more, and in four matters, decisions were issued more than three years after final submission.

Respondent compounded his misconduct by failing to report ten of the delayed matters as required to his administrative judge. *See, Matter of Washington*, 100 NY2d 873 (2003); *compare, Matter of Greenfield*, 76 NY2d 293 (1990). The reports, which must be filed on a quarterly basis pursuant to Section 4.1(a) of the Rules of the Chief Judge, require a judge to list all matters pending decision longer than 60 days after submission. Respondent failed to disclose five delayed matters on at least four consecutive reports, including two cases that were omitted on six consecutive reports. Filing reports that are inaccurate or incomplete is significant since it prevents court administrators from “assess[ing] the reasons for the delay and tak[ing] appropriate action.” *Matter of Greenfield, supra*, 76 NY2d at 299.

It has been stipulated that there is no evidence that respondent’s delays and reporting deficiencies were intentional or the result of anything other than poor management. Nevertheless, such negligence is inexcusable and constitutes a serious neglect of his administrative responsibilities (Rules, §100.3[C][1]).

We view such delays as serious misconduct because of the adverse consequences on individual litigants, who are deprived of the opportunity to have their claims resolved in a timely manner, and on public confidence in the administration of

justice. Our decision in this case should not be interpreted to suggest that delays can never rise to a level warranting censure or removal. We will not hesitate to impose sanctions in such cases to ensure that the public is protected from the deleterious effects of unwarranted delays. *See also, Matter of Robichaud*, 2008 Annual Report 88; *Matter of Scolton*, 2008 Annual Report 100 (Comm on Judicial Conduct).

In considering an appropriate sanction here, we note that respondent, who has served as a judge since 1999, has acknowledged his misconduct and has implemented new case-tracking procedures to help ensure that his decisions will be timely and his quarterly reports will be accurate in the future.

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

Judge Klonick, Mr. Belluck, Mr. Harding, Ms. Hubbard, Mr. Jacob, Judge Konviser, Ms. Moore and Judge Ruderman concur.

Mr. Emery and Judge Peters were opposed and vote to reject the Agreed Statement on the basis that the facts as presented are insufficient for the Commission to make a determination.

Mr. Coffey was not present.

CERTIFICATION

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

Dated: June 30, 2009

A handwritten signature in black ink that reads "Jean M. Savanyu". The signature is written in a cursive style and is positioned above a solid horizontal line.

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