

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

EDWIN B. WINKWORTH,

a Justice of the Granby Town Court,
Oswego County.

THE COMMISSION:

Henry T. Berger, Esq., Chair
Honorable Myriam J. Altman
Helaine M. Barnett, Esq.
Herbert L. Bellamy, Sr.
Honorable Carmen Beauchamp Ciparick
E. Garrett Cleary, Esq.
Dolores Del Bello
Lawrence S. Goldman, Esq.
Honorable Eugene W. Salisbury
John J. Sheehy, Esq.
Honorable William C. Thompson

APPEARANCES:

Gerald Stern (John J. Postel, Of Counsel) for the
Commission

James K. Eby for Respondent

The respondent, Edwin B. Winkworth, a justice of the Granby Town Court, Oswego County, was served with a Formal Written Complaint dated December 23, 1991, alleging that he drove a vehicle while impaired by alcohol and that, during his subsequent arrest, he referred to his judicial office and threatened the arresting officer. Respondent filed an answer dated January 15, 1992.

On April 30, 1992, the administrator of the Commission, respondent and respondent's counsel entered into an agreed statement of facts pursuant to Judiciary Law §44(5), waiving the hearing provided in Judiciary Law §44(4) and stipulating that the Commission make its determination based on the pleadings and the agreed upon facts. The Commission approved the agreed statement by letter dated June 8, 1992.

The administrator and respondent submitted memoranda as to sanction. Oral argument was waived.

On July 23, 1992, the Commission considered the record of the proceeding and made the following determination.

1. Respondent has been a justice of the Granby Town Court since March 1, 1984.

2. On April 9, 1991, at 11:53 P.M., respondent drove a motor vehicle on Route 104 in the City of Oswego while his ability to do so was impaired by alcohol. Respondent was arrested and charged with Driving While Intoxicated and Driving With A Blood Alcohol Content In Excess Of .10 Percent.

3. Respondent told the arresting officer that he is a Granby town justice and that his arrest was unnecessary because "we need each other."

4. Respondent told the officer that he would not cooperate with him because respondent is a judge and warned the officer that he would "regret this." Respondent told the officer to "watch out from here on in."

5. On September 27, 1991, respondent pleaded guilty in the Oswego City Court to Driving While Ability Impaired.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated the Rules Governing Judicial Conduct, 22 NYCRR 100.1 and 100.2(a), and Canons 1 and 2A of the Code of Judicial Conduct. The charge in the Formal Written Complaint is sustained, and respondent's misconduct is established.

A judge who drives while impaired by alcohol consumption violates the law and endangers public welfare. (Matter of Innes, 1985 Ann Report of NY Commn on Jud Conduct, at 152, 154). Respondent's attempts to invoke the prestige of his judicial office to prevent his own arrest and his threats that the arresting officer would "regret this" and should "watch out" are additional factors which make public sanction appropriate. (See, Matter of Kremenick, 1986 Ann Report of NY Commn on Jud Conduct, at 133, 134).

Such behavior does not comport with the high standards of conduct required of a judge and detracts from the dignity of judicial office. (Matter of Richardson, 1982 Ann Report of NY Commn on Jud Conduct, at 129, 130).

Admonition is appropriate in this case because respondent has recognized the seriousness of his problem and has sought treatment for alcohol abuse (see, Matter of Edwards v.

State Commission on Judicial Conduct, 67 NY2d 153, 155;

Kremenick, supra).

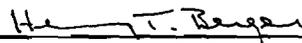
By reason of the foregoing, the Commission determines that the appropriate sanction is admonition.

All concur.

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: September 23, 1992


Henry T. Berger, Esq., Chair
New York State
Commission on Judicial Conduct