

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 23-453

Judge:

Complainant:

ORDER

April 12, 2024

The Complainant alleged improper legal rulings by a justice of the peace hearing a criminal case.

The role of the Commission on Judicial Conduct is to impartially determine whether a judicial officer has engaged in conduct that violates the Arizona Code of Judicial Conduct or Article 6.1 of the Arizona Constitution. There must be clear and convincing evidence of such a violation in order for the Commission to take disciplinary action against a judicial officer.

The Commission does not have jurisdiction to overturn, amend, or remand a judicial officer's legal rulings. The Commission reviewed all relevant available information and concluded there was not clear and convincing evidence of ethical misconduct in this matter. The complaint is therefore dismissed pursuant to Commission Rules 16(a) and 23(a).

Commission members Denise K. Aguilar and Delia R. Neal did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on April 12, 2024.

2023-453

COMPLAINT AGAINST A JUDGE

Name: _____ **Judge's Name:** _____

Instructions: Use this form or plain paper of the same size to file a complaint. Describe in your own words what you believe the judge did that constitutes judicial misconduct. Be specific and list all of the names, dates, times, and places that will help the commission understand your concerns. Additional pages may be attached along with copies (not originals) of relevant court documents. Please complete one side of the paper only, and keep a copy of the complaint for your records.

BACKGROUND. I was a defendant in the criminal case tried in the city of _____ Court. The case was initiated following the victim's phone call to the police on _____ which she made while staying at her work. At that moment I was at home, sleeping in the bedroom. The victim testified that the belt in her pants made a " _____ " sound, when she was putting the belt in her pants, at our home's restroom. That sound allegedly woke me up. Because of that I allegedly entered the restroom and " _____ " her there for about " _____ ". For this reason, she afterwards called the police, " _____ ". Neither injuries on the neck or arms, nor redness in the eyes, nor broken necklace were observed on the victim by the police officers dispatched at her location. The victim also demonstrated to the officers the belt in her pants, which did not produce any sounds. The victim is of _____ origin and does not have a good command of English. But the police officer _____ asked her, without an interpreter's assistance, questions printed on the police "Intimate Partner Risk Assessment" form (IPRA). He wrote down answers which did not match with what the victim actually answered. The IPRA questions regarding " _____ " or " _____ " were not asked, but the officer, on his own, wrote " _____ ". By such, the officer falsified IPRA, the first evidentiary material. The victim promised to the police officers that she would attend a family advocacy center on that day, but she did not do so. As video evidence showed, she did not even schedule an appointment. Next day, a female police officer visited the victim's house and suggested to follow up, since the victim did not visit what she promised to the police. The fact that a Sexual Assault Nurse Examiner (SANE) exam ("forensic exam") was conducted is unknown, as no report appeared anywhere in this case. Based on hearsay told by detective _____ the forensic exam later found an _____ on the back of the victim's shoulder and a _____ in the eye (which did not exist on the day the victim made a report). In several days, detective _____ falsified "Release Questionnaire" form, another evidentiary material, marking on it that " _____ " at the offense scene and, based on such false information, drafted an arrest warrant for felony. In about a year, on the trial day, officer Fox was excluded from the witness list by the State. But the trial judge called him to the witness stand to testify. Officer _____ testified that he wrote " _____ " to the IPRA questions, while watching right in front of him in the courtroom his bodycam video footage displaying that the victim did not give positive answers to the IPRA questions. Next, detective _____ confirmed that she marked on the Release Questionnaire about necessary medical attention, having no knowledge whether it was actually provided, and that such attention means a medical aid of an ambulance dispatched at the offense scene. She further testified that an _____ on the back of the shoulder and a _____ in the eye, allegedly found on the victim _____ days after the victim's report, are consistent with _____ experience. The victim testified in the courtroom that on the day of the reported offense I did not cause injuries to her and did not threaten her. But the trial judge found me guilty in the assault, in a disorderly conduct, and in DUI. After the trial proceeding has ended, the trial judge commanded that I had to comply with his order issued after the trial and to follow detective _____ for fingerprinting, otherwise he would jail me. Upon such compulsory attendance of _____ officer _____ has searched me, created an arrest record in the central database and fingerprinted. The case was appealed (_____) and submitted to journalists. The judge _____, whose bio and contact information are absent anywhere on the _____ Court website, uphold the judgment, ruling against 7 of 8 issues of violations of the law, depicted in my Appellant's Memorandum. Only conviction in DUI was vacated (because such has never existed). At the moment, a change of judge as a matter of right and a rehearing is requested.

VIOLATION OF ACJC. The trial judge _____ has violated ACJC, which raised reasonable concerns for filing this complaint. For the below reasons, supported by the trial record and the police evidence, the trial judge has violated ACJC Rules 1.2, 2.2, 2.3(B), 2.5(A), 2.6 and 2.8.



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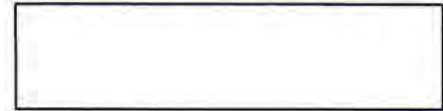
First, ACJC Rule 1.2 refers to that the judge shall avoid the appearance of impropriety. Judge _____ publicized that " _____ " regarding the Council's decision to release his office from the duties of the City Magistrate. He also noted: " _____ " cited among his accomplishments transitioning to video arraignments and pretrial conferences, saving _____ County Sheriff's deputies time and costs... "

_____ " " _____ (See _____) It can be inferred from the publication that judge _____ spoke about financial relations and economic partnerships he had with the police deputies, while expressing nothing about his judicial service and his magistrate role related to law or justice. Such publication is inappropriate for a judge. With that, my motion for arraignment by video was denied on _____ because "

_____ (See attachment.) It appears that judge _____ solicited, without ground, admiration of the public for a video technology he allegedly established in the court for arraignments, while such technology was not available when I requested it. Any reasonable mind can have a perception that judge _____ convicted people by mainly imposing fees, assessments, fines and surcharges flowing to the municipal budget, instead of doing justice based on the law. ACJC provides that a judge may engage in activities to improve the law, the legal system and the administration of justice. It does not call for an economic partnership with the deputies. Therefore, the above said reasonably creates a perception that judge _____ violated ACJC or engaged in other conduct that reflected adversely on the judge's fitness to serve as a judge.

Second, ACJC Rule 2.2 implies that a judge must be objective. During trial the police bodycam video footage demonstrated to judge _____ that officer _____ wrote wrong answers " _____ " on the IPRA, while the victim has never answered positively to what he had asked. (See attached police bodycam video footage at _____). The judge observed it on the video in the courtroom. But, without due objectivity, made conclusions against the defendant. Such a pattern of absent objectivity of judge _____ persisted throughout all trial proceeding. Next, judge _____ concluded that the victim's testimony during trial was " _____ ". But the victim testified that I did not cause any injuries and did not threaten her (_____). Therefore, in light of such credible exculpatory evidence, an objective judge should let an innocent defendant go, without adjudging " _____ " to be paid to the municipal budget.

Third, ACJC Rule 2.3(B) states that a judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment. However, judge _____ manifested prejudice and harassed. This has been lasting when I testified that officer _____ falsified an IPRA question (" _____ Issue"). (Id. _____). I asked the court to demonstrate the video evidence at _____ . However, judge _____ asked to pause the video at _____ where officer _____ was finishing another form (_____). Judge _____ discussed the other form, while the issue I spoke about was the falsified IPRA. _____ blamed me for that allegedly I " _____ " (Id. _____). Such judicial harassment seeking a way to conceal _____ false testimony from the court by rewinding and watching again and again the video evidence until I give in, lasted more than _____ minutes, from _____ to _____ . Next, I also argued that detective _____ falsified the Release Questionnaire, marking the item " _____ " which ordinarily demonstrates a sign of felony. But, as testified, medical attention was not dispatched. However, judge _____ manifested prejudice. as demonstrated at _____ , where he laughed at me, adding a remark "



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Afterwards, judge _____ said to me " _____ " " _____
Therefore, the judge did understand that the Release Questionnaire was falsified, but said to me " _____ " (Id. _____). Such judicial conduct explicitly depicts bias or prejudice, and even impartiality, as the judge was covering falsified police evidence used for unlawful arrest warrant and prosecution.

Fourth, ACJC Rule 2.5(A) states that a judge shall perform judicial and administrative duties competently, diligently, and promptly. After filing a notice of appeal, judge _____ has delayed production of the trial record, such that procedural time for filing Appellant's Memorandum has almost expired. In light of the approaching deadline, I filed a number of motions, including a motion to reverse the judgment on appeal and a procedural motion seeking to stay the time for filing memoranda and to augment the trial record. The trial record lacked recordings of arraignment, pre-trial conferences, during which the rights of the defendant were violated. However, the court did not rule on those motions promptly. As such, I had to inquire to the court administration. With the assistance of the court administrator, judge _____ revealed only audio recording of the trial proceeding, in which the audio stream of the police video footage displayed in the courtroom was cut off. This defect did not allow to argue the prejudice and harassment pertaining to said _____ issue. But in my collection there is a recording of trial, which exposes this issue. Not prompt production of the trial record, delayed ruling on a number of motions and leaving some motions unrulued show that the trial judge multiple times violated ACJC Rule 2.5(A).

Fifth, in accordance with Rule 2.6(A) a judge shall accord to every person who has a legal interest in a proceeding the right to be heard according to law. During trial, on cross-examination of witnesses judge _____ prohibited me to argue that witness's answers were wrong, as they differed from the dislaved police bodycam video footage, and said that I could argue that later (Id. _____). But later, when I attempted to argue inconsistency of the trial testimony by pointing to that objective video evidence, judge _____ told that I had to do it before, during cross-examination, and so now missed that opportunity (_____). As such, he limited me in speaking on how the police officers falsified evidence and I was not heard.

Sixth, ACJC Rule 2.8 demands from a judge a dignified and courteous demeanor. Judge _____ violated this rule in connection with Rule 2.3 (prohibiting prejudice) by threatening me that he would " _____ " if I did not comply with his after-trial order for fingerprinting (which required arrest), issued because detective could not "handle it" before and now she can do me "a favor" (Id. _____). Fingerprinting was scheduled to be conducted in particularly central _____ where _____ Sheriff's deputies are stationed (presumably, because judge _____ have had " _____ " with them, as he announced in his publication cited above).

The above described facts demonstrate that judge _____ has violated ACJC, and I REQUEST to discipline judge _____ by suspending his office, or by imposing other effective sanctions on his office to protect the public and deter similar conduct by others, fostering public confidence that the judges in the city of _____ are independent from the police, that they do not build partnerships with the police in pursuing economic interests, ensuring, therefore, the proper administration of justice and integrity of the judicial system.

ATTACHMENTS: Police report; Publication; IPRA; Release Questionnaire; Court order; _____; Factual background from Memorandum; Appendix to Memorandum; Agg_Assault-2 (video-1.mp4, video-2.mp4), Follow_Up (video-3.mp4). The attachments are available for download at _____

IN THE CITY OF **COURT**
COUNTY OF **, STATE OF ARIZONA**

In the matter of:

STATE OF ARIZONA, Appellee,

v.

, Appellant

City of

Court

Case No.:

**APPENDIX
TO APPELLANT'S MEMORANDUM**

This Appendix to Appellant's Memorandum contains transcribed excerpts from the trial audio record. It is prepared for the convenience and does not replace the original audio recording included in the trial court record.

TRANSCRIBED EXCERPT

Trial Part 1. Trial audio recording, filename: " " "

08:02 – Court denies all Appellant's motions **filed a week or so before the trial date**, as filed untimely and because it would be " "

08:25 – Appellant restates that the reason of the filed motions was that the police video evidence was disclosed just a week ago.

08:37 – Court denies the Appellant's statement.

09:10 – Court asks if the State wants to exclude any witnesses.

09:15 – Prosecutor: " " "

09:30 – testimony of ;

10:15 – further testimony " ;

10:36 – AXON police body camera video footage;

10:43 – Intimate Partner Risk Assessment done;

10:47 – Forensic examination done;

10:51 – Detective further testimony regarding the results of the forensic examination [done on];

11:06 – Prosecutor concludes that the above is all they had. (Exhibits list is not introduced to Appellant; Appellant is not informed what and how many exhibits prosecutor intends to use.)

15:30 – Wife: “

” [Prosecutor interrupted]

15:42 – Prosecutor advises Wife, without stating a question: “

”

16:07 – Prosecutor: “

16:14 – Wife: “

’ [Prosecutor interrupts]

16:43 – Prosecutor advises Wife, without stating a question: “

”

16:54 – Wife copies the narrative: “

17:29 – Prosecutor: “

”

17:32 – Wife: “

’

17:47 – Wife: “

” ... Wife: “

”

18:26 – Prosecutor continued with the narrative, without stating a question.

18:29 – Appellant objects against leading Wife with the narratives.

18:33 – Judge ignores Appellant’s objection by a specific expression. Prosecutor continues with that narrative...

19:50 – Wife: “

20:10 – Prosecutor: “

20:22 – Wife: “

20:32 – Prosecutor: “

”

21:18 – Wife: “

”

21:30 – Prosecutor: “

21:44 – Wife: “

22:04 – Wife: “

”

22:41 – Prosecutor: “

”

**THE COMMISSION'S POLICY IS
TO POST ONLY THE FIRST FIVE
PAGES OF ANY DISMISSED
COMPLAINT ON ITS WEBSITE.**

**FOR ACCESS TO THE
REMAINDER OF THE
COMPLAINT IN THIS MATTER,
PLEASE MAKE YOUR REQUEST
IN WRITING TO THE
COMMISSION ON JUDICIAL
CONDUCT AND REFERENCE
THE COMMISSION CASE
NUMBER IN YOUR REQUEST.**