

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 23-511

Judge:

Complainant:

ORDER

May 8, 2024

The Complainant alleged a justice of the peace pro tem made improper legal rulings in 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 May 8, 2024.

CONFIDENTIAL

Arizona Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
Phoenix, Arizona 85007

FOR OFFICE USE ONLY

2023-511

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.

Please see attached.

Attachment List for Judicial Conduct Complaint Against A.
and [Document title]

Attachment 1: *Recording of Hearing*

Attachment 2: *Findings of Fact,*

Attachment 3: *Correspondence from attorneys* and

Attachment 4: *Letter to* from

Attachment 5: *Bar Charge Response*

Attachment 6: *Motion to Dismiss Contempt Proceedings.*

Attachment 7: *Motion for Change of Judge under 10.1.*

Attachment 8: *Affidavit of* for 10.1 Motion.

Attachment 9: *Email Exchange Between Undersigned Counsel and Counsel.*

Attachment 10: *Order,*

Attachment 11: *Recording Of* Hearing

Attachment 12: *Sentencing Order.*

Attachment 13: *Motion To Reconsider 10.1.*

Attachment 14: *Order Denying 10.1 Reconsideration.*

Attachment 15: *Order.*

Attachment 16: *Limited Jurisdiction Benchbook Chapter 13: Contempt.*

Arizona Commission on Judicial Conduct

This Judicial Conduct Complaint is against the following:

- Municipal Court Judge whose inappropriate and unsubstantiated direct criminal contempt finding against City Prosecutor as well as his conduct related to and during those hearings constitutes judicial misconduct.
- Municipal Court Judge *pro tem* Judge subordinate, who failed to exercise judicial independence and competency when he denied of *Motion to Dismiss Contempt Proceedings* *Motion for Change of Judge Under Rule 10.1*, and *Motion to Reconsider Motion for Change of Judge Under Rule 10.1*.

Complainant represented Mr. when Judge wrongfully sentenced him for direct criminal contempt on where Mr. witnessed a portion of Judge misconduct. Most of this complaint relates to Judge injudicious behavior at a public hearing on with multiple defendants and attorneys present including Mr. and attorneys Mr. continues to represent Mr. on his special action in County Superior Court seeking to overturn Judge ill-advised contempt finding.

Mr. files this judicial conduct complaint on his behalf and Mr.

BACKGROUND AND FACTS

On criminal defendant asserted his right to notice Judge under Arizona Rule of Criminal Procedure (ARCrP) 10.2. Judge did not like this. Mr. had met with Mr. and three other defendants before their

hearings to explain their options. In the context of limited jurisdiction courts with a city prosecutor as the only attorney, Mr. [REDACTED] is ethically bound to provide defendants this information.

Mr. [REDACTED] told the defendants Judge [REDACTED] has a “ [REDACTED] ” of not allowing people charged with criminal speeding to receive defensive driving school to have their cases dismissed. Mr. [REDACTED] advised the defendants they could go forward with their hearings or ask for a different judge under ARCrP 10.2.

Mr. [REDACTED] wanted another judge, so Mr. [REDACTED] prepared a standard 10.2 Notice form for him to sign and file.

The [REDACTED] Hearing

Common to these cases, Mr. [REDACTED] went to his hearing without Mr. [REDACTED] present. But, after Mr. [REDACTED] said he wanted another judge, Judge [REDACTED] called Mr. [REDACTED] into the courtroom. The hearing audio shows Judge [REDACTED] improperly interrogating Mr. [REDACTED] regarding if he “ [REDACTED] ” if Mr. [REDACTED]

told Mr. [REDACTED] to file his 10.2 motion, and if Mr. [REDACTED] prepared the motion for Mr. [REDACTED].

Attachment 1: Recording of Hearing

Mr. [REDACTED] correctly objected to Judge [REDACTED] “ [REDACTED] ” -- Judge [REDACTED] ignored him. Despite prevailing case law and Mr. [REDACTED] insistence that Judge [REDACTED] impromptu investigation of the ARCrP 10 motion was not allowed, Judge [REDACTED] persisted declaring, “ [REDACTED] !”

Attachment 1: Recording of Hearing

Judge [REDACTED] proceeded to ask Mr. [REDACTED] leading questions such as, “ [REDACTED] ?” Judge [REDACTED] then accused Mr. [REDACTED] of misconduct and ethical violations in a courtroom full of defendants and defense attorneys. When

Judicial Conduct Complaint - and

Judge improperly accused Mr. of “ ” with the defendant, Mr. stated he would be filing a judicial conduct complaint.

After the hearing, Judge stayed on the bench and, apparently, fumed. Through staff he summoned Mr. return to the courtroom. Mr. finished his interaction with Mr. and immediately returned to the courtroom.

Judge considered that because “ ...” to be an act of contempt. **See Attachment 2:** *Findings of Fact,*

Judge Self-Justifying “ ”

Judge wrote his “ ’ to, in his mind, demonstrate Mr. committed direct criminal contempt. Other courtroom observers to the hearing, however, found Judge injudicious behavior the problem.

Attachment 3: Correspondence from attorneys and.

. These objective observers recount that although Mr. raised his voice, he was “ ”

Attachment 3: *Letter.* Their conclusion was “

” **Attachment 3:** *Letter.* In fact, Judge acted inappropriately both in his behavior on the bench and not resetting the hearing for another time. **Attachment 3: Correspondence from Attorneys and.** Judge tried to

get one of the attorneys to state Mr. was “ ” at the court. The attorney would not do so and instead wrote to Mr. regarding Judge inappropriate behavior. **Attachment 3:** *Letter.* These two attorneys in the courtroom on had no prior friendship and very limited dealings with Mr.

Although Judge produced his “ ” to justify himself,

**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.**