

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 23-083

Judge:

Complainant:

ORDER

May 17, 2024

The Complainant alleged improper demeanor by a superior court judge hearing a civil 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 Scope Section of the Code further provides that not every transgression will result in the imposition of discipline.

Pursuant to Commission Administrative Policy 4, Investigation of Old Complaints, the Commission will not pursue allegations of misconduct that predate a complaint by more than three years, unless there is an indication of a long-standing pattern of misconduct. The events described in this complaint occurred in December 2016. The judge identified in this complaint has been reprimanded for similar instances of poor demeanor that occurred after 2016. The Commission determined the disciplinary consequences previously imposed are sufficient to address the concerns raised in this complaint.

The Commission decided, after considering all the facts and circumstances, to dismiss the Complaint pursuant to Commission Rules 16(b) and 23(a).

Copies of this order were distributed to all appropriate persons on May 17, 2024.

Comp

2024 - 083

VIA U.S. Mail

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

Re:

Dear :

It was with great interest that yesterday (that is,) I read of the most recent reprimand of

It was my intention in a hearing some years ago to file a complaint strangely similar to the one that was most recently sustained by the Commission on Judicial Conduct. I am willing to testify about the demeanor of and what can only be described as inappropriate commentary and the demeaning nature of how he treated my client in the hearing. Oddly, in that hearing it was necessary to also obtain the testimony of a special agent of the who drove up specifically from for the hearing, exhibited nothing short of bizarre behavior toward the special agent, most notably when he asked to “ ” the badge and credentials of the special agent.

What caused me pause, as the enclosed email will show, the audio recording of the hearing which was being taken down so as the remote Court Reporter could transcribe it, was somehow lost or not kept. was likely aware, once I asked for the FTR that it would result in a complaint to your commission. One could surmise that with the known complaints and with the “ ” how many other occurrences of misconduct has engaged in and covered up. I am willing to publicly testify at any hearing concerning this particular judicial officer. As the case was somewhat interesting, I had people travel with me from that observed the demeanor and the demeaning manner that treated me, most especially my client and the bizarre manner he treated the special agent from the . The FTR is necessary as the tone method and manner of is important.

Though likely part of a lack of demeanor, chose to expound on a “bizarre” book review(s) that had nothing to do with the case, that opined on from the bench and on the (lost) record.

also, in the middle of witness testimony, stood up from his chair, got behind his chair and, again it was "bizarre" began stretching his back and mentioning some malady related to his back.

I am happy to have an interview with you to pinpoint whatever other things the Commission needs. As a lawyer that infrequently (that was the last time I appeared in county) appears in that Court and before that judicial officer, I have no trepidation in expressing my under oath disgust both as a lawyer, citizen and taxpayer at the conduct of this particular judicial officer.

Part of your investigation necessarily needs to include how many other FTR's have been "lost" so as to keep the complaints to a minimum for Said another way, there is a bigger problem here than what has bubbled up to date.

Thank you.

Very truly yours,

Enclosures (as stated)



Re: Matter of

1 message

To:
Cc:

I spoke to the Court Administrator for _____ County. His name is _____ the phone number for his office is _____
He said that pursuant to Admin Order _____ unless the court orders the ftr recording to serve as the official record of the proceeding, the recordings are not available to the public. Since the ftr recording was used to compile an official transcript, only that transcript is available under a public records request. He said that you would need to file a motion with Judge _____ requesting the release of the audio recordings before his office would be able to provide you with the recordings.

Just as a heads up, the same admin order says that any ftr not designated as an official records does not need to be stored after an official record has been compiled using the recording. So, if I was a betting man, and if the Court Administrator doesn't want to give you the recording now, he probably is going to say the recording wasn't saved after the official record was made. But that's just my guess.

Pursuant to the AZ Code of Judicial Administration §1-602 digital recordings are not mandated

AZ Supreme Court Rule 123(h)(1) governs access to audiotape recordings, which are maintained by the court - see admin order 2011-13 not requiring the court administrator to maintain the records.

Possible Remedy:

Rule 123(f)(5) Review of Denials to Access Records states:

(A) Any applicant who is denied access to or copies of any record, bulk data, or compiled data pursuant to this rule, shall be entitled to an administrative review of that decision by the presiding judge. The request for review must be filed in writing with the custodian who denied the request within 10 business days of a denial made under paragraph (f)(4) above. The custodian shall forward the request for review, a statement of the reason for denial, and all relevant documentation to the presiding judge or a designee within 5 business days of receipt of the request for review. The presiding judge or designee shall issue a decision as soon as practicable considering the nature of the request and the needs of the applicant, but not more than 10 business days from the date the written request for review was received. (B) Any party aggrieved by the decision of the presiding judge or designee may seek review by filing a special action pursuant to the Rules of Procedure for Special Actions. If the decision challenged by the special action was issued by a judge of the superior court or court of appeals, the special action shall be filed in the court of appeals. If the decisi

On _____ at _____, _____ wrote:

----- Forwarded message -----

From:
Date:
Subject: Matter of
To:
Cc:

Good Morning _____ I hope you are well.

I asked my assistant _____ to contact Court admin to obtain the audio of the hearing on _____ of the hearing before Judge _____ (I do not need the transcript).

Apparently I need to purchase the transcript? I do not need the transcript, only the audio/video (here in county, by administrative order, I can obtain the cd/dvd without getting the official transcript) can you facilitate my purchase of the cd/DVD, I am aware that we had a remote court reporter that and that the matter was being recorded because of the shortage of court reporters in county.

Any help would be greatly appreciated.

Thanks,

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