



Arizona Commission on Judicial Conduct  
1501 West Washington Street, Suite 229  
Phoenix, AZ 85007  
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**FILED**

**DEC 28 2006**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA**  
**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge	)	
	)	Supreme Court No.
<b>JERRY L. COLGLAZIER</b>	)	
Surprise Municipal Court	)	Commission Case No. 06-090
Maricopa County	)	
State of Arizona	)	<b>RECOMMENDATION</b>
Respondent	)	

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On September 20, 2006, the Commission on Judicial Conduct ("Commission") filed formal charges against Judge Jerry L. Colglazier ("Respondent") following a finding of reasonable cause by the three-member investigative panel assigned to oversee the investigation in this case. On the same date, the chairperson of the Commission appointed an eight-member hearing panel to hear and take evidence in the case and designated the undersigned as the presiding member of the panel.

On December 7, 2006, Respondent and Disciplinary Counsel submitted an Agreement for Stipulated Censure ("agreement") containing a waiver of Respondent's right to appeal and all other procedural rights set forth in Rule 29 of the Rules of the Commission on Judicial Conduct.

On December 15, 2006, the hearing panel met telephonically to consider the agreement and to discuss the proposed sanction of a public censure under Rule 18(a). The hearing panel reviewed the admissions in the agreement and voted to accept the terms of the agreement subject to the addition of language in paragraphs 7 and 8 clarifying that Respondent failed to halt all further proceedings in the underlying criminal case and to continue the matter to a date when the defendant's attorney

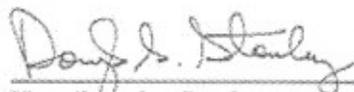
could be present, and additional language in paragraph 11 indicating that both parties waive formal hearing.

On December 21, 2006, Disciplinary Counsel and Respondent jointly submitted the attached Amended Agreement for Stipulated Censure ("amended agreement"), which the undersigned presiding member has reviewed and accepted on behalf of the hearing panel in an order dated December 28, 2006.

In full accordance with the terms and conditions of the amended agreement, which are incorporated herein by reference, the hearing panel recommends to the Arizona Supreme Court that Respondent be publicly censured for violating the Code of Judicial Conduct as admitted in the amended agreement; that the parties pay their own costs and attorney's fees associated with this case; and that the parties comply with all other conditions set forth in the amended agreement.

**RESPECTFULLY SUBMITTED** this 28th day of December 2006.

**FOR THE HEARING PANEL**

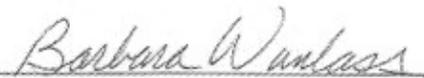


Hon. Douglas Stanley  
Presiding Member of the Hearing Panel

Copies of this pleading were delivered via fax and mail this 28th day of December 2006 to:

Hon. Jerry L. Colglazier

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

By:   
Acting Clerk

Linda Haynes  
Disciplinary Counsel (Bar #12178)  
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1501 W. Washington St., Suite 229  
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**FILED**

**DEC 21 2006**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA**  
**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge	)	
	)	Case No. 06-090
<b>JERRY L. COLGLAZIER</b>	)	
Municipal Court	)	<b>AMENDED AGREEMENT FOR</b>
City of Surprise	)	<b>STIPULATED CENSURE</b>
State of Arizona	)	
Respondent	)	<b>DISCIPLINE BY CONSENT</b>
	)	

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COME NOW Judge Jerry L. Colglazier (Respondent) and Linda Haynes, Disciplinary Counsel for the Commission on Judicial Conduct (Commission), and hereby submit the following proposed resolution of this case pursuant to Rule 30 of the Commission Rules.

**JURISDICTION**

1. The Commission has jurisdiction of this matter pursuant to Article 6.1 § 4 of the Arizona Constitution.
2. This Agreement for Stipulated Censure is filed pursuant to Rule 30(a) of the Rules of the Commission on Judicial Conduct (Commission Rules).
3. Respondent has served as a pro tem city magistrate in the City of Surprise since November 2005 and was serving in this capacity at all times relevant to the allegations contained herein.

4. As a pro tem magistrate, Respondent is and has been subject to the Code of Judicial Conduct (Code) as set forth in Supreme Court Rule 81.

#### **BACKGROUND**

5. On September 20, 2006, Disciplinary Counsel filed a formal Statement of Charges against Respondent after a duly appointed investigative panel found reasonable cause to commence formal proceedings.

#### **MUTUAL CONSIDERATION**

6. Respondent admits committing the acts of judicial misconduct and corresponding ethical violations set forth below. In consideration thereof, the Commission shall dismiss Count II as well as any allegations not specifically referred to in this agreement. The dismissal of charges by the Commission should not be construed as a comment as to whether there was sufficient evidence to prove those allegations by clear and convincing evidence.

#### **MATERIAL FACTS**

7. Respondent admits that on December 9, 2005, a represented defendant appeared in court without his attorney, who had waived his presence for the purpose of setting a trial date. During the hearing, matters not related to the trial date were raised and Respondent failed to provide the defendant with an attorney after the defendant made three separate requests and did not continue the matter to a time when the attorney could be present. At the same hearing, Respondent conducted an informal criminal contempt hearing without complying with the procedures delineated in Rule 33 of the Arizona Rules of Criminal Procedure. At the same hearing, Respondent admits he raised the defendant's bond without a valid basis.

## ADMISSIONS CONCERNING CODE OF JUDICIAL CONDUCT

8. Respondent agrees that by failing to immediately provide counsel upon the defendant's request, by raising the bond without a valid legal basis, and by conducting an *ad hoc* criminal contempt proceeding without complying with the criminal rules, he violated Canon 2A, which mandates that a judge comply with the law, Canon 3B(2), which requires that a judge maintain competence in the law, and Canon 3B(7), which provides that every person appearing before a judge has a right to be heard according to the law.

### AGREED UPON SANCTION

9. Respondent agrees that censure is an appropriate sanction for his misconduct.

### OTHER TERMS AND CONDITIONS

10. This agreement, if accepted by the hearing panel, fully resolves all issues raised in the Statement of Charges and may be used as evidence in later proceedings in accordance with the Commission's Rules. If the hearing panel does not accept this agreement as a full resolution, then the admissions made by Respondent are withdrawn, and the matter will be set for hearing without use of this agreement.

11. Pursuant to Commission Rule 28(a), both parties waive their right to object to the hearing panel's proposed recommendations and their right to appeal the charges at issue in this matter, including the appeal procedures set out in Commission Rule 29.

12. If this agreement is accepted by the hearing panel and approved by the Supreme Court, both parties agree to waive any rights they might have to a hearing before the Commission.

13. Both parties agree not to make any statements to the press that are contrary to the terms of this agreement.

14. Both parties will pay their own costs and attorneys' fees associated with this case.

15. Respondent clearly understands the terms and conditions of this agreement and fully agrees with its terms. Respondent waives his right to legal counsel in this matter.

16. This agreement constitutes the complete understanding between the parties.

SUBMITTED this 20<sup>th</sup> day of December, 2006.

\_\_\_\_\_  
Jerry L. Colglazier  
Respondent

\_\_\_\_\_  
Date Signed

Linda Haynes  
Linda Haynes, Disciplinary Counsel  
Commission on Judicial Conduct

12.20.06  
Date Signed

13. Both parties agree not to make any statements to the press that are contrary to the terms of this agreement.

14. Both parties will pay their own costs and attorneys' fees associated with this case.

15. Respondent clearly understands the terms and conditions of this agreement and fully agrees with its terms. Respondent waives his right to legal counsel in this matter.

16. This agreement constitutes the complete understanding between the parties.

SUBMITTED this 21<sup>st</sup> day of December, 2006.

*Jerry L. Colglazier*  
Jerry L. Colglazier  
Respondent

12-20-06  
Date Signed

*Linda Haynes*  
Linda Haynes, Disciplinary Counsel  
Commission on Judicial Conduct

12-20-06  
Date Signed

Linda Haynes  
Disciplinary Counsel (Bar #12178)  
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Telephone: (602) 542-5200

**FILED**

SEP 20 2006

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

**STATE OF ARIZONA**  
**COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Pro Tem Judge	)	
	)	
<b>JERRY L. COLGLAZIER</b>	)	Case No. 06-090
Municipal Court	)	
City of Surprise	)	<b>STATEMENT OF CHARGES</b>
State of Arizona	)	
Respondent	)	
	)	

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An investigative panel composed of members of the Commission on Judicial Conduct (Commission) has determined that there is reasonable cause to commence formal proceedings against the Respondent, Pro Tem Judge Jerry L. Colglazier, for misconduct in office. This statement of charges sets forth the jurisdiction of the Commission and specifies the nature of the alleged misconduct.

**JURISDICTION**

1. The Commission has jurisdiction of this matter pursuant to Article 6.1, § 4 of the Arizona Constitution.
2. This Statement of Charges is filed pursuant to Rule 24(a) of the Rules of the Commission on Judicial Conduct (Commission Rules).
3. Respondent has served as a Pro Tem city magistrate in the City of Surprise since November 2005 and was serving in this capacity at all times relevant to the allegations contained herein.

4. As a Pro Tem magistrate, Respondent is and has been subject to the Code of Judicial Conduct (Code) as set forth in Supreme Court Rule 81.

**COUNT I**  
**INCOMPETENCE**

5. On December 9, 2005, Respondent presided over a hearing in *State v. Larios*, TR02-04701, to set a trial date. Larios was in custody and appeared in a holding cell behind a screened window looking out on the courtroom. Neither his assigned public defender nor the prosecutor was present in the courtroom. The Respondent was on the bench and Judge Joseph Malka, a full-time city magistrate in Surprise, was sitting in street clothes at the prosecutor's table for the purpose of training and observing Respondent. The two absent attorneys had given Respondent a motion to set a trial. Respondent set the date, and Larios asked to have his conditions of release modified because he had a full-time job and already had been in custody for 18 days. Judge Malka, without identifying himself, asked to approach Respondent and began rummaging through the court file, whispering to Respondent about a pending probation revocation and advising him that the state "obviously" wanted to hold Larios longer. Respondent then relayed that information to Larios but never identified Judge Malka as a judge. Larios became upset and said he was not on probation (his probation was for three years and he had only two or three more days left at that point). Respondent told Larios that his request to lower the bond was denied. Larios repeated that his probationary period was over. Judge Malka then commanded, "Stop talking until the judge tells you you can talk, understand?" Larios said, "Yes, sir." Judge Malka (who did not identify himself to the defendant) returned to the bench to go through the file again. He then said to Respondent, "Do you want to raise his bond?"

Respondent raised the bond to \$1,000 and made it a cash bond. Larios was clearly angry and asked to speak to his attorney. Respondent ignored the attorney request and told him the case was not getting resolved, that it was over for the day. As Larios moved away from the window, Judge Malka told Respondent that the defendant said "Fuck you." Respondent ordered Larios brought back to the window area and asked him what he said. At first Larios said he didn't remember. When questioned further, Larios again asked if he could talk with his attorney. Respondent told him to answer his question right now. "Did you say the F word?" Larios said "No." The security guard stated that he heard Larios say it, and Larios pointed out that there were other people in the holding cell with him. Larios said, "Is that it?" Respondent responded, "No, it's not. I will tell you when it's it." Larios said, "Can I speak to my attorney?" and Respondent loudly stated, "You will shut up right now!" Judge Malka then approached the bench and urged Respondent to set the trial date out to January or February. Respondent did not change the date but did increase the bond to \$2,000.

6. By failing to provide Larios with an attorney after he made three separate requests, by conducting an informal contempt hearing with no sworn testimony and without giving Larios an opportunity to provide a meaningful response, and by raising Larios' bond twice with no valid or credible explanation, Respondent violated Canons 2A ("A judge shall . . . act at all times in a manner that promotes public confidence in the integrity . . . of the . . . judiciary"), 3B(2) ("A judge shall be faithful to the law and maintain professional competence in it"), Canon 3B(7) ("A judge shall afford to every person . . . the right to be heard according to law."), and Canon 3B(8) ("A judge shall dispose of all judicial matters . . . fairly.") This conduct also constitutes conduct prejudicial to the administration of justice that brings the judicial office into disrepute within the meaning of Article 6.1, § 4 of the Arizona Constitution.

## COUNT II

### FAILURE TO EXERCISE JUDICIAL INDEPENDENCE

7. On December 9, 2005, as described in paragraph 5 above, Respondent permitted Judge Malka to approach the bench on two occasions without identifying him to anyone in the courtroom or the holding cell. Respondent also permitted Judge Malka to argue the prosecutor's supposed position to hold Larios on the bond and to address Larios directly.

8. By permitting Judge Malka to take control of the courtroom, Respondent failed to exercise his own independence as a Pro Tem magistrate and violated Canon 1 which states, "A judge shall uphold the integrity and independence of the judiciary."

### CONCLUSION

9. Rule 6 of the Commission Rules provides that grounds for discipline include "conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or a violation of the code." Each of the charges alleged in this pleading constitute conduct prejudicial to the administration of justice that brings the judicial office into disrepute within the meaning of Rule 6, as well as Article 6.1 §4 of the Arizona Constitution. Additionally, each count violates Canon 1A, which requires a judge to maintain, enforce and personally observe high standards of conduct and to uphold the integrity of the judiciary, and Canon 2A ("A judge shall . . . act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary"). Article 6.1 §4 of the Arizona Constitution provides that the Supreme Court may censure, suspend, or remove a judge for conduct that brings his judicial office into disrepute.

WHEREFORE, the Commission, upon conclusion of a hearing and a finding of good cause, may recommend to the Supreme Court that Respondent be publicly censured, suspended or removed from judicial office, and that the Court grant other relief as may be deemed appropriate.

DATED this 20th day of September, 2006.

**COMMISSION ON JUDICIAL CONDUCT**

*Linda Haynes*

\_\_\_\_\_  
Linda Haynes  
Disciplinary Counsel

ORIGINAL of this pleading filed  
this 20th day of September 2006, with:

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

Copy of this pleading hand delivered  
this 20th day of September 2006, to:

Jerry L. Colglazier  
Surprise Municipal Court  
12604 Santa Fe Drive  
Surprise, AZ 85374

Jerry L. Colglazier  
Bar No. 019713  
16180 West Desert Winds Drive  
Surprise, AZ 85374  
Telephone: 623-214-3712

**FILED**

**NOV 09 2006**

ARIZONA COMMISSION ON  
JUDICIAL CONDUCT

STATE OF ARIZONA

COMMISSION ON JUDICIAL CONDUCT

Inquiry Concerning Pro Tem Judge	)	
	)	
JERRY L. COLGLAZIER	)	Case No. 06-090
Municipal Court	)	
City of Surprise	)	ANSWER TO
State of Indiana	)	STATEMENT OF CHARGES
Respondent	)	
	)	

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Comes now JERRY L. COLGLAZIER, Respondent, and files Answer to  
Statement of Charges, as follows:

**JURISDICTION**

1. Respondent admits to the allegation of rhetorical paragraph 1.
2. Respondent admits to the allegation of rhetorical paragraph 2.
3. Respondent admits to the allegation of rhetorical paragraph 3.
4. Respondent admits to the allegation of rhetorical paragraph 4.

**COUNT I**

**INCOMPETENCE**

5. Respondent admits to the allegations of rhetorical paragraph 5 not specifically denied, and specifically denies that Judge Malka "rummaged"

through the court file; specifically denies that Judge Malka “advised” Respondent the state wanted to hold defendant longer; and denies that Judge Malka “urged” Respondent to set the trial date out to January or February.

6. Respondent denies the allegations in rhetorical paragraph 6.

## **COUNT II**

### **FAILURE TO EXERCISE JUDICIAL INDEPENDENCE**

7. Respondent admits to the first sentence in rhetorical paragraph 7; and in the second sentence admits that he permitted Judge Malka to address Larios directly; but denied that he permitted , or that Judge Malka “argued” the prosecutor’s supposed position.
8. Respondent denies the allegations in rhetorical paragraph 8.

## **CONCLUSION**

9. Respondent admits that Rule 6 of the Commission Rules provides grounds for discipline include “conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or a violation of the code.” Respondent admits that Article 6.1, sec4 of the Arizona Constitution provides that the Supreme Court may censure, suspend, or remove a judge for conduct that brings his judicial office into disrepute.  
Respondent denies the remaining allegations in rhetorical paragraph 9.

Respectfully submitted this 9<sup>th</sup> day of November, 2006.

  
JERRY L. COLGLAZIER

Original of this pleading filed  
this 9<sup>th</sup> day of November 2006, with

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

Copy of this pleading hand delivered  
this 9<sup>th</sup> day of November 2006, to:

Linda Haynes  
Disciplinary Counsel  
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Phoenix, AZ 85007