

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 07-242

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Complainant: No. 1319110703A

Judge: No. 1319110703B

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**ORDER**

The commission reviewed the complaint filed in this matter and found no ethical misconduct on the part of the judge. A court is not required to order transport of an inmate for a civil hearing, and a reasonable effort was made to accommodate the complainant's needs.

Therefore, the complaint is dismissed pursuant to Rules 16(a) and 23(a).

Dated: November 30, 2007.

FOR THE COMMISSION

\g\ Keith Stott  
Executive Director

Copies of this order were mailed to the complainant and the judge on November 30, 2007.

*This order may not be used as a basis for disqualification of a judge.*

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

FOR OFFICE USE ONLY

CJC-07-242

### COMPLAINT AGAINST A JUDGE

Your name  Judge's name  Date:

Instructions: Describe in your own words what the judge did that you believe constitutes misconduct. Please provide all of the important names, dates, times and places related to your complaint. You can use this form or plain paper of the same size to explain your complaint, and you may attach additional pages. Do not write on the back of any page. You may attach copies of any documents you believe will help us understand your complaint.

#### Issue One

Judge  has willfully and persistently failed to perform judicial duties, when ordering erroneous and false telephonic hearing, to deny Complainant's right to a statutorily hearing under A.R.S. §12-1809 (H).

#### Issue Two

Judge  has willfully and persistently failed to perform judicial duties, when arbitrarily denying Complainant a re-scheduled statutory hearing under A.R.S. §12-1809 (H).

On  Judge  issued an Ex Parte order granting Plaintiff  an against Defendant  for harassment. See e.g. (Appendix 1). The Defendant was not notified prior to issuance of the injunction nor has Defendant been heard in opposition thereof.

Pursuant to A.R.S. §12-1809 (H), when an Ex Parte injunction has issued under this section, the defendant shall be entitled to a hearing upon written request to

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(Attach additional sheets as needed)

modify or quash the injunction.

On [redacted], the Defendant filed a Motion with the Court requesting a hearing to be heard in opposition to modify or quash the injunction against Defendant for harassment. See e.g. [Appendix 2, Motion I]. In the Motion, the Defendant proffered evidence to rebut the Plaintiff's false accusations of Defendant's harassment made to the Court for the Ex Parte issuance of the injunction. 1. / 2. /

2. / The defendant proffered evidence to rebut the Plaintiff's false accusations of Defendant's threatening, harassing communications at issue. The Defendant filed an opposition from Plaintiff.

On [redacted] the U.S. Postal Inspectors executed a search of the premises and thereupon the Defendant was arrested. Contrary to Plaintiff's allegation, the Defendant was released in his act.

Contrary to Plaintiff's false accusation, 3. / The Defendant's correspondence to Plaintiff at issue refuted the Plaintiff's alleged Tenant Act: (1) enforcement of lease agreement; (2) rental payments; (3) securing the premises; (4) notification to Plaintiff to cease and desist from unlawful entry and disposing of Defendant's property; (5) Defendant's response to Plaintiff's summary eviction and seizure of Defendant's property; (6) Defendant's action to initiate civil property recovery claim.

The Defendant addressed the Plaintiff's absolute refusal to communicate with Defendant's coacting agents to schedule the removal of Defendant property from the premises.

Defendant then filed a corresponding Motion with the Court requesting the issuance of a Transportation Order, which compels the Sheriff of [redacted] County to transport the Defendant for hearing in opposition to modify or quash the injunction. See e.g. [Appendix 3, Motion]. Defendant is a pretrial detainee at the [redacted] County Sheriff's Office detention facility. Id. at 2. [Emphasis Added].

On [redacted], Judge [redacted] granted Defendant's request for hearing regarding the above injunction against harassment. See e.g. [Appendix 4, Order].

Judge [redacted] ordered Defendant's hearing set for [redacted] at 8:30 AM; found that Defendant was in  
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2. / In the Motion, the Defendant advised the Court that the Plaintiff has fraudulently and feloniously obtained the issuance of this Court's Ex Parte order granting the injunction; to unlawfully prohibit Defendant's legal access to the premises to secure removal of Defendant's property therefrom; which to facilitate the Plaintiff's theft of Defendant's property therein. Id. at 3.

3. / Contrary to the Plaintiff's contention that the Defendant had repeatedly requested Plaintiff to post Defendant's bail in these correspondences, [Appendix 1, Petition], is a false accusation.

Defendant requested the Plaintiff to post Defendant's bail only in the first correspondence. (Emphasis Added)

Custody, and ordered Defendant to appear telephonically for the hearing. Id. at 8 [Emphasis Added]. Judge [redacted] then denied Defendant's Motion to physically attend the hearing. Id.

On [redacted] the Sheriff's Office denied Defendant's request to attend the telephone hearing. The Sheriff's Office then informed Defendant that a court order is required to attend the hearing.

Judge [redacted] intentionally failed to issue the requisite procedural order to compel the Sheriff's Office to provide Defendant telephone access to attend the telephonic hearing.

In addition, Judge [redacted] knew that her refusal to issue the requisite order to compel Defendant's telephone access would deny the Defendant access to attend the hearing.

Judge [redacted] intentionally failed to issue the requisite procedural order to compel Defendant's telephone access, to deny Defendant's statutory right to attend the telephonic hearing under A.R.S. §12-1808(H). [Emphasis Added]

On [redacted], the Defendant filed a Motion to Re-Schedule the telephonic hearing. See e.g. [Appendix 3, Motion]. In the Motion, Defendant prayed that this Court ordered Defendant to appear telephonically for the hearing on [redacted]. Judge [redacted] deliberately failed to issue the requisite order

to compel the Sheriff to provide Defendant telephone access to attend the hearing. The Sheriff's Office then denied Defendant's request to appear at the hearing. Id. at 2-3. Based hereupon, Defendant avers that he has established excusable neglect justifying the Court's rescheduling of the hearing. Id.

Defendant additionally requested the Court to reschedule the telephonic hearing. Defendant also requested the Court to issue the requisite Order to the Sheriff to provide Defendant telephone access to attend the telephonic hearing. [Emphasis Added]

On [redacted] Judge [redacted] granted Defendant's motion for rescheduling regarding the above injunction against harassment. See e.g. [Appendix 6, Order]

Judge [redacted] ordered Defendant's hearing set for [redacted] at 2:30 pm. Id. at 2. Judge [redacted] ordered that Defendant shall appear telephonically from custody, and directed that Defendant shall call the Court at [redacted] by 2:15 pm. Id. [Emphasis Added]. Judge [redacted] then denied Defendant's Motion to physically attend the hearing. Id.

Yet again Judge [redacted] intentionally failed to issue the requisite procedural order to compel the Sheriff's Office to provide Defendant telephone access to attend the rescheduled

Telephonic hearing on [REDACTED]

On [REDACTED] the Defendant then went a little to the Clerk of the Court requesting them to issue an Order which compels the Sheriff's Office to provide Defendant telephonic access to attend the rescheduled telephonic hearing. 4.1

On 16 [REDACTED] at the time of Defendant's telephonic hearing [REDACTED] County Deputy Sheriff [REDACTED] Badge No. [REDACTED] placed a telephone call at 2:15 p.m., to this Court at [REDACTED] for Defendant to attend the scheduled telephonic hearing, as directed by the Court. See e.g. [Appendix 6]. At this time, Deputy Sheriff [REDACTED] reached this Court's prerecorded telephone information line with ten (10) options and none of which connected to the Clerk's Office or Judge [REDACTED] [Emphasis Added]. Thereupon, Deputy Sheriff [REDACTED] terminated the call based upon Judge [REDACTED] provided an incorrect judicial telephone number for Defendant to attend the telephonic hearing. Id. Accordingly, Defendant did not attend the scheduled Court ordered hearing.

At this time, the Defendant first learned that Judge [REDACTED] intentionally issued the incorrect

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4.1 A copy of Defendant's correspondence can be obtained from the Clerk of the Court case case.

judicial telephone number for Defendant's access to attend the telephonic hearing.

Judge [ ] knew that her issuance of the Order directing Defendant to call the incorrect judicial number, would deny Defendant access to attend the telephonic hearing.

Judge [ ] intentionally ordered Defendant to call the incorrect judicial telephone number, to deny Defendant's statutory right to attend the telephonic hearing under A.R.S. §12-1808.

On [ ] Judge [ ] then denied Defendant's request for the rescheduled hearing based upon Defendant's failure to appear at the telephonic hearing. See e.g. [Appendix 7, Order].

Based upon the record, the Defendant was denied his statutory right to the hearing under A.R.S. §12-1808, due to Judge [ ] deliberative ordered Defendant to call the incorrect judicial telephone number to attend the hearing and not Defendant's failure to appear at the hearing. [Emphasis Added].

Then on [ ], the Defendant filed his third Motion with this Court for rescheduling of the hearing based on Judge [ ] had intentionally ordered Defendant to call an incorrect judicial telephone number to attend the telephonic hearing on [ ]. See e.g. [Appendix 7] (Emphasis Added). Defendant also



alleged that when the Court had ordered Defendant to appear at the hearing, Judge [redacted] again had deliberately failed to compel the Sheriff's Office to provide Defendant telephone access to attend the hearing. Id. at 3. Then, the Defendant requested the Court to order the Sheriff to provide Defendant the requisite telephone access. Id. at 4. The Sheriff then accorded Defendant the telephone access to attend the hearing. Id. at 3. 5 /

In the Motion, the Defendant professed that at the time of the telephonic hearing Deputy Sheriff [redacted] placed a telephone call to the Court at [redacted] [redacted] at 2:15 p.m., as directed by the Court Order. Id. at 4. cf. [Appendix I] Deputy [redacted] then reached this Court's pre-recorded telephone information line with ten (10) options and none of those options connected to the Clerk of the Court nor Judge [redacted] Id. at [redacted]. [Emphasis Added]. Thereupon, Deputy [redacted] terminated the call due to Judge [redacted] provided an incorrect judicial telephone number to the Sheriff's Office and the Defendant to attend

the telephonic hearing.

On [redacted] Judge [redacted] then denied Defendant's Motion to reschedule the hearing, contrary to Defendant's justifiable showing of excusable neglect for Defendant's failure to appear at the hearing, due to the Court ordered Defendant to call the incorrect judicial telephone number to attend to a hearing. [Appendix 8]

The Defendant was denied his statutory right to a third Motion to reschedule the hearing under A.R.S. §12-1803, due to Judge [redacted] deliberately abused his discretion when denying Defendant's Motion, contrary to Defendant's showing of justifiable excusable neglect, due to the Court ordered Defendant to call an incorrect judicial telephone number to attend the telephonic hearing.

Based upon the foregoing, Judge [redacted] deliberately abused his discretion when arbitrarily denied Defendant's third Motion to reschedule the hearing, to intentionally deny Defendant's statutory right to his hearing under A.R.S. §12-1803(H), to modify or quash the injunction.

Judicial Misconduct Violation

Re: Judge [redacted]

(1) That the above described conduct of Judge [redacted] abusing the

authority of the judicial office and willful and persistent failure to perform her duties is violative of specifically Canon 3(B)(7), and Canon 1(a); Canon 2(c); Canon 3(B)(1); Canon 3(B)(2) and Canon 3(B)(5), of the Judicial Code of Conduct, as adopted by Rule 45, Rules of the Supreme Court, effective January 1, 1976.

(2) That the above described conduct of Judge [REDACTED] abusing her authority of the judicial office and willful and persistent failure to perform her duties constitutes a violation of Article VI, § 4 of the Constitution of the State of Arizona.

(3) That the above described conduct of Judge [REDACTED] abusing the authority of the judicial office and willful and persistent failure to perform her duties constitutes conduct prejudicial to the administration of justice and said conduct brought her office into disrepute within the meaning of Article VII, Section 4 of the Constitution of the State of Arizona.

Respectfully Submitted this 23rd day of September, 2001.