

SUPREME COURT OF ARIZONA

FILED
JAN 28 2009
RACHELLE M. RESNICK
CLERK SUPREME COURT

Inquiry concerning Judge)
)
G.M. OSTERFELD)
Estrella Mountain Justice Court)
Maricopa County)
State of Arizona)
)
Respondent.)
_____)

Supreme Court No. JC-09-0001
BY
Commission No. 08-044



ORDER

This matter having come before the Commission on Judicial Conduct, it having duly rendered and filed its recommendation, and all applicable rights to object to or petition for modification of the recommendations having been waived by Respondent, and the Court having no further responsibility for review pursuant to Rule 29(g) of the Rules of Procedure for the Commission on Judicial Conduct,

IT IS ORDERED that **G.M. Osterfeld**, a justice of the peace in Maricopa County, is hereby censured for violations of the Code of Judicial Conduct as set forth in the Recommendation and the Stipulated Censure, which are attached hereto.

DATED this 28th day of January, 2009.

Rachelle Resnick

Rachelle Resnick
Clerk of the Court

TO:
G.M. Osterfeld (Certified Mail, Return Receipt and Regular Mail)
Richard Strohm, Counsel for Respondent
Linda Haynes, Disciplinary Counsel, Commission on Judicial Conduct
E. Keith Stott, Jr., Executive Director, Commission on Judicial Conduct
Jode Ottman, West Publishing Company
Lexis-Nexis

Linda Haynes
Disciplinary Counsel (Bar #12178)
Commission on Judicial Conduct
1501 W. Washington St., Suite 229
Phoenix, Arizona 85007
Telephone: (602) 452-3200

FILED

SEP 03 2008

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning Judge)
)
G. M. OSTERFELD) Case No. 08-044
)
Estrella Mountain Justice Court)
)
State of Arizona) **STATEMENT OF CHARGES**
)
Respondent)
)

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, Judge G.M. Osterfeld, 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 justice of the peace in Maricopa County and as city magistrate

of Buckeye since January 1994, and was serving in these capacities at all times relevant to the allegations contained herein.

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

CHARGES

5. On February 13, 2008, a man ("Son") came to the court with his father ("Father") in an attempt to clear his driving record. Father accompanied Son to the front counter and engaged in a discussion with the clerk, and asked to speak to Respondent about cleaning up a Department of Motor Vehicles matter.

6. Respondent came into the clerical area and began explaining to Son that he could not do anything further to assist him. When Father tried to speak on behalf of his son, Respondent told him he had no standing in the matter, pointed his finger at Father, and became angry. An argument ensued and Respondent yelled at Father, threatening him with contempt. Father argued back with Respondent and told Respondent he was acting rudely and not scaring him.

7. During the exchange, Respondent was angry and tense with his fists clenched. He came out from behind the counter into the lobby area and stood face-to-face with Father, between ten to twelve inches away, giving the impression that he was ready to fight. Respondent was very angry, called Father a "Siberian piece of excrement," and ordered him to leave the court. The police were called by court staff and the incident ended.

8. During the incident, a woman and young girl about seven years of age were in the lobby, and the little girl was visibly upset by Respondent and Father's actions.

9. By losing his temper, becoming angry, and confronting a citizen, Respondent violated Canon 3B(4), which requires a judge to be patient, dignified and courteous. By clenching his fists and approaching the citizen, standing close to the person, and raising his voice the judge violated Canon 2A, which mandates that a judge avoid impropriety and the appearance of impropriety. 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.

10. Closed files pertaining to discipline of Respondent may be referred to and used by the Commission or by Respondent for the purpose of determining the severity of the sanction, a pattern of misconduct, or exoneration of Respondent pursuant to Commission Rule 22(e).

CONCLUSION

11. The conduct alleged in this pleading violates Canon 1A, which requires that a judge maintain, enforce and personally observe high standards of conduct and 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 such other relief as may be deemed appropriate.

Respectfully submitted this 3rd day of September, 2008.

COMMISSION ON JUDICIAL CONDUCT

Linda Haynes

Linda Haynes
Disciplinary Counsel

Copies of this pleading mailed by certified mail on September 3rd, 2008, to:

Judge G.M. Osterfeld
Estrella Mountain Justice Court
100 N. Apache Road, Suite C
Buckeye, AZ 85326-9699

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Richard L. Strohm, Arizona Bar 4622
LAW OFFICES OF RICHARD L. STROHM, PC
8121 East Indian Bend Road, Suite 128
Scottsdale, Arizona 85250
Email: rlslaw@att.net
Telephone: 480.889.3518
Facsimile: 480.889.3521
Attorney for Hon. G.M. Osterfeld

FILED
SEP 18 2008

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning:

No. 08-044
**RESPONSE TO FORMAL
CHARGES**

JUDGE G. M. OSTERFELD

Estrella Mountain Justice Court
Maricopa County,
State of Arizona,

Respondent.

The Honorable G. M. Osterfeld, duly elected Justice of the Peace, Estrella Mountain Justice Court, for his response to the formal statement of charges filed September 3, 2008, admits, denies and alleges as follows:

1. Jurisdiction pursuant to Article 6.1, Section 4 of the Arizona Constitution is admitted.
2. This Response is filed pursuant to Rule 25(a) of the Rules of Commission and Judicial Conduct.
3. Each allegation not specifically admitted herein is denied.

1 4. Admit the allegations contained in Paragraphs 3 and 4 of the formal
2 Statement of Charges, but allege that respondent has served as a duly elected
3 justice of the peace in Maricopa County since January 1995, and at all times has
4 been subject to the rules of judicial conduct.
5

6 5. Admit the allegations contained in Paragraph 5 of the formal
7 Statement of Charges that an incident occurred on February 13, 2008 involving a
8 civil traffic defendant whose case was pending before the Estrella Mountain Justice
9 Court, and which had been presided over by Respondent, but deny each every
10 other allegation contained in Paragraph 5 of said Statement of Charges.
11

12 6. Admit the allegation in Paragraph 6 of the formal Statement of
13 Charges that son and father were attempting to unlawfully change the outcome of
14 the criminal case of the son as well as the sanction imposed by Respondent, but
15 deny each and every other allegation contained in Paragraph 6 of said Statement of
16 Charges.
17

18 7. Admit the allegation contained in Paragraph 7 of the formal Statement
19 of Charges that father argued with Respondent, and staff called police, but deny
20 each and every other allegation contained in Paragraph 7 of said Statement of
21 Charges.
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1 8. Respondent is without information sufficient to form a belief as to the
2 truth or falsity of the allegations contained in Paragraph 8 of the Statement of
3 Charges, and therefore denies the same.
4

5 9. Denies each and every allegation contained in Paragraphs 9, 10 and 11
6 of the Formal Statement of Charges.
7

8 10. As and for affirmative defenses, Respondent affirmatively alleges
9 alleges that on February 7, 2008 son came to the court lobby area to protest the
10 notice of suspension that had been mailed to him on February 5, 2008. He filled
11 out a motion to set aside the default and provided proof of insurance.
12

13 11. Judge Osterfeld denied the motion but reduced the fine to \$100.00
14 plus a \$20.00 and a \$30.00 surcharge required by law, for a total of \$150.00
15 sanction and entered a no contest plea due to the content of the son's motion to set
16 aside the default.
17

18 12. On February 11, 2008 son returned to court. At that time Judge
19 Osterfeld advised him how the default law works in Arizona and explained to him
20 that he had reduced his fine, but because son had failed to appear, the default
21 would remain in place, the fine would have to be paid, and that that son would
22 have to pay any driver's license reinstatement costs.
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1 13. On February 13, 2008 son returned with an unidentified male. Judge
2 Osterfeld was sitting in chambers approximately 25 feet away from the lobby
3 counter. He heard a male speaking in a very loud voice complaining about the fact
4 that someone was going to have to be inconvenienced because of court imposed
5 sanctions.
6
7

8 14. Judge Osterfeld had finished his paperwork and left chambers and
9 walked to the clerical and filing area to submit the paperwork. As he traveled
10 across the open area to the clerk, father who motioned him over. Judge Osterfeld
11 ignored the motion, delivered the files and returned to his office. However, as
12 Respondent started to re-enter his office, one of the clerks indicated a need to
13 speak with the judge and informed Respondent that the men at the counter were
14 demanding to see Judge Osterfeld and were not going to leave unless they saw
15 him. For that reason alone Judge Osterfeld returned to the counter.
16
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18 15. It became apparent to me that the two males were together, highly
19 agitated and loud. Respondent addressed only the son because he was the only one
20 who had business before the court, and explained this to both father and son.
21 Father became more agitated, loud and profane. He yelled at Judge Osterfeld that
22 "this is bull shit." At that point Judge Osterfeld told him that he would have to be
23 quiet, refrain from using profanity or that he would have security remove him. The
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1 father then called Judge Osterfeld an " asshole." Judge Osterfeld then asked him to
2 leave. Father refused. He was asked a second time and also refused.

3
4 16. Father continued to escalate the confrontation. He moved toward the
5 door, stopped, returned and called Judge Osterfeld a "shitty old bastard." Judge
6 Osterfeld then went to the lobby area and advised him to leave the courtroom.

7
8 There was an argument about whether Judge Osterfeld had the authority to have
9 father leave and there was an aggressive exchange of language by Judge Osterfeld
10 and father. There were no blows exchanged. Respondent never raised his fists or
11 attempted any physical action.
12

13
14 17. Judge Osterfeld left to get a police officer when he was informed by
15 police staff that someone else at the justice court had called the police who were on
16 their way.
17

18 18. Judge Osterfeld responded reasonably to two contemptuous
19 individuals, one of whom were extremely rude, loud and discourteous. Father
20 flaunted the authority of the court, disregarded warnings, the court's rules of
21 decorum and civility as well as the judge's order to cease profanity and to leave
22 when he did not. Judge Osterfeld at all times was attempting to communicate with
23 father and son without success.
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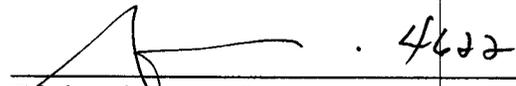
26 19. Judge Osterfeld's conversation with the son was direct and to the
27 point; however, it was father's intent to intimidate the judge, his staff in order to
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1 obtain a result that was unlawful, and without procedural safeguards of any kind.
2
3 When it became clear that there would be no change in the sentence father became
4 severely abusive, aggressive and confrontational.

5 WHEREFORE, respondent respectfully asserts that there has been no
6 violation of either Canon 1 A or 2A, and requests a full and fair hearing on the
7 merits and subsequent dismissal of all allegations of the Statement of Charges
8 filed September 3, 2008.
9

10
11 RESPECTFULLY SUBMITTED this 19th day of September, 2008.

12
13 LAW OFFICES OF RICHARD L. STROHM, P.C.

14
15
16 
17 Richard N. Strohm
18 8121 East Indian Bend Road, Suite 128
19 Scottsdale, Arizona 85250
20 *Attorney for Respondent*

21 Copy of the foregoing hand delivered
22 this 19th day of September, 2008 to:

23 Linda Haynes, Esq.
24 Commission on Judicial Conduct
25 1501 West Washington Street, suite 229
26 Phoenix, Arizona 85007
27
28

Arizona Commission on Judicial Conduct
1501 West Washington Street, Suite 229
Phoenix, AZ 85007
Telephone: (602) 452-3200
Facsimile: (602) 452-3201

FILED

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ARIZONA COMMISSION ON
JUDICIAL CONDUCT

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning Judge)
)
G.M. OSTERFELD)
Estrella Mountain Justice Court)
Maricopa County)
State of Arizona)
Respondent)

Case No. 08-044

STIPULATED CENSURE

Judge G.M. Osterfeld ("Respondent"), through his attorney, Richard Strohm, and Linda Haynes, Disciplinary Counsel for the Commission on Judicial Conduct ("Commission"), hereby submit the following proposed resolution of this case pursuant to Rule 30 of the Rules of the Commission on Judicial Conduct ("Rules").

AGREEMENT

1. The Commission has jurisdiction over these matters pursuant to Article 6.1 of the Arizona Constitution.
2. Respondent has served as a justice of the peace in Maricopa County and as city magistrate of Buckeye since January 1994, and was serving in these capacities at all times relevant to the allegations contained herein.

3. Respondent deals with two judicial calendars constituting an enormous annual docket including thousands of all types of cases every year, and his record has shown efficient and timely disposition of those cases since 1994.

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

5. On September 3, 2008, Disciplinary Counsel filed a formal Statement of Charges against Respondent after a duly appointed investigative panel found reasonable cause to commence formal proceedings.

6. Respondent admits that on February 13, 2008, a son came to the court with his father and the father asked to speak with Respondent about clearing up a Department of Motor Vehicles matter. After Respondent began to explain he could not assist the two men, the father began to speak on behalf of the son. Respondent sternly told the father he had no standing in the matter, and an argument ensued. Respondent raised his voice at Father and threatened him with contempt. Father raised his voice at Respondent and told Respondent he was acting rudely and not scaring him and called him a "sack of shit."

7. Respondent became angry, called Father a "piece of Siberian excrement," came into the lobby area, stood face-to-face with Father, and ordered him to leave the court. A woman and young girl about seven years of age were in the lobby at the time of the incident.

8. Respondent agrees that by losing his temper, becoming angry, and confronting a citizen, Respondent violated Canon 3B(4), which requires a judge to be patient, dignified and courteous, Canon 2A, which mandates that a judge avoid impropriety and the appearance of impropriety and that he brought his judicial office into disrepute within the meaning of Article 6.1, § 4 of the Arizona Constitution.

9. Respondent admits committing judicial misconduct and agrees that censure is an appropriate sanction for his misconduct.

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 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 Rule 29.

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

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

14. Respondent clearly understands the terms and conditions of this agreement and fully agrees with its terms.

State of Arizona
COMMISSION ON JUDICIAL CONDUCT
1501 W. Washington St., Suite 229
Phoenix, Arizona 85007
(602) 452-3200

News Release

COURT CENSURES MARICOPA COUNTY JUSTICE OF THE PEACE

PHOENIX. The Commission on Judicial Conduct announced today that the Arizona Supreme Court has censured Justice of the Peace G. Michael Osterfeld for misconduct in office stemming from an argument with a defendant's father in the courthouse lobby. The court's decision was based on a stipulated agreement between the commission and the judge in which the judge admitted violating the Code of Judicial Conduct when he became angry with the father, threatened him with contempt, and called him an inappropriate name.

Judge Osterfeld has been a justice of the peace in Buckeye (now the Estrella Mountain Precinct) since January 1994. The judge cooperated with the commission fully and agreed that a censure was an appropriate sanction for his conduct. The full text of the agreement for discipline by consent can be viewed on the commission's web site. (Go to www.supreme.state.az.us/ethics, click on the Commission on Judicial Conduct, Judicial Complaints, 2008 and 08-044.)

The commission is an independent state agency with jurisdiction over all state and local judges. It is composed of six judges, two attorneys, and three public members. The commission investigates complaints of judicial misconduct and submits recommendations in formal cases to the state supreme court for final decision.

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For release on January 29, 2009.

For more information, contact
Keith Stott, Executive Director

15. This agreement constitutes the complete understanding between the parties. No other promises or agreements will be binding unless signed by both Respondent and Disciplinary Counsel.

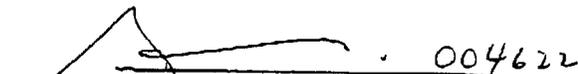
SUBMITTED this 19th day of December, 2008.



G.M. Osterfeld
Respondent

12-19-08.

Date

 004622

Richard Strohm
Counsel for Respondent

December 19, 2008

Date



Linda Haynes
Disciplinary Counsel

December 19, 2008

Date

Arizona Commission on Judicial Conduct
1501 West Washington Street, Suite 229
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JAN 09 2009

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning Judge)	
)	Supreme Court No. JC-09-0001
G.M. OSTERFELD)	
Estrella Mountain Justice Court)	Commission Case No. 08-044
Maricopa County)	
State of Arizona)	RECOMMENDATION
)	
Respondent)	

On September 3, 2008, the Commission on Judicial Conduct (“Commission”) filed formal charges against Justice of the Peace G.M. Osterfeld (“Respondent”) following a finding of reasonable cause by the three-member investigative panel assigned to oversee the investigation in this case. On September 18, 2008, Counsel for Respondent filed a response, and on September 23, 2008, the chairperson of the Commission appointed an eight-member hearing panel to hear and take evidence in the case.

On December 19, 2008, Counsel for Respondent and Disciplinary Counsel submitted a Stipulated Censure (“censure”) containing an admission of judicial misconduct and 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. The censure and other pertinent pleadings were circulated to the members of the hearing panel for their consideration and on January 9, 2009, the members reviewed the documents and unanimously voted to approve the censure.

RESPECTFULLY SUBMITTED this 9th day of January 2009.

FOR THE HEARING PANEL



Hon. J. William Brammer, Jr.
Presiding Member of the Hearing Panel

Copies of this pleading were delivered and
mailed this 9th day of January 2009 to:

Richard Strohm
Counsel for Respondent
8121 E. Indian Bend Road, #128
Scottsdale, AZ 85250

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

By: *BW*
Clerk of the Commission