

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 10-120

Complainant: No. 1392710846A

Judge: No. 1392710846B

ORDER

The complainant alleged that a municipal court judge exhibited improper demeanor, issued an unclear ruling, and failed to disqualify herself from the case. After analyzing the judge's response and the recording of the hearing, the commission found that the judge was firm and that her conduct was not improper. Whether the judge issued an unclear ruling is a legal question that could have been appealed. Finally, the fact that the judge and a litigant in the case work for the city does not create a conflict of interest, absent a showing of a personal relationship requiring disqualification. Accordingly, the complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: July 22, 2010.

FOR THE COMMISSION

\s\ Keith Stott

E. Keith Stott, Jr.
Executive Director

Copies of this order were mailed to the complainant and the judge on July 22, 2010.

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

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At this time, I am hereby submitting my first complaint regarding judicial conduct before your Commission. The specific judge in question is identified as Judge _____ of the Wickenburg Arizona Town Court.

I wish to specifically address the areas surrounding Judge _____ behavior, conduct, lack of professional competence, cooperation, demeanor, integrity, temperament, and lack of rights regarding the involved parties to be heard in her court.

Therefore, I am requesting the Commission to particularly focus on RULE: 1.2 (CANON 1) RULE 2.2, 2.3, 2.5, 2.6. 2.8. And 2.11 (CANON 2).

CANON 1 RULE 1.2- "PROMOTING CONFIDENCE IN THE JUDICIARY"

In a small town, a judge should be particularly cognizant of the "appearance of impropriety" when accepting cases. In this case in point, Judge _____ is employed by the Town of Wickenburg as well as the plaintiff. Although, she is evidently appointed by the Town Council, this is still a Town of Wickenburg issue. Non disclosure of these key factors is still a violation of judicial duties. To further explain, I would doubt that a City of Phoenix Judge would accept a case involving a City of Phoenix employee who is known to the judge and is employed "right across the hall". A further complication in this case stems from the fact not only are the judge and plaintiff small town Wickenburg employees, but the judge has known the first defendant's mother since infancy. It is my opinion that the judge should have recused herself from this case, requested a substitute judge or change of venue.

CANON 2: RULE 2.2 "IMPARTIALITY AND FAIRNESS"

The judge gave a guilty verdict after the first defendant. The plaintiff's complaint involved 3 boys. This court system did not allow my two underage sons the opportunity of a fair and impartial treatment in court. She also allowed the plaintiff to help her son, and did not allow me to help my sons. I strongly feel that the judge should have heard all 3 boys prior to her ruling.

RULE 2.3 "BIAS, PREJUDICE AND HARRASMENT"

The judge engaged in a form of harassment against the 1st defendant's mother by yelling and screaming at her to the point where a W.P.D. Officer opened the door to make sure everything was alright. Disrespect for proper court etiquette by verbally abusing the 1st defendant's mother thereby set the tone in the court which caused a lack of objectivity, open mindedness, and impartiality. A judge who manifests threatening, intimidating and hostile behavior is perceived as then prejudiced or biased.

RULE 2.5: "COMPETENCE, DILIGENCE AND COOPERATION"

This Wickenburg Town Court Judge did not perform her duties so as to demonstrate the rights of all parties to be equally heard – therefore due regard for all the defendant's rights were blatantly violated. She did not reserve her ruling until the end of the hearing, after all of the three boys had allegedly

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spoken. The 12 yr old boy who actually “knocked” on the plaintiff’s door was not even included in this case. An appeal has been filed.

RULE 2.6: “ENSURING THE RIGHT TO BE HEARD”

The right of the defendant’s to be heard is of utmost importance before a judicial decision is rendered – in this case, the judge did not demonstrate proper court procedure thereby undermining the ethics and standards of a fairly run court. For instance she immediately found the 1st defendant (

) guilty, after a screaming match with the defendant’s mother. This took place before my two son’s cases were heard, thereby seriously negating my son’s chances for acquittal.

The judge did not plainly state on the “injunction of harassment” the exact laws regarding any alleged violation of harassment, and thereby caused further judicial damage by causing of my son (age 15) to be pulled out of school, and arrested after riding his bicycle on the other side of plaintiff’s street. The judge merely stated on the order that defendant “shall not go to or near plaintiff”. My son did not realize by riding his bike on the other side of the street would be a violation.

After my son’s arrest, my family saw the plaintiff violating the judge’s verbal orders; my mother placed a call to Commander Sgt. – requesting arrest of the plaintiff for driving by my house with taunting behavior. The W.P.D. would not arrest the plaintiff based on Judge refusal to cooperate with the local police by giving any interpretation of her ruling. Commander Sgt. of the W.P.D. can be contacted @ to substantiate this questionable judicial conduct. It would seem that this is another example of the judge’s biased behavior in favor of the plaintiff.

RULE: 2.8 “DECORUM, Demeanor, AND COMMUNICATION

Judge violated this rule with special regard to her lack of order in her court proceeding. In addition she definitely did not exhibit the judicial qualities of being patient, dignified, and courteous to the defendant’s. I do not believe that this case should have gone to court as the plaintiff never documented any physical or verbal abuse. My sons did not know how to defend themselves, and I wasn’t allowed to assist.

RULE 2.8 PART B: INCLUDES “OTHER’S” WITH WHOM THE JUDGE DEALS WITH AN OFFICAL CAPACITY

In fact this judge made no use of the court staff to bring me into the court room, but instead chose to order the 1st defendant’s mother to request my presence in the court room. In addition, I also noticed that Judge was remarkably different in her demeanor towards the plaintiff, and did not exhibit impatience, hostility and lack of courtesy in her case. We also subsequently discovered that the plaintiff is not only a Town employee “like the judge”, but is also the executive secretary to the Town Manager. I feel the plaintiff’s employment status was purposely omitted from the court paperwork.

CASE #RULE 2.11: "DISQUALIFICATIONS"

This rule specifically states "a judge shall disqualify herself in any proceeding in which the judge's impartiality might reasonably be questioned". Under this rule it is stated that this is applicable regardless whether any of the specific provisions (A)(1)-(5) apply. I would specifically like to point out to the Az. Commission on judicial conduct to #5 on the comment section under RULE 2.11: "A JUDGE SHOULD DISCLOSE ON THE RECORD INFORMATION THAT THE JUDGE BELIEVES THE PARTIES OR THEIR LAWYERS MIGHT REASONABLY CONSIDER RELEVANT TO A POSSIBLE MOTION FOR DISQUALIFICATION, EVEN IF THE JUDGE BELIEVES THERE IS NO BASIS FOR DISQUALIFICATION". Judge never disclosed the plaintiff's employment status, nor did she ever address any other questionable personal relationships.

At this time, I shall end my judicial complaint and trust that the Commission will find my statements to be not only verified but justifiable and documented, Thank-you for your time and attention to this important judicial matter, and to the 7specific rules of Judicial Conduct in question which I have incorporated into my statement.