

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 10-331

Complainant:	No. 1407010227A
Judge:	No. 1407010227B

ORDER

The complainant alleged that a justice of the peace delayed ruling on a motion and failed to make a ruling regarding a garnishment that was issued without notice to the complainant. The commission reviewed the complaint and the judge's response and decided to issue an advisory letter reminding the judge of the procedural requirements in garnishment cases. The complaint is dismissed with comments pursuant to Rules 16(b) and 23.

Dated: March 18, 2011

FOR THE COMMISSION

/s/ Louis Dominguez

Louis Frank Dominguez
Commission Chair

Copies of this order were mailed to the complainant and the judge on March 18, 2011

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

Complaint Against a Judge

In April, 2010 I was served a summons on a three year old debt, from an unscrupulous used car dealer. I went to the Justice Court for advice on how to proceed. I was instructed to file a Motion to Dismiss and quoted a price for the cost of filing. I filed and paid the fee. The motion was filed in the proper Justice Court with the prevailing Judge. A month later I received information that the fee was insufficient. I filed the additional fee and waited for a ruling on my Motion. On September 10 2010, I received my paycheck with a garnishment from the used car dealer. I was still awaiting a ruling on my motion, so I had checked my mail daily. I had no indication that the garnishment was upcoming. I went to the Justice court, and filed for a hearing, which was granted.

While I was waiting for the Judge to appear, I became aware that the Judge was the same one I had filed the motion with. I had the paperwork with me at the hearing, and a copy of the Motion to Dismiss. During the hearing I informed the Judge that I was still waiting for a ruling on the Motion. I told the Judge and the attorney representing my employer, that since I was looking for a response from the court, I was checking the mail daily and was never notified of any garnishment of my pay. The attorney was ready to put a witness on the stand until the Judge went through her file and said, "wait a minute, I don't have a copy of the notification either." The attorney promptly gave her a copy to put in the file. I was dumbfounded because I had never seen the document and was never presented with a copy. It was then the Judge stated, "when an employer fails to notify an employee of a garnishment, the employer becomes responsible for the repayment." Since the court was not presented with a copy of the notification prior to the date of the hearing I clearly won my case. The Judge insisted we wait until her staff checked the files for the notification. After about 30 minutes of searching, nothing could be found. I clearly won my case and waited for a ruling on the hearing. I finally received an envelope from the Judge and it was to deny my Motion to Dismiss, and totally ignored the ruling on the hearing. To this date no ruling has been made. I have written the judge every two weeks on payday requesting she rule on the hearing, with no response. Last week I received another ruling denying the Motion to Dismiss but nothing on the hearing. Since my court date, my employer has deducted over \$1000.00 from my pay.

It is clear Judge _____ has no intention of ruling on my hearing, in my favor, even though I have proved my case and the Judge herself verified no notification was given. Please help me. I have since been diagnosed with Cancer, and have informed the Judge of this as well, but with no response. With my added medical expenses I really need my entire paycheck while I am still capable of working.

CC 2097

12/10/10