

SUPREME COURT OF ARIZONA

In the Matter of FORMER JUDGE) Arizona Supreme Court
) No. JC-12-0002
LESTER PEARCE)
North Mesa Justice Court) Commission on Judicial
Maricopa County) Conduct
State of Arizona,) No. 11-245
)
) **FILED 11/26/2012**
Respondent.)
_____)

O R D E R

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 recommendation having been waived by Respondent, and the Court having no further responsibility for review pursuant to Rule 29(g) of the Rules of Procedure of the Commission on Judicial Conduct,

IT IS ORDERED that former Justice of the Peace **Lester Pearce** is hereby censured for violations of the Code of Judicial Conduct as set forth in the Recommendation and the Stipulated Resolution, which are attached hereto.

IT IS FURTHER ORDERED that former Justice of the Peace **Lester Pearce** shall, within ninety days of the date of this Order, remit to the Commission on Judicial Conduct the agreed upon cost payment of \$1,500.

DATED this _____ day of November, 2012.

Janet Johnson
Clerk of the Court

Supreme Court No. JC-12-0002

Page 2 of 2

TO:

A Melvin McDonald Jr

Mark I Harrison

Mark Hummels

Jennifer M Perkins

Barbara Wanlass

Mary Pieper

Netz Tuvera

Karissa Ambas

Lexis Nexis

chj

Commission on Judicial Conduct
1501 W. Washington St., Suite 229
Phoenix, Arizona 85007
Telephone: (602) 452-3200

STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning former Judge)	
	)	Case No. 11-245
LESTER PEARCE)	
North Mesa Justice Court	)	TRANSMITTAL OF THE RECORD
Maricopa County	)	TO THE SUPREME COURT
State of Arizona)	
Respondent)	
)	

1. Notice of Filing with the Supreme Court
2. Statement of Charges
3. Notice of Institution of Formal Proceedings
4. Answer to Statement of Charges
5. Stipulated Resolution
6. Order Approving Stipulated Resolution; Recommending Approval by Commission
7. Acceptance of Stipulated Resolution
8. Recommendation

DATED this 21st day of November 2012.

COMMISSION ON JUDICIAL CONDUCT



Barbara Wanlass
Clerk of the Commission

Commission on Judicial Conduct
1501 W. Washington St., Suite 229
Phoenix, Arizona 85007
Telephone: (602) 452-3200

STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning former Judge	)	Commission No. 11-245
)	
LESTER PEARCE)	
North Mesa Justice Court)	
Maricopa County	)	NOTICE OF FILING WITH
State of Arizona	)	THE SUPREME COURT
Respondent)	
)	

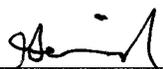
PLEASE TAKE NOTICE that the Commission's Recommendation in the above-entitled case, together with all other pertinent pleadings contained in the record, were filed on this date with the Clerk of the Arizona Supreme Court, 1501 W. Washington, Suite 402, Phoenix, Arizona 85007. Copies of the pleadings, along with this notice, were promptly served on Respondent.

The Commission accepted a stipulated resolution for discipline by consent in this case in the best interest of the public and pursuant to guidance provided in previous cases in which the Commission was encouraged to pursue alternative resolutions. *In Re Braun*, 180 Ariz. 240, 242, 883 P.2d 996, 998 (1994); *In Re Garcia*, 180 Ariz. 294, 296, 884 P.2d 180, 182 (1994).

The Clerk of the Supreme Court is advised that Respondent has waived the right in Rule 29(c) of the Rules of the Commission on Judicial Conduct to petition the Court to modify or reject the Commission's recommendation and the right to request oral argument. This matter, therefore, may be deemed submitted pursuant to Rule 29(e).

DATED this 21st day of November 2012.

COMMISSION ON JUDICIAL CONDUCT



George A. Riemer
Executive Director

Copies of this notice were delivered via U.S. mail
this 21st day of November 2012 to:

Melvin McDonald
Counsel for Respondent
2901 North Central Avenue, Suite 800
Phoenix, AZ 85012

Mark I. Harrison
Mark P. Hummels
Disciplinary Counsel
Commission on Judicial Conduct

By: /s/ Barbara Wanlass
Clerk of the Commission

Mark I. Harrison (Bar #001226)
 Mark P. Hummels (Bar #023283)
 Osborn Maledon PA
 2929 North Central Avenue, Suite 2100
 Phoenix, Arizona 85012
 (602) 640-9000
 mharrison@omlaw.com
 mhummels@omlaw.com
 Disciplinary Counsel for Commission on Judicial Conduct

FILED

AUG 24 2012

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning)	
)	
Former Judge Lester Pearce	)	Case No. 11-245
North Mesa Justice Court)	
Maricopa County	)	STATEMENT OF CHARGES
State of Arizona)	
Respondent.)	

The Commission on Judicial Conduct ("Commission") has determined that there is reasonable cause to commence formal proceedings against former Judge Lester Pearce ("Respondent") for misconduct while serving in office. The Commission has further determined that should the allegations of misconduct be proven, formal sanctions would be appropriate. This statement of charges sets forth the Commission's jurisdiction 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 (the "Commission Rules").

3. Respondent served as Justice of the Peace in Maricopa County from 1997 through April 30, 2012. He was serving in his capacity as a judge at all times relevant to these allegations.

4. As a judge, Respondent was subject to the Code of Judicial Conduct (the "Code") as set forth in Supreme Court Rule 81.

FACTUAL BACKGROUND

5. On July 12, 2011, Arizona Governor Jan Brewer issued an order calling for a special recall election for November 8, 2011. The subject of the recall election was then-State Senator Russell Pearce, who is Respondent's brother. Two opposing candidates qualified for the ballot in the special election by collecting nominating petition signatures.

6. In early September 2011, Respondent accompanied a niece on at least one occasion in her vehicle while the niece collected nominating petition signatures for one of the recall candidates, Olivia Cortes. Respondent became aware of his niece's political campaigning activities yet continued to accompany her. Respondent may also have engaged in direct contact with some individuals for the purpose of advocating against the recall of his brother during his niece's activities on behalf of candidate Cortes.

7. On October 7, 2011, Respondent provided a self-report letter to the Commission confirming his presence with his niece while she collected nominating petition signatures.

8. On September 15, 2011, Respondent attended a meeting of the Legislative District 19 in Mesa, Arizona. One subject at issue during that meeting was whether the district should adopt a resolution in support of Russell Pearce and in opposition to the recall effort.

Respondent spoke to the attendees at the meeting.

9. The initial meeting minutes indicate that Respondent "spoke in support of Senator

Russell Pearce and against the recall.”

10. Multiple witnesses in attendance have stated that Respondent’s remarks at the September 15, 2011, meeting included statements in support of Russell Pearce and in opposition to the recall election, as stated by the initial meeting minutes.

11. Media coverage on October 14, 2011, called Respondent’s conduct into question, noting possible ethical violations.

12. The meeting minutes were subsequently amended to alter the reference to Respondent’s comments. The amended minutes read, “Lester Pearce spoke about the Constitution and the role of judges.”

13. Multiple witnesses identified by Respondent have stated that Respondent’s remarks at the September 15, 2011, meeting related only to the Constitution and the role of judges, and not to the recall election.

14. On several occasions by telephone call to Disciplinary Counsel for the Commission, and subsequently through a response email on May 16, 2012, Respondent has unequivocally denied making any statements in support of his brother Russell Pearce and against the recall election during the September 15, 2011, meeting.

COUNT I

Improper Political Campaign Activities

15. Rule 4.1(A)(5) of the Code states that a judge may not “actively take part in any political campaign other than his or her own campaign for election, reelection or retention in office.” The conduct described above in Paragraph 6 constitutes active and knowing participation in a political campaign not his own. By participating in the political campaign of Russell Pearce and/or Olivia Cortes, Respondent violated Rule 4.1(A)(5) and engaged in conduct

that is prejudicial to the administration of justice and that brings the judicial office into disrepute, a violation of Article 6.1, Section 4, of the Arizona Constitution.

COUNT II

Improper Public Political Statements

16. Rule 4.1(A)(2) of the Code forbids judges from making speeches on behalf of another candidate for political office, and Rule 4.1(A)(3) of the Code forbids judges from publicly endorsing another candidate for any public office. Comment 7 to Rule 4.1 explicitly states that "there is no 'family exception' to the prohibition in paragraph (A)(3)." The statements attributed to Respondent in Paragraphs 9-10 above constitute a violation of Rule 4.1(A)(2) and (3), and comprise conduct prejudicial to the administration of justice that brings the judicial office into disrepute, a violation of Article 6.1, Section 4, of the Arizona Constitution.

COUNT III

Abuse of the Prestige of Judicial Office

17. Rule 1.3 of the Code states that a judge "shall not abuse the prestige of judicial office to advance the personal or economic interests of the judge or others, or allow others to do so." Respondent's actions on behalf of the political campaign of Russell Pearce and/or Olivia Cortes violated Rule 1.3 and constituted conduct that is prejudicial to the administration of justice and that brings the judicial office into disrepute, a violation of Article 6.1, Section 4, of the Arizona Constitution.

COUNT IV

Failure to Cooperate and Be Honest and Candid With the Commission on Judicial Conduct

18. Rule 2.16(A) of the Code requires judges to "cooperate and be candid and honest with judicial and lawyer disciplinary agencies." Respondent has unequivocally denied the

misconduct alleged in paragraphs 9-10, and has enlisted the support of other members of the public in denying such misconduct. To the extent that Respondent's denials are inconsistent with the facts, they constitute a violation of Rule 2.16(A) and comprise conduct prejudicial to the administration of justice that brings the judicial office into disrepute, a violation of Article 6.1, Section 4, of the Arizona Constitution

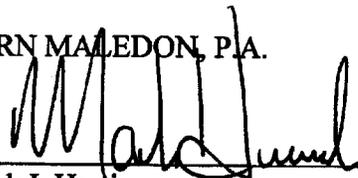
REQUESTED RELIEF

WHEREFORE, Disciplinary Counsel hereby requests that the Hearing Officer recommend to the Supreme Court that Respondent be censured; that costs and fees be assessed against Respondent pursuant to Commission Rule 18(e); and that the Court grant such other relief as it deems appropriate.

DATED this 24th day of August 2012

OSBORN MALEDON, P.A.

By


Mark I. Harrison

Mark P. Hummels

2929 North Central Avenue, 21st Floor
Phoenix, Arizona 85012-2793

Disciplinary Counsel for Commission on Judicial
Conduct

Copies of the foregoing delivered by electronic mail
this 24th day of August, 2012, to:

Melvin McDonald
melmcDonald2@gmail.com
Attorney for Respondent



Commission on Judicial Conduct
1501 W. Washington, Suite 229
Phoenix, Arizona 85007
Telephone (602) 452-3200

FILED

AUG 27 2012

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning)	
	)	Case No. 11-245
FORMER JUDGE LESTER PEARCE)	
North Mesa Justice Court)	
Maricopa County	)	NOTICE OF INSTITUTION OF
State of Arizona	)	FORMAL PROCEEDINGS
)	
Respondent)	

TO FORMER JUSTICE OF THE PEACE LESTER PEARCE:

You are hereby notified that the Commission on Judicial Conduct has instituted formal proceedings against you in accordance with Rule 24 of the Rules of the Commission on Judicial Conduct ("Rule") to inquire into the charges specified in the attached Statement of Charges. You are also notified that a hearing will be held before the Commission to determine whether or not these charges constitute grounds for your censure, suspension, removal from office as a judge, or other appropriate discipline as provided in Article 6.1 § 4 of the Arizona Constitution.

You are further notified that:

1. Mark I. Harrison and Mark P. Hummels, Attorneys at Law, will act as disciplinary counsel for the Commission in this matter, to gather and present evidence before the Commission on the charges.

2. You have the right, pursuant to Rule 25(a), to file a written response to the charges made against you within 15 days after personal service of this notice upon you or within 20 days of the date this notice is mailed. An original signed copy of the response must be filed in the Commission's office by 5:00 p.m. on the required date.

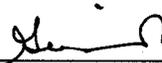
3. Upon receipt of your response, or upon expiration of the time in which a response may be filed, the Commission will open and maintain a public file containing the Notice of Institution of Formal Proceedings, the Statement of Charges, and all subsequent pleadings filed with the Commission. This file and the formal hearing in this case shall be open to the public in accordance with Rule 9(a).

4. You have the right to be represented by counsel, to examine and cross-examine witnesses and to require the issuance of subpoenas for the attendance of witnesses or for the production of any evidentiary matters necessary for your defense.

5. During the pendency of these proceedings, you or the Commission may refer to or use prior cases, if any, pertaining to previous complaints or discipline for the purpose of determining the severity of the sanction, a pattern of misconduct, or exoneration.

Dated this 27th day of August 2012.

COMMISSION ON JUDICIAL CONDUCT



George A. Riemer
Executive Director

Per agreement of the parties, a copy of this pleading
was delivered via e-mail on August 27, 2012, to:

Melvin McDonald
Counsel for the Respondent
2901 N. Central Avenue, #800
Phoenix, AZ 85012-2703

Mark I. Harrison
Mark P. Hummels
Counsel for the Commission
2929 North Central Avenue, 21st Floor
Phoenix, Arizona 85012-2793

By: Barbara Woodlass

1 A. Melvin McDonald, Bar #002298
2 JONES, SKELTON & HOCHULI, P.L.C.
3 2901 North Central Avenue, Suite 800
4 Phoenix, Arizona 85012
5 Telephone: (602) 263-1747
6 Fax: (602) 200-7847
7 melmcdonald2@gmail.com
8 minuteentries@jshfirm.com

FILED

SEP 25 2012

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

6 STATE ARIZONA
7
8 COMMISSION ON JUDICIAL CONDUCT

9 Inquiry concerning

Case No. 11-245

10 **Former Judge Lester Pearce**
11 North Mesa Justice Court
12 Maricopa County
13 State of Arizona,

**ANSWER TO STATEMENT OF
CHARGES**

Respondent.

14 COMES NOW former Judge Lester Pearce, by and through his counsel
15 undersigned, and in response to the Statement of Charges filed on August 24, 2012,
16 answers as follows:

17 1. Respondent Pearce admits to allegations 1, 2, 3, 4, 5, 7, 8, 11, 13, 14.
18 2. In answering paragraph 6, Respondent admits that he accompanied a
19 niece on one occasion in her vehicle. He learned that during the drive, his niece wanted to
20 stop and pick up a nominating petition signature. Respondent played NO ROLE in the
21 niece's effort to collect signatures.. He further denies that he met with some individuals
22 for the purpose of advocating against the recall.

23 3. Respondent Pearce denies the allegations set forth in paragraph 9.
24 Amended minutes filed after the initial minutes did include the statement set forth in
25 paragraph 9. There were second amendment minutes which removed the statements in
26 paragraph 9.

27 3. In answering paragraph 10, Respondent is without sufficient specific
28 information to know whether, in fact, multiple witnesses have claimed that he spoke in

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COUNT 2

In answering paragraph 16 of Count 2, Respondent admits that Rule 4.1(A)(2) and Rule 4.1 (A) (3) is a correct statement of the rule as set forth in the Code of Judicial Conduct and agrees that there is no “family exception” to the rule. Respondent denies that he publicly spoke in support of his brother at the Legislative District 19 meeting or publicly addressed the recall issue when speaking at the District meeting and, therefore, denies that he violated the rules cited in Paragraph 16 by Disciplinary counsel.

COUNT 3

In answering paragraph 17, Respondent admits that Rule 1.3 of the Code of Judicial Conduct is correctly referenced by Disciplinary Counsel as a rule that governs the actions of judges. Respondent denies that he engaged in prohibited actions regarding either the political campaign of his brother, Senator Russell Pearce, or for Olivia Cortez and therefore denies that his actions were “prejudicial to the administration of justice” and that he brought his judicial office into disrepute in violation of 6.1, Section 4 of the Arizona Constitution.

COUNT 4

In answering Paragraph 18, Respondent admits that Rule 2.16(A) of the Code of Judicial Conduct has accurately been summarized by disciplinary counsel and believes that judicial officers must be candid and honest with judicial disciplinary agencies. Respondent admits that he has denied the misconduct alleged in paragraphs 9-10, and continues to deny those allegations. Respondent denies that he enlisted “the support of other members of the public” in denying his alleged public comments about his brother at the District 19 meeting. Respondent spoke to a single member of the public, Merrienne Giesdorf, who made the original reporting error. The call was made AFTER the minutes had been corrected. Respondent asked Ms. Giesdorf to request a written explanation how the error had occurred in her minutes so that her statement could be submitted to Jennifer Perkins as part of the “self report.” Subsequently, Respondent retained legal counsel. Legal counsel approached other citizens who attended the District

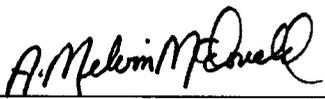
1 19 meeting to see if they recalled inappropriate statements attributed to Respondent. It is
2 not inappropriate for Respondent's attorney or investigator to approach potential
3 witnesses who similarly attended a public event to solicit truthful statements regarding
4 their recollections of an event, particularly where the accusation reflects upon the judge's
5 character. Respondent affirms that his denials are NOT inconsistent with the facts, and
6 that he has NOT violated Rule 2.16(A) and Article 6.1, Section 4, of the Arizona
7 Constitution.

8 **REQUESTED RELIEF**

9
10 Respondent requests that the Hearing Officer reject Disciplinary Counsel's
11 request for Censure, that the allegations made against Respondent judge be rejected, and
12 that the allegations made against Respondent Pearce be dismissed. He further requests
13 that all costs and fees incurred in defending these allegations be awarded to him.

14 RESPECTFULLY SUBMITTED this 25th day of September, 2012.

15 JONES, SKELTON & HOCHULI, P.L.C.

16 By 
17 _____
18 A. Melvin McDonald
19 2901 North Central Avenue, Suite 800
20 Phoenix, Arizona 85012
21 Attorneys for Lester Pearce

22 ORIGINAL MAILED and COPY faxed
23 this 25th day of September, 2012, to:

24 Commission on Judicial Conduct
25 1501 W. Washington, Suite 229
26 Phoenix, Arizona 85012
27 Fax: 602-452-3201

28 COPY emailed to:

Mark I. Harrison
mharrison@omlaw.com
Mark P. Hummels
mhummels@omlaw.com
Counsel for Arizona State Bar

1 Honorable J. William Brammer, Jr.
2 williambrammer@appeals2.az.gov
Hearing Officer

3 Barbara Wanlass
4 bwanlass@courts.az.gov
Clerk of the Commission

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Mark I. Harrison (Bar #001226)
Mark P. Hummels (Bar #023283)
Osborn Maledon PA
2929 North Central Avenue, Suite 2100
Phoenix, Arizona 85012
(602) 640-9000
mharrison@omlaw.com
mhumhells@omlaw.com
Disciplinary Counsel for Commission on Judicial Conduct

FILED

OCT 22 2012

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning former Judge	)	Case No. 11-245
)	
Lester Pearce	)	STIPULATED RESOLUTION
North Mesa Justice Court)	
Maricopa County)	
State of Arizona)	
Respondent.)	

COME NOW Judge Lester Pearce, Respondent, through his attorney, A. Melvin McDonald, and Mark I. Harrison and Mark P. Hummels, 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. Respondent served as Justice of the Peace in Maricopa County from 1997 through April 30, 2012. He was serving in his capacity as a judge at all times relevant to these allegations.

3. As a judge, Respondent was subject to the Code of Judicial Conduct as set forth in Supreme Court Rule 81.

PROCEDURAL BACKGROUND

4. On August 24, 2012, Disciplinary Counsel filed a formal Statement of Charges after an investigative panel found reasonable cause to commence formal proceedings. On September 25, 2012, Respondent filed an Answer to Statement of Charges. The parties now agree to this stipulated resolution of the matter.

STIPULATED FACTS

5. On July 12, 2011, Arizona Governor Jan Brewer issued an order calling for a special recall election for November 8, 2011. The subject of the recall election was then-State Senator Russell Pearce, who is Respondent's brother. Two opposing candidates qualified for the ballot in the special election by collecting nominating petition signatures.

6. In early September 2011, Respondent accompanied a niece on at least one occasion in her vehicle while the niece collected nominating petition signatures for one of the recall candidates, Olivia Cortes. Respondent became aware of his niece's political campaigning activities yet continued to accompany her.

7. On October 7, 2011, Respondent provided a self-report letter to the Commission confirming his presence with his niece while she collected nominating petition signatures.

8. On September 15, 2011, Respondent attended a meeting of Legislative District 19 in Mesa, Arizona.

9. One of the subjects to be discussed during that meeting was whether the district should adopt a resolution in support of Russell Pearce and in opposition to the recall effort. Respondent spoke to the attendees at the meeting.

10. Meeting minutes approved after the meeting state that Respondent “spoke in support of Senator Russell Pearce and against the recall.”

11. Media coverage on October 14, 2011, called Respondent’s conduct into question, noting possible ethical violations.

12. The meeting minutes were subsequently amended to alter the reference to Respondent’s comments. The amended minutes read, “Lester Pearce spoke about the Constitution and the role of judges.”

13. Witnesses to Respondent’s comments at the September 15, 2011, meeting have divergent views with respect to whether Respondent spoke solely about the Constitution and the role of judges, or whether he also spoke against the recall election and/or in support of the election of Russell Pearce.

14. Respondent does not recall speaking about the recall or the election of Russell Pearce, but acknowledges that witnesses to the event have indicated that they would testify that he did so. Respondent notes that there are also witnesses to the event who would testify that he did not refer to his brother during his remarks and that the meeting minutes attributing such statements to him were in error.

15. Respondent further acknowledges that, by his presence with his niece while she collected petition signatures, and by his attending and speaking at a public political meeting at which one topic of discussion was whether to oppose the recall and support

Respondent's brother's candidacy, Respondent engaged in conduct that could reasonably be construed as political activity, endorsement or support of his brother in his capacity as a candidate, and could be construed as use of the prestige of judicial office to advance the personal interests of his brother.

AGREEMENT

16. Respondent does not contest that his conduct as stipulated above constitutes ethical misconduct in violation of Rules 1.3, 4.1(A)(2), 4.1(A)(3) and 4.1(A)(5) of the Code of Judicial Conduct, and conduct prejudicial to the administration of justice that brings the judicial office into disrepute, a violation of Article 6.1, Section 4, of the Arizona Constitution.

17. Respondent does not contest that this conduct warrants a public censure.

18. The parties agree to waive their rights pursuant to Commission Rules 28 and 29 to appeal or challenge the charges in this matter.

MITIGATING AND AGGRAVATING FACTORS

19. The parties stipulate to the following mitigating (m) and aggravating (a) factors pursuant to Commission Rule 19:

- a) Lack of prior public discipline (m);
- b) Approximately 16 years of judicial service, including several terms as presiding judge (m);
- c) The limited nature, extent, duration and frequency of misconduct (m);

- d) The misconduct did not occur in the performance of judicial duties (m); and
- e) Respondent's misconduct has been the subject of media coverage and public discourse that has undermined public respect for the judiciary (a).

AGREED UPON SANCTION

20. Because Respondent has already resigned his judicial position, the only sanction the Commission may recommend to resolve this matter is a formal censure. The parties thus agree that imposition of a formal censure is appropriate under the facts and circumstances of this matter.

OTHER TERMS AND CONDITIONS

21. This agreement, if accepted by the hearing officer, the Commission, and the Arizona Supreme Court, 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 officer, the Commission or the Arizona Supreme Court does not accept this agreement as a full resolution, then the admissions made by Respondent are withdrawn and the matter will proceed to hearing without use of or reference to this agreement.

22. The parties shall not make any statements to the press that are contrary to the terms of this agreement.

23. Within ninety days of the date of the final order approving the formal and public censure in this matter, Respondent shall pay the Commission \$1,500 to partially compensate it for its costs and expenses incurred in connection with this proceeding.

24. Disciplinary counsel and Respondent waive their right to file any objections to this agreement or to the agreed upon sanction before the hearing officer, the Commission and the Arizona Supreme Court.

25. Respondent understands the terms and conditions of this agreement, has reviewed it with his attorneys, and fully agrees with its terms.

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

SUBMITTED this 19 day of October, 2012.



Lester Pearce
Respondent

10-19-12

Date Signed

A. Melvin McDonald
Attorney for Lester Pearce

Date Signed

Mark I. Harrison
Mark P. Hummels
Osborn Maledon PA
Disciplinary Counsel, Commission on Judicial Conduct

Date Signed

24. Disciplinary counsel and Respondent waive their right to file any objections to this agreement or to the agreed upon sanction before the hearing officer, the Commission and the Arizona Supreme Court.

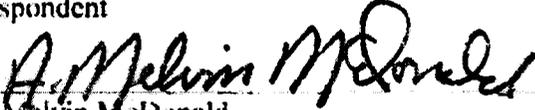
25. Respondent understands the terms and conditions of this agreement, has reviewed it with his attorneys, and fully agrees with its terms.

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

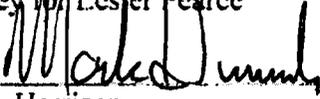
SUBMITTED this 22^d day of October, 2012.

Lester Pearce
Respondent

Date Signed


A. Melvin McDonald
Attorney for Lester Pearce

Oct. 19, 2012
Date Signed


Mark I. Harrison
Mark P. Hummels
Osborn Maledon PA
Disciplinary Counsel, Commission on Judicial Conduct

10/19/2012
Date Signed

Filed with the Clerk, State of Arizona
Commission on Judicial Conduct via electronic
mail this 22 day of October, 2012.

Copies of the foregoing delivered via electronic mail
this 22 day of October, 2012, to:

Melvin McDonald
melmcdonald2@gmail.com
Attorney for Respondent

Hon. J. William Brammer, Jr.
Hearing Officer
Judgbill@comcast.net

Brenda Wendt

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

FILED

OCT 24 2012

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

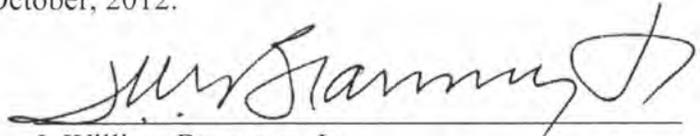
Inquiry concerning former Judge	)	Case No. 11-245
)	
LESTER N. PEARCE	)	ORDER APPROVING STIPULATED
North Mesa Justice Court	)	RESOLUTION; RECOMMENDING
Maricopa County	)	APPROVAL BY COMMISSION
State of Arizona)	
)	
Respondent)	

On August 24, 2012, the Commission on Judicial Conduct ("Commission") filed a Statement of Charges against former Justice of the Peace Lester Pearce ("Respondent") following the Commission's finding of reasonable cause to believe grounds for discipline existed that could not be resolved through dismissal or informal sanctions. Contemporaneously, the Commission chair appointed the undersigned as hearing officer to conduct a hearing and recommend a proper disposition of the charges to the Commission. Respondent filed his answer to the Statement of Charges on September 25, 2012.

On October 19, 2012, Respondent and Disciplinary Counsel submitted a Stipulated Resolution ("Resolution") to the undersigned in which Respondent has agreed to a public censure for misconduct in office. As part of the Resolution, the parties have waived their right to file any objections to the agreement or to the censure before the hearing officer, the Commission, and the Arizona Supreme Court.

Having fully considered the Resolution within the context of Commission Rule 30(b), the undersigned approves the Resolution and recommends the commission accept it and then recommend to the Arizona Supreme Court that Respondent be censured publicly for the rule violations as set forth therein.

Approved and signed this 24th day of October, 2012.



J. William Brammer, Jr.
Hearing Officer

Copies of this document were delivered and e-mailed this 24th day of October, 2012 to:

A Melvin McDonald
Counsel for Respondent
2901 North Central Avenue, Suite 800
Phoenix, AZ 85012

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By: 
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FILED

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ARIZONA COMMISSION ON
JUDICIAL CONDUCT

STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

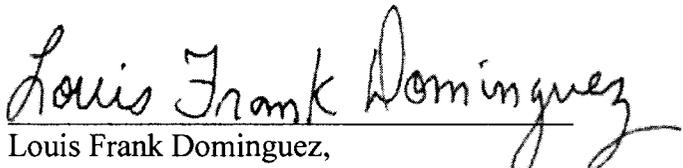
Inquiry concerning former Judge	)	Case No. 11-245
)	
LESTER PEARCE)	
North Mesa Justice Court	)	ACCEPTANCE OF STIPULATED
Maricopa County	)	RESOLUTION
State of Arizona)	
Respondent)	
)	

The Commission on Judicial Conduct in the above-entitled case hereby accepts the Stipulated Agreement for Discipline by Consent signed by Respondent for the following reasons: the issues set forth in the Statement of Charges have been adequately resolved; the parties agree that Respondent's conduct in the underlying case warrants a formal sanction; and the prompt and expeditious resolution of this case is in the best interests of the public and the judiciary. Therefore, pursuant to Rule 30 of the Rules of the Commission on Judicial Conduct,

IT IS HEREBY ORDERED that the Recommendation along with the official record of these proceedings shall be transmitted to the Supreme Court as required by Commission Rule 29.

DATED this 21st day of November 2012.

COMMISSION ON JUDICIAL CONDUCT


Louis Frank Dominguez,
Chair of the Commission

Copies of this pleading were delivered via mail
and email this 21st day of November 2012 to:

Melvin McDonald
Counsel for Respondent
2901 North Central Avenue, Suite 800
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**ARIZONA COMMISSION ON
JUDICIAL CONDUCT**

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning former Judge)	
	)	Case No. 11-245
LESTER PEARCE)	
North Mesa Justice Court)	
Maricopa County	)	RECOMMENDATION
State of Arizona)	
)	
Respondent)	

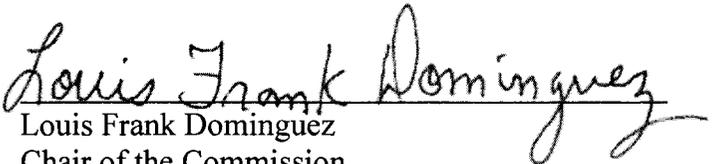
On August 24, 2012, the Commission on Judicial Conduct ("Commission") filed a Statement of Charges against former Justice of the Peace Lester Pearce ("Respondent") following a finding of reasonable cause to pursue the stated charges in a formal proceeding by the commission. Simultaneously, the commission chairperson appointed a hearing officer to hear and take evidence in the case.

On October 22, 2012, Respondent and Disciplinary Counsel subsequently submitted a Stipulated Resolution ("Resolution") to the hearing officer in which Respondent agreed to a public censure for misconduct in office. The hearing officer recommended the commission accept the Resolution on October 24, 2012. On November 16, 2012, the ten members of the commission present unanimously voted to accept the Resolution. As part of the Resolution, Respondent waived his right to appeal and all other procedural rights set forth in Rule 29 of the Rules of the Commission on Judicial Conduct.

Based on the foregoing, the commission now recommends to the Arizona Supreme Court that Respondent be censured for misconduct in office.

RESPECTFULLY SUBMITTED this 21st day of November 2012.

FOR THE COMMISSION


Louis Frank Dominguez
Chair of the Commission

Copies of this pleading were delivered and e-mailed this 21st day of November 2012 to:

Melvin McDonald
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