

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 12-349

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Complainant:	No. 0192210734A
Judge:	No. 0192210734B

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**ORDER**

The commission learned that a superior court commissioner may have made a misrepresentation on her application for a judicial vacancy.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the commissioner engaged in conduct that violated the provisions of Article 6.1 of the Arizona Constitution or the Code of Judicial Conduct and, if so, to take appropriate disciplinary action. The purpose and authority of the commission is limited to this mission.

After review, the commission found no evidence of ethical misconduct and concluded that the commissioner did not violate the Code in this case. The commission approved sending the commissioner a private advisory letter regarding the need to ensure the accuracy of submitted information. The complaint is dismissed pursuant to Rules 16(b) and 23(a).

Dated: February 27, 2013.

FOR THE COMMISSION

/s/ Louis Dominguez

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Louis Frank Dominguez  
Commission Chair

Copies of this order were mailed to the complainant and the judge on February 27, 2013.

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

**JAN 17 2013**

January 17, 2013

**VIA HAND DELIVERY**

Commission on Judicial Conduct  
1501 W. Washington St., Ste. 229  
Phoenix, AZ 85007

Attention: Jennifer Perkins, Commission Staff Counsel

RE: Complaint No. 12-349

Dear Ms. Perkins:

This is in reply to your letter of January 8, 2013 ("the January 8 letter"), in which you state that the Commission has received "information" that implies that I misrepresented my party affiliation in my September 2012 application for Maricopa County Superior Court. Not surprisingly, your letter prompted me to review all of my voter registration forms since 1985, when I first registered as an 18-year old high-school student, through my most recent registration form in August, 2006. My review of those forms did, to my dismay, confirm that there is, in fact, an error concerning my registration on my 2012 judicial application (and on prior applications). More important, my review of the voter registration forms also confirmed that the error on my applications was unintentional and viewed in context, neither material to either my 2012 application nor to the statement concerning my party registration which gives rise to this inquiry.

In order to respond to the January 8 letter, however, some historical context is necessary. I have applied for a judgeship approximately nine times between 2005 to my most recent application in September, 2012. From the time I first applied for a judgeship in June 2005, when Janet Napolitano was Governor, through the present, I firmly believed without question that I had always registered as a Republican. Secure in that belief, I answered the applicable question on the application in that manner each time I applied. My review of the records dating back more than twenty years, disclosed my error because that review showed that I had, in fact, registered as a Democrat – once in 1989 when I was in college and again in 1992, when I was a 1L at the U of A Law School. This revelation was frankly shocking because I am and always have been a dedicated Republican and simply had no recollection that I had ever registered as a Democrat.

I understand that someone may question why I did not recall ever registering as a Democrat. I can only offer by way of explanation the following information: in college and law school, my mother, who is now deceased, was very ill. During this time, and thereafter, my mother had frequent and periodic near fatal medical episodes. Particularly during law school, this was a significant problem for our family because my parents lived in Mexico City, and my father frequently traveled. On many occasions, I would have to juggle school with unplanned, emergency trips home to Mexico, including during my bar exam studies. Needless to say, at that time in my life politics was not really on my mind. I was not active in politics. Instead, getting through law school and the bar exam while dealing with my mother's health, were my priorities. I did not become active politically until I moved to Maricopa County after the bar exam, started working for a prominent Republican and volunteering on the Steve Forbes campaign. *I have confirmed with the Maricopa County Recorder's office that I have been registered as a Republican since April, 1996 and have been provided with certified copies of all my registrations in Maricopa County from 1996-present. (These records are enclosed.).* To reiterate: when I completed my judicial applications I viewed myself as a life-long Republican and had simply forgotten that my 1989 and 1992 registrations as a Democrat were aberrations.

An objective review of the timing of my judicial applications should make clear that my misstatement was not intentional. Fortuitously, I saved a few of my conformed judicial applications including my first application from June 2005. It indicates that I answered the partisan registration question erroneously the first time I ever completed an application for Judge. That application, like the 2012 application, erroneously stated that I was and always had been a registered Republican. At the time, it obviously would not have been to my advantage to falsely assert lifelong Republican registration, when the incumbent, appointing Governor, Janet Napolitano, was a Democrat, as was a majority of the trial court commission in 2005. [I have enclosed an excerpt from the 2005 and 2008 applications, both submitted before Governor Napolitano resigned her office. The original documents are available for inspection, bearing the original conforming stamp of the Trial Court Commission.]

Even after receiving the January 8 letter and reviewing the attached, redacted voter registration cards, I have no recollection of ever having been registered as a Democrat. However, now that I have inspected the 20+ year-old voter registration cards, I do not doubt that I was so registered in 1989 and 1992; upon seeing the cards, I was so incredulous that I immediately contacted the Recorder's office fearing I had been a victim of voter registration fraud. They assured me that my signature on all three cards (which had been redacted in the copies attached to the complaint) did match on all three forms. I have a unique signature so I don't have any reason to doubt the verification made over the phone by the office. *I simply do not and did not remember ever being registered as anything but a Republican.* In fact, it did not occur to me to verify my voter registration history before answering the party registration question for the first time in 2005, because I had no doubt that I was a lifelong Republican. Obviously, now I know that is incorrect.

A little additional history may further explain my state of mind. Even before moving to Maricopa County in late 1995, I was proclaiming to be a lifelong Republican to people such as my husband, who I had just started dating then, and his family. I also told Senator John McCain, who was kind enough to meet with me while in my third year in law school in the spring of 1995, that I was a lifelong Republican. (This meeting was arranged by my father, a long-time Republican and Hispanic community leader, who introduced then Congressman McCain to the Hispanic community in the 1980's to generate Hispanic support for his Senate bid.)

Unfortunately, I was not afforded the opportunity to address the erroneous statement on my September 2012 application during the interview process. At my Judicial Nominating Commission interview on October 17, 2012, I was not asked any questions about my partisan history. During my interview with Governor Brewer on November 19, 2012, I was asked what seemed to be routine questions about my partisan affiliation at age 18 and during law school, but was not told that the Recorder information was inconsistent with my recollection or my application. I answered the Governor's questions based on what I honestly, but mistakenly, believed to be the case at the time. Had the discrepancy been brought to my attention, I would have been able to provide the information set forth in this response to the Governor. (I also went through what I perceived to be an informal "vetting" process by acquaintances of the Governor prior to my November 19 interview concerning a number of subjects, including SB 1070 and abortion, *but nothing was said about the voter registration cards.*)

Although not germane to the substance of this response, I could not help but note that the copy of my application that you provided with your January 8 letter contains confidential personal information which I understood would be provided only to the Trial Court Commission and the Governor. While it is my hope and expectation that this response will cause this inquiry to be summarily dismissed, I request that in the event of further dissemination of this information, you redact the confidential information, which has no bearing on the Complaint itself. (In other words, please construe this as a request under Rule 9(d) to seal the confidential portion of my September 2012 application, which contains private and family information, including my non-public home and mobile telephone numbers, my home address and my Social Security Number.)

I have provided declarations from \_\_\_\_\_ and his step-father, \_\_\_\_\_ that substantiate the statements set forth in this response. In view of my desire to have this matter resolved as expeditiously as possible, I did not take the time to gather additional declarations but can and will do so upon request. It should be readily apparent -- based on this response as well as my judicial applications starting in 2005 and my Maricopa County voter registration history -- that the errors on my applications were innocent, immaterial and unintentional. If so, I urge you to promptly dismiss the inquiry or Complaint which prompted your January 8 letter.

However, if you plan to take any action other than an outright dismissal, this is my request that before the Commission completes its investigation, I am afforded a hearing at which I can request subpoenas of witnesses who will provide evidence that I have always maintained I was a lifelong Republican, even in circumstances where it was not necessarily to my advantage, and who will provide evidence of my good character, both on the Court and in the community.<sup>1</sup> Finally, if a hearing is necessary, I assume (and hereby request) the opportunity to confront and cross-examine the individual whose complaint presumably prompted your letter of January 8<sup>2</sup>.

I have already notified Maricopa County Presiding Judge \_\_\_\_\_ of the January 8 letter, and requested that he conduct his own investigation should he deem it necessary. I have attached my most recent Judicial Performance Review, which documents my performance at the highest levels of the Court.

This response is intended to both acknowledge the error on my application and make absolutely clear that it was innocent, immaterial and unintentional. I believe my reputation for honesty is impeccable and my good reputation is of the greatest importance to me. A sanction of any kind (formal or informal) based on this inquiry would obviously inflict irreparable damage to my reputation. I have proudly served the citizens of this County, done my part to mentor younger lawyers, law students, and new judges and my primary reward has been in knowing I have the respect of the community and my colleagues. I hope the Commission will take this into consideration in ruling out any possibility of informal sanctions, and either vindicate me with a full, summary dismissal, or give me the opportunity to prove in a hearing that the error on my application was both unintentional and immaterial.

Finally, I would be grateful if you would resolve this matter as quickly as possible, because the mere fact that the Complainant's accusation is pending is causing me harm and anxiety.

Thank you for affording me the opportunity to respond to your inquiry. If you have any additional questions, please feel free to contact me.

Sincerely, \_\_\_\_\_

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<sup>1</sup> If a hearing is necessary, I believe the Commission should also hear from my presiding judges, who can attest to my competence and good character.

<sup>2</sup> It did not escape my attention that this Complaint could have originated from only one of two sources. The fact that the source was not identified in your January 8 letter is distressing.