

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 13-160

Judge:	No. 1069614705A
Complainant:	No. 1069614705B

ORDER

The complainant alleged a municipal court judge was rude and improperly referenced factual knowledge obtained outside court.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the judge 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 judge did not violate the Code in this case. The commission approved sending the judge an advisory letter regarding Rule 2.9(B) of the Code. The complaint is dismissed pursuant to Rules 16(b) and 23(a).

Dated: October 22, 2013.

FOR THE COMMISSION

/s/ Louis Dominguez

Louis Frank Dominguez
Commission Chair

Copies of this order were mailed to the complainant and the judge on October 22, 2013.

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

AGAINST:

BY:

CHARGE: Violation of the Arizona Code of Judicial Conduct Canon 1 concerning "A Judge Shall Avoid Impropriety And The Appearance Of Impropriety In All Of The Judge's Activities" and Canon 2 "A Judge Shall Perform The Duties Of Judicial Office Impartially And Diligently"

On May 29, 2013 during the Judgment and Sentencing phase of the aforementioned case, Judge [redacted] launched into a diatribe wherein Judge [redacted] engaged in several areas of Judicial Misconduct. During the sentencing, she referenced receiving outside knowledge, not previously discussed or disclosed during previous court sessions, concerning allegations of unsubstantiated claims of personal behavior.

References to comments attributed to "small town gossip" and "Facebook postings" were made during the sentence as well as attacks to my character of being a "known party girl" where spoken by Judge [redacted]

Without the benefit of a physician's diagnosis or a psychiatrist present, Judge [redacted] determined I had a "drinking problem" and I needed to "seek help" despite no prior arrests or convictions. This was based upon her determination my "Blood Alcohol Content level spoke to my having a high-tolerance for drinking" which would likely cause me to "be back in court."

She further went on to discuss how "my problem" affected my life with my children and that my actions and my "drinking problem" is preventing me from being a "better mother", referencing a current custody case I am engaging with my former spouse.

Judge [redacted] also mentioned my profession life and my business, stating she was "glad" she was a "former client" whom later patronized another professional in my office since she "now knows my history and who I am".

At the conclusion of the plea sentencing, Judge [redacted] also ordered 30-Days of court-ordered Breathalyzer exams with the Probation Department, despite this never having been part of the plea nor previously discussed nor consented with my Defense Attorney. During the summery of this newly discovered punishment, Judge Van Arsdale stated she did not think I would be able to "pass this 30 days and would likely fail".

Given these aforementioned facts, I believe Judge Van Arsdale abused her fiduciary duty of the following Canons of Judicial Conduct:

RULE 1.2. Promoting Confidence in the Judiciary

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

RULE 2.2. Impartiality and Fairness

A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

RULE 2.3. Bias, Prejudice, and Harassment

2. Examples of manifestations of bias or prejudice include but are not limited to... irrelevant references to personal characteristics. A judge must avoid conduct that may reasonably be perceived as prejudiced or biased.

RULE 2.9. Ex Parte Communication

- A. A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending or impending matter
- B. If a judge inadvertently receives an unauthorized ex parte communication bearing upon the substance of a matter, the judge shall make provision to promptly notify the parties of the substance of the communication and provide the parties with an opportunity to respond
- C. Except as otherwise provided by law, a judge shall not investigate facts in a matter independently, and shall consider only the evidence presented and any facts that may properly be judicially noticed.

I appreciate your time and consideration reviewing the matter regarding my complaint.

I believe a great care is taken to make sure that everyone who becomes a Judge is suitable to hold that office given it's constitutional significance.

The judicual system was placed to hold all those who violate and brake the law be held responsible for their actions without bias or prejudiced. Thank You!

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