

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. JC-14-0001
HONORABLE SCOTT SULLEY,)
Maricopa/Stanfield Justice Court,) Commission on Judicial
Maricopa Municipal Court,) Conduct
Pinal County,) No. 14-114
State of Arizona,)
)
Respondent.)
)
)
) **FILED 9/23/2014**

O R D E R

On August 28, 2014, the Commission on Judicial Conduct filed its "Findings of Fact and Conclusions of Law and Recommendations" regarding Respondent Scott Sulley. The time for filing a petition to modify or reject the recommendations has expired. Upon consideration,

IT IS ORDERED that pursuant to Rule 29, Rules of the Commission on Judicial Conduct, the Court grants review of the Commission's recommendations.

IT IS FURTHER ORDERED adopting and approving the findings and conclusions of the Commission and affirming the recommended sanctions.

IT IS FURTHER ORDERED that Respondent Scott Sulley is removed from judicial office effective the date of this order and that Respondent is enjoined from ever again functioning as a judicial officer in the State of Arizona.

IT IS FURTHER ORDERED that Respondent Scott Sulley must pay the

costs and attorney's fees incurred by the Commission on Judicial Conduct in preparing and conducting the formal hearing in this matter. The Commission is directed to submit a statement of costs and attorney's fees.

IT IS FURTHER ORDERED that pursuant to Rule 46(d), Rules of the Supreme Court, the Respondent and State Bar may file simultaneous briefs on whether lawyer discipline should be imposed and, if so, the appropriate sanction based on the record in the judicial discipline proceedings. The briefs may not exceed twenty pages in length and must be filed within twenty days of this order.

IT IS FURTHER ORDERED granting the Commission's request for expedited review.

DATED this 23rd day of September, 2014.

SCOTT BALES
Chief Justice

TO:

Scott F Sulley

Kimberly Welch

George A Riemer

Hon. Stephen F McCarville

Sandra Montoya

Maret Vessella

Mary Pieper

Lexis Nexis

Netz Tuvera



Jennifer M. Perkins
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Commission on Judicial Conduct
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STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning) Case No.: 14-114
Judge Scott Sulley) **STATEMENT OF CHARGES**
Maricopa / Stanfield Justice Court
Maricopa Municipal Court
Pinal County
State of Arizona,

Respondent,

An investigative panel of the Commission on Judicial Conduct (Commission) determined that there is reasonable cause to commence formal proceedings against Judge Scott Sulley (Respondent) for misconduct in office based on a written complaint made by David K. Byers, Director, Arizona Administrative Office of the Courts (AOC). 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 and the Rules of the Commission.
2. This Statement of Charges is filed pursuant to Rule 24(a) of those rules (Commission Rules).

3. Respondent has served as a justice of the peace in Pinal County since 2003 and continues to hold that position. He served as a magistrate judge for the Maricopa Municipal Court from the city's incorporation in 2003 until his resignation effective May 31, 2014. He was serving in his capacity as a judge at all times relevant to these allegations.

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

PROCEDURAL HISTORY

5. On April 10, 2014, Mr. Byers filed a written complaint (AOC Complaint) against Respondent alleging judicial misconduct. Undersigned Disciplinary Counsel provided Respondent with a complete copy of the AOC Complaint enclosed with a letter requesting a written response pursuant to Commission Rule 22(b), dated April 28, 2014 (Request Letter).

6. In general, a respondent judge is given 15 days within which to provide a written response, although Disciplinary Counsel entertains any reasonable requests for extensions. Due to the grave nature and breadth of the allegations in the AOC Complaint, Disciplinary Counsel allowed a full month for Respondent's initial written response, from April 28 to May 28.

7. The Request Letter also noted that, should Respondent require an extension or have any questions, he could contact Disciplinary Counsel directly.

8. During a telephone conversation on June 3, 2014, Respondent confirmed to Disciplinary Counsel that he had received the Request Letter.

9. Respondent did not at any point file a written response, nor did he contact Disciplinary Counsel to request an extension, describe any extenuating circumstances, or otherwise explain his failure to provide a response pursuant to Commission Rule 22(b) prior to the filing of this complaint.

10. The AOC Complaint, including all of its attachments and exhibits, is hereby incorporated by reference in its entirety.

FACTUAL ALLEGATIONS

11. Between 2008 and 2011, various court staff members raised concerns about Respondent's demeanor toward litigants as well as court staff.

12. In 2010 an independent firm, Miller, Allen & Co., performed an audit to determine whether the Maricopa / Stanfield Justice Court was operating consistent with Minimum Accounting Standards (MAS) as required. In a report issued September 9, 2010, the audit revealed a number of deficiencies specifically in the handling of cash payments and other financial management duties at the court.

13. In late November 2013, the AOC Certification and Licensing Division informed the AOC Court Operations Unit (COU) that Respondent's courts were not timely depositing Defensive Driving School (DDS) checks. The COU alerted Respondent of this issue; he acknowledged his awareness of the DDS check issue and "possible other related issues" in an email on December 6, 2013.

14. On December 10 and 11, 2013, independent consultants from Heinfeld, Meech & Co., P.C., performed an audit as directed by the City of Maricopa. Among other findings, the auditors inventoried \$112,588.97 in undeposited funds located in

the offices of the Maricopa Municipal Court, over \$65,600, of which was located in opened and unopened mail on top of a desk. The audit further discovered that bank deposit records showed inconsistent and fewer deposits starting in December 2012. An attempted reconciliation of court receipts and accounting records compared with bank statements revealed a negative discrepancy of \$155,757.34.

15. Between the 2010 and 2013 audits, Respondent should have reviewed both courts' compliance with MAS two times. In 2013, Respondent certified by his signature on checklists for both courts that they were in compliance with MAS for 2012. This was not true according to the 2013 audit results.

16. As a result of the 2013 audit, on January 9, 2014, the Arizona Supreme Court issued Administrative Order 2014-10, placing the Maricopa Municipal Court and the Maricopa / Stanfield Justice Court under the administrative control of Pinal County Presiding Superior Court Judge Stephen McCarville.

17. Judge McCarville and an administrative team subsequently assessed both courts and discovered a complete systems breakdown. The Supreme Court then issued Administrative Order 2014-18 on February 10, 2014, removing Respondent from all judicial duties at both courts.

18. The administrative team that assessed the courts previously under Respondent's control found both courts in total disarray with files stacked in random locations throughout the court. The team's overall assessment revealed failures by Respondent in six areas.

Failure to Effectively Oversee Court Administration

19. There appears to have been no filing system in either of Respondent's courts, with municipal and justice court files commingled and randomly strewn through the office in no discernable order.

20. A variety of court matters were never properly entered into the appropriate case management systems. This resulted in substantial delay in finding appropriate case files when requested.

21. Numerous Final Disposition Reports were unprocessed and located in various places throughout the court offices. This failure in processing may have affected subsequent criminal proceedings and public safety since these convictions would not have been reflected on the defendants' state criminal history records.

22. Credit card payments were not consistently posted to the case management system, and many were not sent to the bank.

23. Evidence of theft was discovered, although given the general office disarray and breakdown in record-keeping, the extent of the theft was difficult for the administrative team to determine.

Inefficient and Ineffective Calendar and Court Management

24. Respondent inexplicably but consistently required defendants on a time payment plan to appear every other month even when current on their payments. This led to at least one situation where an arraignment calendar had 144 matters set, 75% of which were time payment plan reviews.

Prohibiting Clerk / Staff Training

25. Respondent would not allow the Pinal County field trainer, Katrina Castillo, to train his court staff. Similarly, Respondent did not permit his staff to call anyone outside the two Maricopa courts for help with questions.

26. It is alleged on information and belief that Respondent's motive was to ensure the court's various deficiencies would not be reported to anyone outside his courts.

27. Respondent's failure to ensure the proper training of his staff resulted in a staff that was largely unqualified to perform even basic court clerk functions.

Hostile Work Environment

28. Respondent created a hostile work environment as evidenced by high staff turnover. During a 12-month period from the spring of 2013 through the spring of 2014, there were 10 new clerks in Respondent's courts all of whom left within three months of being hired.

29. Respondent did not allow his staff to take lunch breaks, and instead required them to work through the lunch hour.

30. Respondent routinely berated his staff when they did not perform tasks to his standards, yet he maintained inconsistent standards and declined to train his staff regarding his requirements. He often lost his temper in the open staff area so that he yelled at and berated staff in the presence of the public.

31. Staff reports of a hostile work environment directly attributable to Respondent's demeanor and management problems began at least as early as 2009

demonstrating Respondent has engaged in a long-term pattern in this regard.

Poor Demeanor; Lack of Professionalism and Decorum; Questionable Judgment

32. When Judge McCarville took over administrative control of Respondent's courts and recognized that fee payment records were not accurate, he instructed Respondent to stop issuing warrants until the records were updated and considered reliable. Respondent disregarded this instruction and continued to issue warrants, despite the known inaccuracies of the records on which the warrants were based.

33. It is alleged on information and belief that Respondent continued issuing warrants for the purpose of increasing his judicial productivity credits, which directly impacted his personal financial gain.

34. In Case CR 2012-216 in Maricopa Magistrate Court, Respondent instructed the defendant to look at the floor and not the judge. When the defendant looked at the judge, Respondent improperly threatened to hold him in contempt of court, and then made the defendant sit down and wait for hours until the end of the calendar for his case to be heard.

35. It is alleged on information and belief that Respondent engaged in similar conduct toward other defendants.

36. In Case CV 2013-1012 in his justice court, Respondent continued to issue orders despite change of venue notices noting the matter was simultaneously pending in the Maricopa County Superior Court.

37. It is alleged on information and belief that Respondent similarly issued orders exceeding his authority in other cases.

38. Respondent improperly commented on the outcome of a DUI case involving a Maricopa City Council member, which had been transferred to the Casa Grande Justice Court, by suggesting that he did the Councilman a favor in transferring the case since Respondent believed Judge Valdez in Casa Grande is very lenient.

39. Respondent berated a new prosecutor, Karen Capps, in open court during a trial.

40. Respondent improperly and routinely left notes directing pro tem judges who were hearing his conflict cases on how they should rule in those cases.

41. Court staff reported that Respondent routinely rudely interrupted defendants while they were speaking and told them to stop talking or he would have them arrested.

42. It is alleged on information and belief that Respondent has a history of muting his microphone in the courtroom in order to avoid being recorded on the court's recording system.

43. There have been staff reports of alcohol on Respondent's breath while at the court periodically since at least April 2008.

44. Respondent has trained and instructed his staff to engage in poor customer service.

Discriminatory Comments

45. On information and belief, Respondent has a history of making inappropriate, racially discriminatory, or offensive remarks.

VIOLATIONS OF THE CODE OF JUDICIAL CONDUCT

46. Respondent's conduct, as described above in Paragraphs 9 and 11 through 45, violated the following provisions of the Code and Arizona Constitution.

A. Rule 1.2, which requires a judge to "act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary."

B. Rule 1.3, which forbids a judge from abusing "the prestige of judicial office to advance the personal or economic interests of the judge."

C. Rule 2.2, which requires a judge to "perform all duties of judicial office fairly and impartially."

D. Rule 2.3(B), which prohibits a judge from "in the performance of judicial duties, by words or conduct manifest[ing] bias or prejudice."

E. Rule 2.5(A) and (B), which require a judge to "perform judicial and administrative duties competently, diligently, and promptly" and to "reasonably cooperate with other judges and court officials in the administration of court business."

F. Rule 2.8(B), which requires a judge to be "patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity."

G. Rule 2.12 (A) and (C), which mandates that a judge "require staff, court officials, and others subject to the judge's direction and control to act in a manner consistent with the judge's obligations under the Code" and to "comply with

the provisions of the Code of Conduct for Judicial Employees adopted by the supreme court.”

H. Rule 2.16, which requires a judge to “cooperate and be candid and honest with judicial and lawyer disciplinary agencies.”

I. Article 6.1, Section 4, of the Arizona Constitution, which forbids a judge from engaging in conduct that is prejudicial to the administration of justice that brings the judicial office into disrepute.

REQUESTED RELIEF

WHEREFORE, Disciplinary Counsel hereby requests that the members of the Hearing Panel recommend to the Supreme Court that Respondent be censured, suspended, or removed from judicial office; that costs be assessed against Respondent pursuant to Commission Rule 18(e); and that the court grant such other relief as it deems appropriate.

Dated this 19th day of June, 2014.

COMMISSION ON JUDICIAL CONDUCT

/s/ Jennifer M. Perkins

Jennifer M. Perkins
Disciplinary Counsel

Copies of this pleading served
via process server to:

Hon. Scott Sulley
22455 N. Mulligan
Maricopa, AZ 85139
Respondent

By: Kimberly Welch

FILED

JUL 09 2014

ARIZONA COMMISSION ON
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**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning
Judge Scott Sulley
Maricopa / Stanfield Justice Court
Maricopa Municipal Court
Pinal County
State of Arizona,

Respondent.

) Case No.: 14-114

) **REQUEST FOR HEARING DATE**

Undersigned Disciplinary Counsel hereby requests that the presiding member of the hearing panel in the above-captioned matter set a hearing date for the determination of an appropriate sanction. As set forth more fully below, Respondent failed to respond to the formal charges and has thereby admitted all factual allegations in those charges. It is thus appropriate to hold a hearing to determine the appropriate sanction for the rule violations Respondent's factual admissions prove.

HISTORY

1. The Commission on Judicial Conduct (Commission) received the initial complaint in this matter on April 10, 2014. The extensive complaint raised broad allegations of serious judicial misconduct by Respondent in his capacity as both a

municipal court judge and a justice of the peace. Disciplinary Counsel requested a written response from Respondent, and he confirmed that he received the request. Respondent failed to respond in writing, request an extension, or to contact the Commission about the matter in any way.

2. In May 2014, Respondent resigned his position as municipal court judge, but he has not resigned his position as justice of the peace. He has not served as a judge since February 11, 2014, when the Arizona Supreme Court reassigned him pursuant to Administrative Order 2014-18, but continues to receive his salary.

3. On June 19, 2014, undersigned Disciplinary Counsel filed formal charges against Respondent alleging numerous acts of judicial misconduct. The following day, on June 20, 2014, Respondent was formally served both in person and via certified mail. Disciplinary Counsel also provided Respondent a voicemail and an email regarding the filing of formal charges.

4. On June 20, 2014, Commission staff received a brief letter from Respondent with an enclosed doctor's note. Respondent's doctor stated that Respondent "should not attempt to do any legal work for the next 90 days" but did not indicate that Respondent's competency is compromised such that a guardian need be appointed.

5. In Disciplinary Counsel's phone voice mail message and email message to Respondent on June 20, 2014, she acknowledged receipt of the doctor's note and explicitly directed Respondent that he must notify Commission staff in writing if it is his intent to claim an inability to defend against these proceedings. This letter

was not a proper response to formal charges, and could not have been intended as such given it is dated before the date the charges were filed.

6. Commission Rule 25(a) provides a respondent judge 15 days within which to file a response to formal charges. Subsection (c) of that rule allows a respondent judge to request an extension of time for such response for good cause.

7. Respondent failed to file any response, answer, or pleading of any kind by July 7, 2014, the date on which his 15 days to respond expired. He similarly failed to make a request for an extension formal or otherwise, or to provide any informal or formal advisory that he is incapable of defending in this action.

REQUEST

8. Rule 25(d) states, "In the event a judge fails to respond within the prescribed time, the factual allegations in the formal charges shall be deemed admitted."

9. Respondent has therefore admitted all of the factual allegations in the formal charges and there are no remaining factual issues to resolve. The only remaining issue to resolve is whether the allegations as admitted warrant the imposition of a sanction, and, if so, which sanction.

10. Rule 27(d) provides for the presiding member of the hearing panel to set the time and date of the hearing so long as respondent has at least 15 days' notice.

11. The full Commission is scheduled to gather for a regular meeting on Friday, August 8, 2014, at the State Courts Building, 1501 W. Washington Street, Phoenix Arizona. Disciplinary Counsel respectfully requests that the hearing in this

matter be set to coincide with that meeting. Given the only remaining issue to resolve is the question of a sanction, the hearing need only be set for a maximum of two hours in duration.

Dated this 9th day of July, 2014.

COMMISSION ON JUDICIAL CONDUCT

/s/ Jennifer M. Perkins

Jennifer M. Perkins
Disciplinary Counsel

Copies of this pleading sent
via First Class U.S. Mail and electronic mail
on July 9, 2014, to:

Hon. Scott Sulley
22455 N. Mulligan
Maricopa, AZ 85139
SSulley@courts.az.gov
Ssulley1144@gmail.com
Respondent

By: /s/Kimberly Welch

FILED

JUL 10 2014

**ARIZONA COMMISSION ON
JUDICIAL CONDUCT**

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)	
)	
Judge Scott Sulley	)	Case No. 14-114
Maricopa / Stanfield Justice Court)	
Pinal County	)	ORDER AND NOTICE OF HEARING
State of Arizona)	
)	
Respondent.)	

Counsel for the Commission having filed a Request for Hearing Date, and good cause appearing therefore,

IT IS ORDERED that the request be **granted**. A hearing in the above matter will be held on the **8th day of August, 2014 at 2:00 p.m.** at the following location:

Arizona Courts Building
1501 W. Washington St., Room 230
Phoenix, Arizona 85007

The hearing will conclude that day unless, for good cause shown, additional time is warranted.

DATED this 10th day of July, 2014.

FOR THE HEARING PANEL

/s/ Peter J. Eckerstrom
Peter J. Eckerstrom
Presiding Hearing Panel Member

Copies sent via First Class U.S. Mail and electronic mail
on July 10, 2014, to the following:

Hon. Scott Sulley
22455 N. Mulligan
Maricopa, AZ 85139
SSulley@courts.az.gov
Ssulley1144@gmail.com

Jennifer M. Perkins
Disciplinary Counsel

By: /s/ Kimberly Welch

FILED

JUL 22 2014

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

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STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Case No.: 14-114

Inquiry concerning
Judge Scott Sulley
Maricopa / Stanfield Justice Court
Maricopa Municipal Court
Pinal County
State of Arizona,

**PRE-HEARING MEMORANDUM IN
SUPPORT OF REMOVAL**

Respondent.

Undersigned Disciplinary Counsel hereby respectfully requests that the Commission on Judicial Conduct (Commission) recommend the Arizona Supreme Court impose the sanction of removal against Respondent for his misconduct.

INTRODUCTION

This matter comes before the Commission in an unusual posture for a formal hearing: Respondent Judge Sulley has failed to provide any substantive response or communication at any stage of the proceedings and by doing so has waived his right to challenge any of the factual allegations raised in the formal Statement of Charges (Charges). See Request for Hearing Date at 1-3 (July 9, 2014). Thus, the only issues for the Commission to consider at the August 8, 2014, scheduled hearing are (1) do the admitted facts constitute violations of the Code of Judicial Conduct, and, if so, (2)

1 what should the appropriate sanction be for those violations.

2 **FACTUAL SUMMARY**

3 The factual allegations deemed admitted are set forth in detail in the
4 Statement of Charges previously filed with the Commission. Those facts establish
5 judicial misconduct in the following broad categories:
6

- 7 1. Failure to effectively oversee court administration;
- 8 2. Inefficient and ineffective calendar and court management;
- 9 3. Prohibiting clerk / staff training;
- 10 4. Hostile work environment;
- 11 5. Poor demeanor; lack of professionalism and decorum;
- 12 6. Discriminatory comments; and
- 13 7. Failure to cooperate with the Commission on Judicial Conduct.

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16 Respondent has admitted that he engaged in a broad range of judicial misconduct,
17 from serious administrative failures, to on-bench misconduct that implicates the
18 rights of litigants, to conduct constituting willful acts of egregious misconduct. See
19 Statement of Charges at 7-8, paras. 32-33, 40, 45 (filed June 19, 2014). As set forth
20 more fully in the Statement of Charges, Respondent's misconduct amounts to
21 violations of ten separate provisions of the Arizona Code of Judicial Conduct in
22 addition to violating the Arizona Constitution. *Id.* at 9-10, paras. 46A through 46I.
23
24

25 **THE COMMISSION'S DISPOSITION OF PRIOR, SIMILAR CASES**

26 Within the past five years, the Commission has resolved two other cases
27 involving widespread disarray in a justice court, although neither case involved
28

1 additional allegations of similar, willful, misconduct. In consolidated Case Numbers
2 09-088 and 09-244, the Commission accepted a stipulated resolution that resulted in
3 the Respondent's resignation from the bench and agreement that she would never
4 again seek or accept a position as a judicial officer in Arizona. *See In re Nolan,*
5 *Recommendation* (filed June 16, 2010)¹. In Case Number 11-281, *In re Alvillar*, the
6 Respondent resigned from the bench before the filing of formal charges, and indicated
7 that she would not ever again seek or accept a position as a judicial officer in Arizona.
8 The Commission thus dismissed the case with a public order. *See 11-281 Order*². Both
9 judges in these cases recognized that, had their cases not been resolved by agreement,
10 the misconduct involved would have resulted in the judges' removal from office.

13 FACTORS TO CONSIDER

14 The Arizona Commission Rules set forth a number of factors to consider in
15 assessing the appropriate sanction to impose. *See Commission Rule 19*³. Those factors
16 listed in the rule and relevant to this case are set forth below.

18 *Aggravating Factors*

19
20 1. **The nature, extent, and frequency of the misconduct.** Respondent's
21 misconduct was serious, broad, and appears to have been ongoing multiple years.

22 2. **The judge's experience and length of service on the bench.**
23 Respondent began as a judge in 2003 and so could not be considered a new judge at
24 the time of any of his transgressions relevant to this case.
25
26

27
28 ¹ Available at: <http://www.azcourts.gov/azcjc/PublicDecisions/2009.aspx>.

² Available at: <http://www.azcourts.gov/azcjc/PublicDecisions/2011.aspx>.

³ Available at: <http://www.azcourts.gov/portals/137/rules/Commission%20Rules%201-1-13.pdf>

1 **3. Whether the conduct occurred in the judge's official capacity or**
2 **private life.** Respondent's misconduct occurred in his official capacity, which is a
3 significant aggravating factor. *See Matter of Peck*, 177 Ariz. 283, 288 (1994) ("We must
4 treat official conduct even more strictly than improprieties in a judge's private life
5 because it goes to the very integrity of our judicial system. Thus, absent significant
6 mitigation, suspension or removal is the only proper sanction for repeated and serious
7 misconduct.").

9 **4. The nature and extent to which the acts of misconduct injured**
10 **other persons or respect for the judiciary.** This is a particularly relevant factor
11 given Respondent's conduct in ignoring advice that he cease issuing arrest warrants
12 until payments could be processed and verified. The impact of Respondent's
13 numerous failures greatly and negatively impacted various litigants and thereby
14 their and the general public's respect for the judiciary.

16 **5. Whether and to what extent the judge exploited his or her position**
17 **for improper purposes.** Respondent refused to cease issuing arrest warrants,
18 apparently in an effort to boost his judicial productivity credits – which is directly
19 tied to his level of pay. This is a clearly improper purpose, achieved only as a result
20 of his judicial status.

22 **6. Whether the judge has recognized and acknowledged the wrongful**
23 **nature of the conduct and manifested an effort to change or reform the**
24 **conduct.** Respondent has failed to acknowledge his misconduct in any meaningful
25 way. He has been on administrative reassignment since February, 2014, performing
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1 no judicial duties. In that time, he appears to have taken no steps to mitigate his
2 misconduct, or to receive training to address the causes of his misconduct.

3 **7. Whether the judge cooperated fully and honestly with the**
4 **commission in the proceeding.** Respondent has been anything but cooperative.
5 He has failed to file any substantive response of any kind at any stage, either on his
6 own or through counsel and has not provided any basis for his failure to act other
7 than consultation with a doctor who only indicated Respondent was not able to
8 engage in legal work for a period of time. Nothing has prevented Respondent from
9 hiring counsel to defend against the Formal Charges or to file an answer on his own
10 behalf, notwithstanding being provided an extended period of time to do so.
11

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13 ***Mitigating Factors***

14
15 **1. Whether there has been prior disciplinary action concerning the**
16 **judge, and if so, its remoteness and relevance to the present proceeding.**
17 Respondent has no prior discipline.

18
19 **2. Whether the judge was suffering from personal or emotional**
20 **problems or from physical or mental disability or impairment at the time of**
21 **the misconduct.** Respondent provided Disciplinary Counsel with an extremely brief
22 and non-specific doctor's note indicating he is depressed and unable to perform legal
23 activities. There was no indication in the note whether this diagnosis was intended
24 to excuse Respondent's judicial misconduct or his personal participation in his own
25 defense. This may be a mitigating factor, giving Respondent the benefit of the doubt.⁴
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28 ⁴ Notably absent from Respondent's letter was any indication of his purpose in providing the
doctor's note. The doctor did not suggest that Respondent was mentally incompetent and thus

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REQUESTED SANCTION

In light of the above, Disciplinary Counsel respectfully requests that this Hearing Panel recommend removal of Respondent from his position as a justice of the peace. As previously noted, Respondent is not actually performing the duties of a judge currently, and has made no indication of an intent to return to the bench at any time in the future. His failure to voluntarily resign appears to be based on his desire to retain his judicial position through the end of his current term despite his misconduct and despite his apparent desire not to actually serve as a judicial officer. This current status coupled with his egregious misconduct and the aggravating factors described above warrant the imposition of removal from the bench.

Dated this 21st day of July, 2014.

COMMISSION ON JUDICIAL CONDUCT

/s/ Jennifer M. Perkins

Jennifer M. Perkins
Disciplinary Counsel

Copies of this pleading sent via First Class U.S. Mail and electronic mail on July 22, 2014, to:

Hon. Scott Sulley
22455 N. Mulligan
Maricopa, AZ 85139
SSulley@courts.az.gov
Ssulley1144@gmail.com
Respondent

By: /s/Kimberly Welch

incapable of seeking assistance for any work he was not himself able to perform on his own behalf. Disciplinary Counsel explicitly instructed Respondent via voice and email that he would need to put it specifically in writing should he desire to assert that he was not capable of defending himself in this action. To date, no such writing has been received.

JUL 30 2014

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520-560-7730
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Commission of Judicial Conduct
1500 Washington St., Ste 220
Phoenix, AZ 85007

State of Arizona
Commission on Judicial Conduct

Inquiry concerning
Judge Scott Sulley
Respondent

Undersigned Counsel hereby requests a continuance of the hearing set for August 8, 2014, in this matter. Respondent is in poor health and will not be able to attend. Respondent's doctor states that respondent should not attend a hearing of this type unless progress is made to respondent's health.

At this moment respondent is under medication and should not drive. Other ailments make it impossible for the respondent to travel for long periods of time. This motion is made in good faith and not for the purpose of delay.

Respondent suggest this matter be set for 60 days. If respondent's health has improved, respondent will appear in person or be represented by counsel.

Order

For good cause appearance this matter shall be continued on the 29 day of August, 2014


Judge of the Superior Court

JUL 30 2014

Scott F. Sulley
22454 N. Mulligan Dr.
Maricopa, AZ 85138
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State of Arizona
Commission on Judicial Conduct

Inquiry concerning
Judge Scott Sulley
Respondent

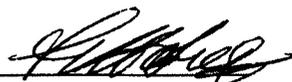
Undersigned Counsel here by requests a continuance of the hearing set for August 8, 2014, in this matter. Respondent is in poor health and will not be able to attend. Respondent's doctor states that respondent should not attend a hearing of this type unless progress is made to respondent's health.

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For good cause appearance this matter shall be continued on the 29 day of July 2014.


Judge of the Superior Court

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

FILED

JUL 31 2014

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning)	
)	
Judge Scott Sulley	)	Case No. 14-114
Maricopa / Stanfield Justice Court)	
Pinal County	)	ORDER DENYING REQUEST TO
State of Arizona	)	CONTINUE HEARING
)	
Respondent.)	

For all the reasons set forth by Disciplinary Counsel in her "Response and Objection to Motion to Continue," and it specifically appearing that the Respondent has failed to timely or specifically articulate good cause for the above matter to be postponed, it is ordered denying the Respondent's request to continue the hearing set for August 8, 2014 at 2:00 p.m. Respondent is reminded that all respondents have the option of hiring legal counsel to assist them in these proceedings.

DATED this 31st day of July, 2014.

FOR THE HEARING PANEL

/s/ Peter J. Eckerstrom
Peter J. Eckerstrom
Presiding Hearing Panel Member

Copies sent via First Class U.S. Mail and electronic mail

on July 31, 2014, to the following:

Hon. Scott Sulley
22455 N. Mulligan
Maricopa, AZ 85139
SSulley@courts.az.gov
Ssulley1144@gmail.com

Jennifer M. Perkins
Disciplinary Counsel

By: /s/ Kimberly Welch
Commission Specialist

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

FILED

JUL 31 2014

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

Inquiry concerning)	
)	
Judge Scott Sulley	)	Case No. 14-114
Maricopa / Stanfield Justice Court)	
Pinal County	)	ORDER ON REQUEST BY MEDIA TO
State of Arizona	)	COVER PUBLIC HEARING
)	
Respondent.)	

The Commission on Judicial Conduct received a request from Sarah Ruf, Education and Public Safety Reporter for the *Maricopa Monitor*, to take photos with a handheld camera and to record the public proceedings on August 8, 2014, with her iPhone.

IT IS ORDERED that the request is **granted**, subject to the reporter's compliance with the requirements of Arizona Supreme Court Rule 122 and further orders of the Presiding Hearing Panel Member. Any objections to the coverage authorized by this order shall be raised by the parties at the beginning of the hearing. They will be ruled on at that time.

DATED this 31st day of July, 2014.

FOR THE HEARING PANEL

/s/ Peter J. Eckerstrom
Peter J. Eckerstrom
Presiding Hearing Panel Member

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on July 31, 2014, to the following:

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Sarah Ruf
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By: /s/ Kimberly Welch
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FILED

AUG 11 2014

ARIZONA COMMISSION ON
JUDICIAL CONDUCT

**STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT**

Inquiry concerning)	
)	
Judge Scott Sulley	)	Case No. 14-114
Maricopa / Stanfield Justice Court)	
Pinal County	)	ORDER TO FILE FINDINGS OF FACT,
State of Arizona	)	CONCLUSIONS OF LAW, AND
	)	PROPOSED DISCIPLINE
Respondent.	)	RECOMMENDATIONS

On August 8, 2014, the Commission on Judicial Conduct held a formal hearing in the above-captioned matter. At that time, the Commission heard witness testimony and considered exhibits presented by the Commission's Disciplinary counsel. Although provided with ample notice of the hearing date and time, the Respondent Judge did not attend nor did he present any testimony, exhibits or other evidence. The hearing panel deliberated, and thereafter presented its legal conclusions on the record for the benefit of the public in attendance. It thereafter directed Disciplinary Counsel to file proposed Findings of Fact and Conclusions of law. Accordingly,

IT IS ORDERED directing Disciplinary Counsel to file proposed Findings of Fact and Conclusions of Law and proposed Discipline Recommendations forthwith for the Commission's consideration.

DATED this 11th day of August, 2014.

FOR THE HEARING PANEL

/s/ Peter J. Eckerstrom
Peter J. Eckerstrom
Presiding Hearing Panel Member

Copies sent via First Class U.S. Mail and electronic mail

on August 11, 2014, to the following:

Hon. Scott Sulley
22455 N. Mulligan
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SSulley@courts.az.gov
Ssulley1144@gmail.com

Jennifer M. Perkins
Disciplinary Counsel

By: /s/ Kimberly Welch
Commission Specialist

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3

4 **STATE OF ARIZONA**
5 **COMMISSION ON JUDICIAL CONDUCT**
6

7 Inquiry concerning
8 **Judge Scott Sulley**
9 Maricopa / Stanfield Justice Court
10 Maricopa Municipal Court
11 Pinal County
12 State of Arizona,
Respondent.

) Case No.: 14-114

) **FINDINGS OF FACT AND**
) **CONCLUSIONS OF LAW AND**
) **RECOMMENDATIONS**

13 The Commission on Judicial Conduct (Commission) commenced formal
14 proceedings against Justice of the Peace Scott Sulley (Respondent) on June 19, 2014,
15 by issuing a Notice of Formal Proceedings and a Statement of Charges (Charges),
16 pursuant to Rule 24 of the Rules of the Commission on Judicial Conduct (Commission
17 Rules). Respondent failed to file an answer to the Charges. A hearing was set for
18 August 8, 2014, in front of the appointed Hearing Panel, which included Presiding
19 Member Judge Peter J. Eckerstrom, and panel members Judge Gus Aragon, Roger
20 Barton, Colleen Concannon, Judge Louis F. Dominguez, Judge Anna Mary Glaab, Art
21 Hinshaw, and Tyrrell Taber.
22
23
24

25 At the hearing conducted on August 8, the Commission was represented by
26 Jennifer M. Perkins, Disciplinary Counsel. Respondent did not appear in person or
27 through counsel. A court reporter transcribed the entirety of the hearing, and all
28

1 members of the Hearing Panel were present throughout the proceeding. The eight
2 members of the Hearing Panel who heard argument and evidence from Disciplinary
3 Counsel included a member from each category of membership, as required by Rule
4 3(f), and constituted both the full panel and a majority of the full Commission.
5

6 **JURISDICTION**

7 1. The Commission has jurisdiction over these matters pursuant to Article 6.1 of
8 the Arizona Constitution.

9 2. Respondent served as a municipal court judge for the Town of Maricopa from
10 the creation of the position in 2003 until his resignation effective May 31, 2014. He
11 has served a justice of the peace in Pinal County since 2003, and was serving in his
12 capacity as a judge at all times relevant to these formal proceedings.
13

14 3. As a municipal court judge and a justice of the peace, Respondent is and has
15 been subject to all of the Canons of the Code of Judicial Conduct, Arizona Rules of
16 Supreme Court 81 (Code).
17

18 **FINDINGS OF FACT**

19
20 As to the findings of fact relevant for a determination whether Respondent
21 engaged in ethical misconduct, his failure to submit an Answer to the Charges and
22 his failure to appear at the August 8, 2014, hearing in this matter mean that
23 Respondent has waived any response, objection, or disagreement with the facts as set
24 forth in the Charges. The panel further notes that the testimony of three witnesses
25 at the August 8, 2014, hearing supported the facts as set forth in the Charges, as did
26 the initial complaint (attached to the Charges) and the documents admitted into
27
28

1 evidence at the hearing. *See* Transcript of Hearing, August 8, 2014 (Hearing),
2 Testimony of Dave Byers (pages 14-27), Elizabeth Evans (pages 28-32), and Hon.
3 Stephen McCarville (pages 33-47); Hearing Exhibits 1-10.

4 Thus, the procedural and substantive facts set forth from page two through
5 page eight of the Charges are deemed admitted and adopted herein. Commission
6 Rules 25(d) and 27(h).
7

8 The panel reached the following additional findings of fact with regard to
9 aggravating and mitigating factors, which are relevant to the determination of the
10 appropriate sanction in this matter. In aggravation, the panel finds:
11

12 1. Respondent's misconduct, characterized by one witness as "catastrophic"
13 (Hearing Testimony of Dave Byers at page 16, lines 15-23), was serious, broad
14 ranging, and occurred over the course of an extended period of time.
15

16 2. Respondent was an experienced judge and attorney, and there is no indication
17 that his misconduct could be characterized as the result of improper or insufficient
18 training or resources. To the contrary, the evidence submitted in the initial complaint
19 and during the testimony of the hearing witnesses indicates that Respondent willfully
20 avoided the assistance and training for himself and his staff that could have
21 ameliorated his misconduct or its impact on the public.
22

23 3. All of the misconduct at issue in these proceedings occurred in Respondent's
24 official capacity rather than in his private life. This is a particularly important
25 aggravating factor. *See Matter of Peck*, 177 Ariz. 283, 288 (1994) ("We must treat
26 official conduct even more strictly than improprieties in a judge's private life because
27
28

1 it goes to the very integrity of our judicial system. Thus, absent significant mitigation,
2 suspension or removal is the only proper sanction for repeated and serious
3 misconduct.”).

4 4. The broad ranging misconduct at issue has likely resulted in a substantial
5 negative impact on the public’s respect for the judiciary. Further, the parties in at
6 least seven cases were directly injured as a result of Respondent’s misconduct. *See*
7 *Hearing Exhibit 10*. The full extent of the negative impact of this misconduct may
8 never be clearly known. *See Hearing Testimony of Hon. Stephen McCarville at page*
9 *42, line 13, to 44, line 12.*

10 5. Respondent’s refusal to cease issuing or affirming arrest warrants as
11 instructed in an apparent attempt to boost his judicial productivity credits amounts
12 to the exploitation of his position for an improper purpose.

13 6. Respondent has not at any time demonstrated that he recognizes and
14 acknowledges the wrongful nature of his conduct, nor has he manifested an effort to
15 change or reform his conduct. Instead, it appears Respondent attempted to hide or
16 minimize his misconduct. *See Hearing Testimony of Elizabeth Evans at 29.*

17 7. Respondent failed at every opportunity to cooperate fully and honestly with
18 the Commission. To the extent he faced physical or mental health issues, Respondent
19 could have hired counsel or sought the appointment of a guardian to do so. He did not
20 do so and instead appeared interested only in pursuing a delay of the resolution of
21 this matter beyond the completion of his current term of office.

22 The panel finds in mitigation:
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24
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1 1. Respondent has no prior disciplinary history.

2 2. Respondent appears to have been encountering personal difficulties during at
3 least some portion of the relevant time frame including a diagnosis of depression.

4 **CONCLUSIONS OF LAW**

5
6 On the basis of the foregoing findings of fact, the panel concludes, as a matter of law:

7 1. Respondent has violated Canons 1 and 2 of the Arizona Code of Judicial
8 Conduct. Specifically, Respondent violated the following Rules:

9 a. Rule 1.2 (“A judge shall act at all times in a manner that promotes
10 public confidence in the independence, integrity, and impartiality of the judiciary,
11 and shall avoid impropriety and the appearance of impropriety.”) [Charges, para. 11-
12 45];

13
14 b. Rule 1.3 (“A judge shall not abuse the prestige of judicial office to
15 advance the personal or economic interests of the judge.”) [Charges, para. 32-33];

16
17 c. Rule 2.2 (“A judge shall uphold and apply the law, and shall perform
18 all duties of judicial office fairly and impartially.”) [Charges, para. 34-42, 45];

19
20 d. Rule 2.3(B) (“A judge shall not, in the performance of judicial duties,
21 by words or conduct manifest bias or prejudice, or engage in harassment, including
22 but not limited to bias, prejudice, or harassment based upon race . . . [or] ethnicity.”)
23 [Charges, para 45];

24
25 e. Rule 2.5(A) and (B) (“A judge shall perform judicial and administrative
26 duties competently, diligently, and promptly” and “shall reasonably cooperate with
27 other judges and court officials in the administration of court business.”) [Charges,
28

1 para 14-15, 18-42, 44];

2 f. Rule 2.8(B) (“A judge shall be patient, dignified, and courteous to
3 litigants, jurors, witnesses, lawyers, court staff, court officials, and others subject to
4 the judge’s direction and control.”) [Charges, para. 28-31, 34-35, 39, 41-42, 45];

5
6 g. Rule 2.12 (A) and (C) (“A judge shall require court staff, court officials,
7 and others subject to the judge’s direction and control to act in a manner consistent
8 with the judge’s obligations under this code” and “to comply with the provisions of the
9 Code of Conduct for Judicial Employees adopted by the supreme court.”) [Charges,
10 para. 12-14, 19-23, 44];

11
12 h. Rule 2.16(A) (“A judge shall cooperate and be candid and honest with
13 judicial and lawyer disciplinary agencies.”) [Charges, para. 9; Disciplinary Counsel’s
14 Request for Hearing Date, para. 1-7].

15
16 2. The aggravating factors described above on pages three and four substantially
17 outweigh the mitigating factors described above on page five.

18
19 3. Taken as a whole, Respondent’s conduct constitutes conduct prejudicial to the
20 administration of justice that brings the judicial office into disrepute within the
21 meaning of Article 6.1, Section 4 of the Arizona Constitution.

22 **RECOMMENDATIONS**

23 On the basis of the foregoing Findings of Fact and Conclusions of Law, and
24 pursuant to the duty imposed on its members by Article 6.1, Section 4 of the Arizona
25 Constitution, the Hearing Panel unanimously recommends that the Arizona Supreme
26 Court:
27
28

- 1 A. Remove Respondent from judicial office, pursuant to Commission Rule 18(a),
2 for violations of the Code of Judicial Conduct and for conduct prejudicial to the
3 administration of justice that brought his judicial office into disrepute;
4
5 B. Disqualify Respondent, pursuant to Commission Rule 29(f), without loss of
6 salary, from acting as a judge;
7
8 C. Order that Respondent is not permitted to serve as a judicial officer within the
9 State of Arizona at any time in the future;
10
11 D. Order Respondent, pursuant to Rule 18(e), to pay the costs and fees incurred
12 by the Commission in preparing and conducting the formal proceedings in this
13 matter; and
14
15 E. Grant such other relief as the Court may deem appropriate in these
16 proceedings.

17 These Findings of Fact, Conclusions of Law, and Recommendations have been
18 prepared and filed pursuant to Rule 28(a) of the Rules, along with a proposed Order
19 of Interim Suspension, as required by Rule 29(f), giving notice to Respondent of his
20 immediate disqualification under Article 6.1, Section 2 of the Arizona Constitution.

21 Dated this 28th day of August, 2014.

22 **COMMISSION ON JUDICIAL CONDUCT**

23 /s/ Peter J. Eckerstrom

24 Hon. Peter J. Eckerstrom
25 Hearing Panel Presiding Member

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. JC-14-0001
HONORABLE SCOTT SULLEY,)
Maricopa/Stanfield Justice Court,) Commission on Judicial
Maricopa Municipal Court,) Conduct
Pinal County,) No. 14-114
State of Arizona,)
) **FILED 9/2/2014**
Respondent.) **ORDER OF INTERIM SUSPENSION**
)
_____)

On August 28, 2014, the Commission on Judicial Conduct filed with this Court its Findings of Fact, Conclusions of Law, and Recommendations, in which it recommended that Respondent be removed from office. Article 6.1, § 2 of the Arizona Constitution provides that "[a] judge is disqualified from acting as a judge, without loss of salary," while a recommendation for removal is pending before this Court. Therefore,

IT IS ORDERED that Respondent shall be disqualified and suspended with pay as of the close of business on the date shown below. The suspension shall remain in effect until the Court's final decision in this matter. This order supersedes Administrative Order NO. 2014-18 reassigning Respondent from his judicial duties.

DATED this 2nd day of September, 2014.

SCOTT BALES
Chief Justice

TO:

Jennifer M Perkins
George A Riemer
Kimberly Welch
Sandra Montoya
Maret Vessella
Mary Pieper
Lexis Nexis
Netz Tuvera
Hon. Stephen F McCarville
Hon. Scott F Sulley