

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 15-146

Judge:

Complainant:

ORDER

The complainant alleged that a superior court judge committed campaign violations during the 2014 judicial election cycle.

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. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: September 22, 2015

FOR THE COMMISSION

/s/ George A. Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on September 22, 2015.

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

Arizona Commission on Judicial Conduct
1501 W Washington Street, Suite 229
Phoenix AZ 85007

Re: Judicial Complaint against Judge

Dear Commission Members,

Introduction:

Pursuant to Arizona Code of Judicial Conduct Rule 2.15(A), complainant _____ does hereby submit separate judicial ethics violation complaints that clearly demonstrate a pattern of misconduct and collusion among members of the _____ judiciary, acting in concert with _____, to influence the outcome of an election and to ensure _____ re-election. The _____ complaints are replete with instances of intentionally orchestrated malignant actions; they are regrettable proof of the startling lack of ethical behavior within the _____ judiciary. Herein, as demonstrated, members of the _____ judiciary have acted to defeat _____ aspirations for elective office, and indeed _____ continued service in an appointive position, without any meaningful or just cause other than cronyism and retaliation, and with a goal to quash political opposition. Ultimately, these complaints are brought forth not because of a lost election or a wrongfully terminated judicial appointment; but rather to openly address flagrant instances of unethical and unlawful behavior that pervade our local judiciary.

The misconduct of the _____ respondents is deeply troubling on a number of levels, not least of which is the arrogance displayed by those individuals the public relies on to independently follow their mandated role as arbiters of justice. From the preamble of the Arizona Code of Judicial Conduct, "An independent, fair, and impartial judiciary is indispensable to our system of justice. Judges should maintain the dignity of judicial office at all times, and avoid both impropriety and the appearance of impropriety in their professional and personal lives. They should aspire at all times to conduct that ensures the greatest possible public confidence in their independence, impartiality, integrity, and competence."

Much of what is reported here was previously disclosed to the Commission on Judicial Conduct

in case number _____ involving the misconduct of Judge _____. A reasonable expectation, from Commission on Judicial Conduct Rule 2.15(A), is that the Commission would, *sua sponte*, take action upon being informed of judicial misconduct that is complicit to an open complaint. Yet _____ was recently informed by Commission staff that no such action would take place unless separate complaints were filed.

Instances of Misconduct:

Please see one attached document -- email sent and received on the Arizona Administrative Office of the Courts email server.

Judge _____ used county and state resources in an attempt to influence the outcome of an election. Judge _____ using the prestige of her position and the court email server, sent an email to _____ at Judge _____ court email address, and notified Judge _____ that _____ was listed as a candidate for _____ and that _____ was speaking to the _____ on _____. Judge _____ in her email to Judge _____, also included a copy of the _____.

Judge _____ violated the Arizona Code of Judicial Conduct, Rule 1.1; Rule 1.2; Rule 1.3; Rule 3.1(E); Rule 4.1(A)(3); Rule 4.1(A)(5); and Rule 4.1(A)(8); A.R.S. § 16-292(A); and A.R.S. § 11-410(A) by committing misconduct as a judge; by abusing the prestige of judicial office to advance the personal or economic interests of herself or others; by using the public record and the prestige of judicial office to oppose another candidate for elective office; by actively taking part in a political campaign other than her own; by participating in another judge's campaign for elective office; and by using county and state resources to assist Judge _____ campaign for judicial office and to send elective office campaign-related material for the purpose of influencing the outcome of an election.

Applicable State Law and Commission Rules:

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

A.R.S. § 11-410. Use of county resources or employees to influence elections; prohibition; civil penalty; definitions:

A. A county shall not spend or use its resources, including the use or expenditure of monies, accounts, credit, facilities, vehicles, postage, telecommunications, computer hardware and software, web pages, personnel, equipment, materials, buildings or any other thing of value, for the purpose of influencing the outcomes of elections.

"Influencing the outcomes of elections" means supporting or opposing a candidate for

nomination or election to public office.

A.R.S. § 16-192. Use of state, special district resources to influence elections; prohibition; civil penalties; definitions

A. Notwithstanding any other law, this state and special taxing districts and any public agency, department, board, commission, committee, council or authority shall not spend or use public resources to influence an election, including the use or expenditure of monies, accounts, credit, materials, equipment, buildings, facilities, vehicles, postage, telecommunications, computer hardware and software, web pages and personnel and any other thing of value of the public entity.

“Influence an election” means supporting or opposing a candidate for nomination or election to public office... .

RULE 1.1 requires a judge to “comply with the law, including the code of judicial conduct.”

RULE 1.2 of the Code of Judicial Conduct requires that “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 1.3 requires that a judge 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.”

RULE 3.1(E) states that when engaging in extrajudicial activities, a judge shall not “make use of court premises, staff, stationery, equipment, or other resources, except for activities that concern the law, the legal system, or the administration of justice, or unless such additional use is permitted by law.”

RULE 4.1. Political and Campaign Activities of Judges and Judicial Candidates in General

(A) A judge or a judicial candidate shall not do any of the following: (3) publicly endorse or oppose another candidate for any public office; (5) actively take part in any political campaign other than his or her own campaign for election, reelection or retention in office; (8) use court staff, facilities, or other court resources in a campaign for judicial office[.]

Conclusion:

The gravity of the misconduct demonstrated herein is deeply troubling. That the respondent committed misconduct for the purpose of influencing the outcome of an election and quashing political opposition is particularly appalling. Judge _____ misconduct has clearly had a detrimental effect on the judicial system as a whole, an institution _____ has honorably served for nearly _____ years; and the misconduct has had an adverse effect on aspirations for public office and his continued service as an appointed protem judge. Never in

his most pessimistic view of civility has _____ ever imagined the degree of cheating, collusion, duplicity, and deception that was carried out by those entrusted in judicial positions. It is incomprehensible that judges, who are sworn to uphold principles of fairness, impartiality, and integrity, could be capable of such self-serving actions.

Complainant _____ respectfully requests the Commission acknowledge the egregious and deleterious nature of Judge _____ misconduct involving violations of the Judicial Code of Conduct and state law to influence an election, along with relevant aggravating factors pursuant to Commission Rule 19, and convene an investigative panel to consider the filing of formal charges and recommendation of a formal sanction.

Respectfully submitted on this _____ day of _____