

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 16-011

Judge: Timothy A. Forshey

Complainant: James Lakin

ORDER

The complainant alleged a pro tem municipal court judge denied him an opportunity to be heard, engaged in improper courtroom demeanor, and was biased in favor of the state in a civil traffic matter.

Rule 2.6(A) of the Code of Judicial Conduct states that “a judge shall accord to every person who has a legal interest in a proceeding, or that person’s lawyer, the right to be heard according to law.” Additionally, Rule 2.8(B) requires that a judge “shall be patient, dignified, and courteous to litigants”

Mr. Lakin appeared before Pro Tem Judge Forshey on a photo radar ticket. At the start of the hearing, Mr. Lakin made an oral motion to dismiss which was instantaneously denied by Pro Tem Judge Forshey without an opportunity for Mr. Lakin to state the substance or reason for his motion. When Mr. Lakin commented to Pro Tem Judge Forshey that he did not even know what the motion was about, Pro Tem Judge Forshey cut him off, told him that he was speaking, and if he continued in this fashion, he would be found in contempt of court. Throughout the remainder of the hearing, Pro Tem Judge Forshey told Mr. Lakin to “shut up,” “knock it off,” and that he could either do what the judge asked or eat green soup at the jail that evening. Pro Tem Judge Forshey’s tone was elevated during the hearing and he would often speak to Mr. Lakin in a belittling fashion.

After reviewing the complaint, the recording of the hearing, and the judge’s response, the commission found that Pro Tem Judge Forshey’s tone, demeanor, and choice of words toward Mr. Lakin were not “patient, dignified, and courteous.” The commission also found that Pro Tem Judge Forshey denied Mr. Lakin the opportunity to be heard on his motion to dismiss.

The commission found no evidence to support the remaining allegations of the complaint.

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

Accordingly, Pro Tem Judge Timothy A. Forshey is hereby publicly reprimanded for his conduct as described above and pursuant to Commission Rule 17(a). The record in this case, consisting of the complaint, the judge's response, and this order shall be made public as required by Rule 9(a).

Commission member J. Tyrrell Taber did not participate in the consideration of this matter.

Dated: May 12, 2016

FOR THE COMMISSION

/s/ Louis Frank Dominguez

Hon. Louis Frank Dominguez
Commission Chair

Copies of this order were mailed to the complainant and the judge on May 12, 2016.

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

I understand the commission cannot reverse court orders or assign a new judge to a case.

I declare, under penalty of perjury, that the foregoing information and the facts I have provided upon which my allegations of judicial misconduct are based are true and correct.

Signature: _____

Date: 1-7-2016 _____

INSTRUCTIONS

Use the following space or plain paper of the same size to explain your complaint. Explain why you believe what the judge did constitutes judicial misconduct. Be specific and list the names, dates, times, and places relevant to your allegations. Additional pages may be used and relevant copies of documents may be sent with your complaint (please do not send original documents). Use one side of each page only and write legibly or type your complaint. Please keep a copy of your complaint for your records.

I'm applaud by the unprofessional behavior of Tim Forshey who is undeserving of the title "Judge". Forshey set the tone of what was supposed to be a fair hearing by refusing me the opportunity make a motion of any kind. He then proceeded to talk over me and threaten me with imprisonment every time I found the opportunity to speak. He reputedly leveled personal insults at me and at one point even lowered himself to name calling. Forshey refused me due process and refused me the opportunity to submit evidence. I was not awarded discovery from the prosecution and Forshey refused to recognize that to the point of threatening me repeatedly with imprisonment at any attempt I made to discuss the fact. Forshey was so bias to the prosecution that it appeared they were working in tandem to railroad these photo tickets through as if they were on commission.

All I ask is you listen to the audio transcript of the hearing. Then you tell me if you think this person represents the community in a fitting manner. I went online and read Tim Forshey's resume. It is easy to see that he an arrogant gun freak with a real chip on his shoulder. Bullying, intimidation, and exclusion does not provide the setting for a fair hearing and I believe is not what the state wishes to serve the community with. I am not a timid person and I quickly felt there was no point in proceeding with the hearing. All I wanted to do was get out of there before this lunatic throws me in jail. I feel confident that I'm not the only one who feels this since the he was busy bullying the next person in the hearing after me.

People have a right to due process free of bullying and treats. The state has the obligation to get rid of Judges who make a mockery of the judicial system. Please listen to the audio transcript and get rid of this guy. Not only does he not serve the community, he victimizes it.

Thank you

FEB 24 2016



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TIMOTHY A. FORSHEY
* LICENSED IN ARIZONA, COLORADO AND ILLINOIS

February 24, 2016

April Elliott
Commission on Judicial Conduct
1501 West Washington Street
Suite 229
Phoenix, Arizona 85007

Re: Complaint response (Case No. 16-011)

Dear Ms. Elliott:

I am sorry that this response is tardy. I was forced to leave town last week to assist my . I returned to the valley yesterday, and apologize for any inconvenience this delay may have caused you or the Commission.

As you are aware, this Complaint comes from James Lakin, a Defendant in the El Mirage City Court, where I serve as Judge *pro tem* every Wednesday, primarily doing Civil Traffic Hearings, primarily for photo traffic tickets. This was the case for Mr. Lakin.

Mr. Larkin's hearing occurred on January 6, 2016. It was obvious from the start that Mr. Larkin was going to be a problem Defendant. I was warned by Court staff that he was displaying loud, inappropriate and boorish behavior in the lobby before he ever entered the Courtroom. I was not unduly concerned about these warnings, as, unfortunately, such behavior is not particularly uncommon in traffic hearings.

Mr. Lakin opened the matter by making an oral "Motion to Dismiss," with no supporting reasoning. The Motion was denied. Mr. Lakin did not care for this ruling and became argumentative. He questioned the authority of the Court to proceed, repeatedly interrupted, and showed disrespect by refusing to even face the Court, turning his chair away. He was warned with contempt, more than once, as a result of his open hostility.

A great deal of the contempt that Mr. Lakin showed was non-verbal, with facial expressions, body language and, as mentioned, turning his body to face away from the bench. These expressions, of course, are not reflected on the audio transcript.

After the State presented its case, Mr. Lakin made a "hearsay" objection (inappropriate in civil traffic hearings where the rules of evidence are substantially relaxed) which was overruled. He next complained about the State's "purported lack of disclosure." The State's witness explained that

there was no "disclosure" in civil traffic cases, and that the documents shared with Mr. Lakin immediately prior to his hearing were all the discovery ever provided to defendants. Mr. Lakin then argued that the matter was not civil, whereupon he was corrected by the State's witness, and then, when he wanted to submit a letter showing he had asked for discovery as an exhibit, he was informed that the letter's submission was not properly offered during his cross-examination. He said he was not going to get a "fair hearing" anyway. He then explained that "as it would not do any good" to respond, he was not going to do so. He was offered the chance, once again, to put on his defense, whereupon he refused, again, to do so. I held in favor of the State.

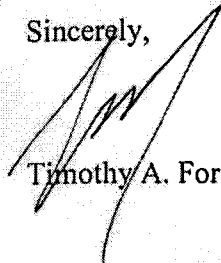
Upon listening to the recorded transcript, one could assume more patience with Mr. Lakin's behavior that day was an option. The tape does not account for his non-verbal behavior to everyone at the Court that day. In furtherance of this explanation, I attach hereto, as "Attachment A," a copy of the "payment contract" the Court later received from Mr. Lakin, whereupon he scrawled "Your [sic] a bunch of crooks!!! (emphasis in original)," and "Your dirtbag town sucks!!! (with the word 'sucks' underlined three times)," and "I will get my money out of your pathetic town!" These editorial comments aptly demonstrate the overall demeanor displayed by Mr. Lakin that day to the entire Court staff, myself included.

I believe this complaint is merely an effort on Mr. Lakin's part to exact revenge for what he purports to be unfair treatment in this matter. He was, most definitely, afforded the same measure of respect and courtesy as any other visitor to the Court, Defendant or otherwise, until his disrespect and contempt made that impossible. He was spoken to firmly, but only after openly displaying hostility and contempt to all concerned. His case was heard and handled with all due process and fairness at all times, and I would ask that the complaint be dismissed as unfounded.

If you have any further questions or concerns in this matter, please do not hesitate to contact me. Thank you for your consideration of the above, and again, my apologies for the tardy response.

Thank you for your cooperation and consideration.

Sincerely,



Timothy A. Forshey

TAF/mj

Attachment A: Defendant Lakin's El Mirage City Court Payment Contract