

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 06-172

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Complainant: No. 1289610059A

Judge: No. 1289610059B

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**ORDER**

The commission reviewed the complaint in this matter and found that the judge had already taken steps to change his campaign signs to avoid any potential ethical misconduct. Accordingly, the complaint is dismissed pursuant to Rule 16(a).

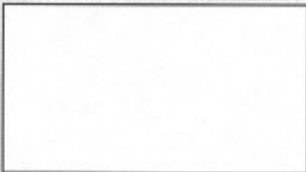
Dated: October 3, 2006.

FOR THE COMMISSION

/s/ Keith Stott  
Executive Director

Copies of this order were mailed to the complainant and the judge on October 3, 2006.

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



JUN 30 2006

CJC-06-172

June 30, 2006

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

Re: Conduct of Judge [redacted] / misrepresentation of status

Dear Members of the Commission:

Judge [redacted] and I are both candidates who have filed for the [redacted] Party Primary election to determine the party's ultimate candidate for [redacted] Justice of the Peace for the November 2006 Election. As you know, Judge [redacted] was a prior occupant of this office and previously served as [redacted] Justice of the Peace until he was defeated by my predecessor, [redacted] in the [redacted] 2004 Primary election. Justice of the Peace [redacted]

I have continuously served the [redacted] Justice Court since [redacted] when I was assigned as the pro tem judge to cover the daily needs of the court while Judge [redacted] was on administrative leave. I was appointed to the office of [redacted] Justice of the Peace by the County Board of Supervisors on [redacted]

[redacted] has recently placed several campaign signs that read "Re-elect [redacted] Justice of the Peace ". Enclosed please find printed photos showing the signs at issue. The sign locations which are depicted in the enclosed photos are [redacted]

[redacted] 3 & 4 are banners attached to an apartment complex fence located at [redacted]

Canon 5 of the Arizona Code of Judicial Conduct provides as follows:

B. Judicial Campaign Conduct

(1) A candidate, including an incumbent judge, for judicial office that is filled either by public election between competing candidates or on the basis of a merit selection system or retention election:

(d) shall not:

(ii) knowingly misrepresent the identity, qualifications, present position or other fact concerning the candidate or an opponent.

The Commission has jurisdiction over [redacted] because of his status as a Judge [redacted] for the [redacted] Justice Courts. The use by [redacted] of the word re-elect is clearly an intent to misrepresent his current status. He is not a current office-holder who could legitimately use the term re-elect. [redacted] is seeking to be elected to an office which he lost through the [redacted]

Because of the obscure nature of the position of Justice of the Peace and the fact that I am an appointee who has less name recognition at this time, than [redacted] has, there is a very predictable outcome of this continuing and deliberate violation of Canon 5. The voters in the [redacted] Precinct are being and will continue to be misled to believe that [redacted] is still serving as the [redacted] Justice of the Peace and has served in that capacity on continuous basis following his [redacted] prior terms.

The advantages of incumbency are real. Perceived incumbency in this situation causes [redacted] Precinct voters into believing that [redacted] prevailed in his prior [redacted] primary election which is clearly not a true representation of his status or of my own. This conduct is an intentional effort to confuse the voters of the [redacted] Precinct as to the current status of candidate [redacted] designed to enhance his prospects of prevailing in the [redacted] [redacted] Primary election.

Because of the irreparable harm this misrepresentation can cause, I am respectfully requesting that this matter be investigated in an accelerated and expedited manner and that if confirmed, a cease and desist order be directed to candidate [redacted] to remove or at least cover up the misleading "re-elect" designation on his signs and on any other campaign materials which include the misleading representation along with any other appropriate action the Commission deems is warranted.

I trust that the Commission will recognize that this matter is deserving of prompt action to prevent a clear and continuous violation of Canon 5. The facts of this matter are not disputable. The existence of the signs can be confirmed by an investigator driving [redacted] [redacted] for a short distance. The need for swift Commission action is clear. A response from [redacted] should not take any significant amount of time to be solicited and submitted. According to his nomination petitions, his current residence is [redacted] [redacted]

I would respectfully request that after review by your investigators and receipt of a response from [redacted] a telephonic conference of Commission members be scheduled if the next regular Commission meeting would not be timely enough to order remedial action before the signs confuse more primary voters prior to the [redacted] primary election. The fact that early balloting will begin well in advance of [redacted] makes this matter particularly urgent.

Thank you for your consideration of this matter.

