

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 07-251

Complainant: No. 1319310709A

Judge: No. 1319310709B

ORDER

After reviewing the complaint filed in this matter and interviewing the people who heard the judge's comments, the commission determined that the judge did not knowingly violate the Code of Judicial Conduct. Accordingly, the commission voted to issue a private comment to the judge and to dismiss the case.

The complaint is dismissed pursuant to Rules 16(a) and 23(a).

Dated: February 12, 2008.

FOR THE COMMISSION

g\ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on February 12, 2008.

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



State of Arizona
 Commission on Judicial Conduct
 1501 W. Washington Street, Suite 229
 Phoenix, Arizona 85007

FOR OFFICE USE ONLY

CJC-07-251

0012

COMPLAINT AGAINST A JUDGE

Your name _____ Judge's name: _____ Date: _____

Instructions: Describe in your own words what the judge did that you believe constitutes misconduct. Please provide all of the important names, dates, times and places related to your complaint. You can use this form or plain paper of the same size to explain your complaint, and you may attach additional pages. Do not write on the back of any page. You may attach copies of any documents you believe will help us understand your complaint.

_____ HAS ENGAGED IN PROFESSIONAL AND PERSONAL CONDUCT THAT VIOLATES THE PROVISIONS OF THE ARIZONA CODE OF JUDICIAL CONDUCT. SPECIFICALLY, JUDGE _____ HAS COMMITTED AN ACT THAT VIOLATES CANONS ONE, TWO AND THREE OF THE CODE OF JUDICIAL CONDUCT. THE COMPLAINANT HAS OBTAINED RELIABLE INFORMATION WHICH IS THE BASIS OF THIS COMPLAINT.

JUDGE _____ WAS ASSIGNED TO COVER THE MISDEMEANOR CALENDAR AT THE _____ JUSTICE COURT LOCATED AT _____ AZ, AND IN THE COUNTY OF _____, ON THE _____, 2007. JUDGE _____ IN THE COUNTY OF _____. UPON ARRIVING AT THE COURT AND MEETING WITH COURT PERSONNEL, JUDGE _____ WAS PROVIDED WITH A COPY OF THE DAILY COURT CALENDAR AND SETTLED IN TO HEAR AND DECIDE MATTERS SET FOR THAT DAY. PRIOR TO THE START OF THE MORNING COURT SESSION, THE JUDGE MET WITH WITH _____, A JUDICIAL CLERK ASSIGNED TO THE MISDEANOR DIVISION OF THE COURT, IN CHAMBERS TO DISCUSS VIDEO ARRAIGNMENTS AND REVIEW COURT FILES. VIDEO ARRAIGNMENTS ARE CONDUCTED ON _____ THROUGH A VIDEO LINK BETWEEN THE COURT AND THE _____ COUNTY JAIL. WHILE IN THE JUDGE'S CHAMBERS, _____ BEGAN TO UPDATE JUDGE _____ ON THE STATUS OF EACH CASE THAT WAS SET FOR HIM TO HEAR. IN ONE PARTICULAR FILE (CASE # IS UNKNOWN) THE DEFENDANT WAS CHARGED WITH THE MISDEMEANOR OFFENSE OF 'FAILURE TO SHOW PROOF OF IDENTIFICATION' AND THE CIVIL TRAFFIC OFFENSE OF 'NO DRIVER'S LICENSE'. AT THIS POINT, NO OTHER INFORMATION HAD BEEN PROVIDED TO THE JUDGE OTHER THAN WHAT WAS CONTAINED IN THE COURT FILE. UPON A REVIEW OF THE FILE, JUDGE _____ DETERMINED THE DEFENDANT WAS A HISPANIC MALE WITH A SPANISH SURNAME WHO HAD BEEN CHARGED WITH THE AFOREMENTIONED OFFENSES. AT THIS PRECISE MOMENT JUDGE _____ TURNED TO _____ AND UTTERED THE FOLLOWING EXCLAMATION: "WELL, IS HE A WETBACK"? "AND, WHAT DOES JUDGE _____ DO WITH THESE PEOPLE"?

(Attach additional sheets as needed)



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NEEDLESS TO SAY, [REDACTED] WAS LEFT SPEECHLESS BY THE REMARKS MADE BY THE JUDGE. SHE WAS TAKEN ABACK BY THE COMMENTS AND THE JUDGE'S DISPOSITION THAT SHE SIMPLY DID NOT KNOW WHAT TO SAY TO HIM. SHE CONTINUED WITH A REVIEW OF THE FILES AFTER WHICH THE JUDGE BEGAN THE MORNING COURT SESSION.

JUDGE [REDACTED] CONDUCT IS IN DIRECT VIOLATION OF CANON ONE, TWO AND THREE OF THE ARIZONA CODE OF JUDICIAL CONDUCT.

UNDER THE PROVISIONS OF CANON ONE A JUDGE IS REQUIRED TO MAINTAIN HIGH STANDARDS OF CONDUCT AND PERSONALLY OBSERVE THOSE STANDARDS SO THAT THE INTEGRITY OF THE JUDICIARY WILL BE PRESERVED. A JUDGE THAT MAINTAINS INTEGRITY IN THE PERFORMANCE OF HIS JUDICIAL DUTIES IS ONE THAT PROMOTES FAIRNESS, HONESTY AND IMPARTIALITY. JUDGE [REDACTED] HAS FAILED TO OBSERVE A HIGH STANDARD OF CONDUCT AND MAINTAIN THE INTEGRITY OF THE JUDICIARY BY MAKING RACIALLY DEROGATIVE STATEMENTS AND THROUGH HIS WORDS HAS MANIFESTED A BIAS BASED ON RACE, NATIONAL ORIGIN AND CITIZENSHIP STATUS. AS A RESULT OF THIS PERSONAL AND PROFESSIONAL CONDUCT, JUDGE [REDACTED] ERODES THE PUBLIC CONFIDENCE IN THE JUDICIARY AND DOES INJURY TO THE SYSTEM OF GOVERNMENT UNDER LAW. MOREOVER, JUDGE [REDACTED] BEHAVIOR AND RELIANCE ON SUCH INSIDIOUS WORDS IN FRONT OF COURT PERSONNEL DIMINISHES THEIR CONFIDENCE IN THE JUDICIARY AND A SYSTEM OF GOVERNMENT THAT IS SUPPOSED TO BE FREE OF BIAS AND PREJUDICE.

UNDER THE PROVISIONS OF CANON TWO, A JUDGE SHALL ACT AT ALL TIMES IN A MANNER THAT PROMOTES PUBLIC CONFIDENCE IN THE INTEGRITY AND IMPARTIALITY OF THE JUDICIARY. JUDGE [REDACTED] PROFESSIONAL AND PERSONAL CONDUCT FALL BELOW THE STANDARD AS SET FORTH IN CANON TWO INASMUCH AS THE UTTERANCE OF AN INSIDIOUS AND RACIALLY OFFENSIVE WORD DEMONSTRATES BIAS AND PREJUDICE ON THE PART OF THE JUDGE WHICH PREVENTS HIM FROM MAINTAINING AN OPEN MIND IN CONSIDERING MATTERS THAT COME BEFORE HIM AS A JUDGE.

THE PROVISIONS OF CANON THREE REQUIRE THAT A JUDGE PERFORM HIS DUTIES WITHOUT BIAS OR PREJUDICE. SPECIFICALLY, CANON THREE STATES THAT A JUDGE SHALL NOT BY WORDS OR CONDUCT MANIFEST BIAS OR PREJUDICE BASED UPON RACE, NATIONAL ORIGIN OR SOCIO-ECONOMIC STATUS. IN THIS CASE, BY THE USE OF THE WORD 'WETBACK' JUDGE [REDACTED] HAS

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BY WORDS MANIFESTED A BIAS AND PREJUDICE BASED UPON RACE, NATIONAL ORIGIN AND SOCIO-ECONOMIC STATUS. THE WORD 'WETBACK' CLEARLY RELATES TO INDIVIDUALS FROM MEXICO WHO HAVE ENTERED THIS COUNTRY WITHOUT LEGAL DOCUMENTATION AND IS USED IN A MEAN SPIRITED WAY TO DISTINGUISH US CITIZENS FROM NON - US CITIZENS FROM MEXICO. JUDGE [] HAS USED THE WORD TO IDENTIFY A GROUP OF INDIVIDUALS BASED UPON THEIR RACE AND NATIONAL ORIGIN. AS A CONSEQUENCE OF THIS BEHAVIOR, JUDGE [] IMPAIRS THE FAIRNESS OF COURT PROCEEDINGS AND BRINGS THE JUDICIARY INTO DISREPUTE.