

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 08-030

Complainant: No. 1327410696A

Judge: No. 1327410696B

ORDER

The commission reviewed the complaint, listened to the recording of the hearing and found no ethical misconduct on the part of the judge. Therefore, the complaint is dismissed pursuant to Rules 16(a) and 23(a).

Dated: March 27, 2008.

FOR THE COMMISSION

\s\ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on March 27, 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-08-030

COMPLAINT AGAINST A JUDGE

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.

Sixth Amendment to the United States Constitution

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defense."

Eighth Amendment to the United States Constitution

"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."

Arizona Rules of Court - Rule 81. Arizona Code of Judicial Conduct

Canon 2. A Judge Shall Avoid Impropriety and the Appearance of Impropriety in All of the Judge's Activities

B. A judge shall not allow family, social, political or other relationships to influence the judge's judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge shall not testify voluntarily as a character witness.

Canon 3. A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently

B. Adjudicative Responsibilities.

(4) A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, and of staff, court officials and others subject to the judge's direction and control.

(Attach additional sheets as needed)

The morning of _____, I went with
(Defendant) to the _____ Municipal Court
The Defendant needed to be seen on a 2004 outstanding warrant for failure
to appear, driving on a suspended license, and two civil traffic citations. I
went with the Defendant because he is disabled. He had been pronounced
dead on three different occasions in _____ after having a massive
heart attack and stroke. The Defendant lost oxygen to his brain for several
minutes on at least one occasion, which resulted in memory loss. He did
not remember having tickets or a warrant in the _____ Court.

She did not communicate effectively with the Defendant. She did not make
sure the Defendant understood the proceedings. She did not listen to the
Defendant trying to advise her that he had a disability. She put an
excessive bond on the Defendant even though he voluntarily appeared in
court to resolve the outstanding warrant. She also denied him lawful
representation. When the Defendant told Judge _____ he had died,
Judge _____ proceeded on with the hearing and advised the
Defendant he was under arrest. The Defendant had no idea of what
happened during the hearing. The Defendant was embarrassed and in
shock.

I tried to inform Judge _____ of the Defendant's disability. She told me
I was out of order. She would not let me speak. The second time she
acknowledged that she recognized me, but said I could not speak on the
Defendant's behalf unless I was going to tell her that he has been
"declared incompetent." Why would she ask me that if she did not think
there was something wrong with his demeanor and behavior?

The Defendant was being seen for a traffic citation, not a crime involving victims, or driving under the influence. The very next defendant seen by Judge [redacted] that day failed to appear because she was receiving medical treatment. That Defendant was able to advise Judge [redacted] of her disability and was released on her own recognizance. In fact, every other defendant that walked in on that day to be seen on their warrant was released on their own recognizance. This includes defendants being seen for crimes involving victims and driving under the influence charges.

Judge [redacted] knows me. She worked as a prosecutor with the [redacted]. She knows Defendant and I have [redacted] that have grown up in this community. She knows that I have been living in this area longer than she has lived here. Given all that, when the Defendant's answer to her question, "Do you have any ties to the community?" is "No", would that not make her wonder what the Defendant is talking about? She knew we lived in [redacted] because she was involved with the prosecution of a case in which the Defendant was a victim of theft in [redacted]. If she did not remember the Defendant or me why would she ask the Defendant if his address is in [redacted]?"

Judge [redacted] advised the Defendant that driving on a suspended license is a class 1 misdemeanor punishable by a maximum of three years probation and six months in jail. At one point, Judge [redacted] advised the Defendant of his constitutional right to an attorney. When the Defendant asked for an attorney to be appointed Judge [redacted] advised Defendant that he was not entitled to a court appointed attorney because "you are not facing jail time on these charges". Judge [redacted] had just advised him that he could get up to six months in jail. Is that not jail time?

Judge _____ sets a bond because the Defendant has been "outstanding on a warrant for 3 years, has no current employment, no ties to the community." I know of no reason why he did not take care of his warrant sooner. He should have, but we walked in on that day to do just that. He is not employed because he is disabled. He has several ties to the community. Had Judge _____ taken the time to listen, look at the documentation we had, maybe ask the Defendant why he did not support himself, or even wonder why she is telling me I cannot speak unless he has been found incompetent, she might have realized the Defendant is disabled.

On _____ Judge _____ entered an order dismissing docket _____ & failure to appear with prejudice. In that order the court states, "The defendant's "care giver", also identified to this Court by defendant as his girlfriend, is not an attorney and has not been appointed as defendant's guardian." Since Judge _____ was not in the courtroom on _____ I can only assume that this incorrect set of facts came from Judge _____. I may have been defendant's "girlfriend" at one time, but I take offense to both judges identifying me as that now. Also, neither judge is aware of what steps were being taken on the Defendant's behalf by his family.

After entering the dismissal order _____, Judge _____ held a hearing _____. Is that not a violation of his rights? Can you hold a hearing on a dismissed case? Regardless of that issue, I was with the Defendant at the _____ hearing. Judge _____ stated it would have been nice to know the information regarding the Defendant's disability at the hearing on _____. I was with the

Defendant on _____ to provide this information and twice I was told that I was, "out of order" and that I could not speak. I was with the Defendant because he is unable to understand much of what happens to him and he can not communicate that. I had the same documentation on that day when the Defendant was denied a release on his own recognizance and denied an attorney. I was there to provide the information needed by a judge, but was unable to do so because Judge _____ refused to allow me to speak or hand her the documents. It was very disappointing to have Judge _____ state is would have been nice to know information when the Defendant cannot explain that himself and no one with him is allowed to do so.

I have worked at the _____ . I have been in justice courts and superior courts during those years in the performance of my job. When in courtrooms, I have seen people speak that were not subpoenaed, and I have heard judges ask for input from people in the courtroom. I have never seen a judge on the bench display such rude and demeaning behavior as Judge _____ did on

I spent the rest of that day on _____ trying to get money together to bond the Defendant out of jail. I could not believe he was handcuffed and transported to jail. He had never been to jail in his entire life. I could not leave the Defendant in jail with his heart condition. Since I have worked at the _____ there have been times I have personally received calls from _____ jail personnel requesting assistance in releasing defendants requiring medical attention. It is difficult

for jail staff to care for and monitor disabled defendants due to overcrowded conditions at the jail.

In this situation I only tried to do the right thing. Once I became aware of the Defendant's warrant I told him he must take care of it and took it upon myself to get him to the Municipal Court. During the hearing the Defendant stated twice he did not remember why he did not take care of his warrant sooner.

I cannot believe how we were treated that day at the Court. I was basically told I was out of order and felt I would have been arrested if I continued to try to speak. I have seen people released on their own recognizance for serious crimes involving victims and serious drug and alcohol charges, yet this traffic citation requires a bond to insure further appearance? I still cannot believe I was a witness to this.

Judge behavior was shocking and disappointing. I only wanted to be treated fairly. The last thing I want to do is be involved in a judicial complaint, but I feel that I am not the only person that has witnessed this type of behavior or has been treated unfairly.

The Defendant was unable to articulate his disability. Judge abused her discretion and power by putting an excessive bond on the Defendant and denying the Defendant his right to court appointed counsel. Judge violated his constitutional rights.