

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 09-014

Complainant: No. 1353700609A

Judge: No. 1353700609B

ORDER

The commission reviewed the complaint filed in this matter and determined that the judge's actions did not merit a reprimand, but instead voted to dismiss the complaint with a private comment to the judge.

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

Dated: April 7, 2009.

FOR THE COMMISSION

\s\ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on April 7, 2009.

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

CONFIDENTIAL

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

Complaint continued:

On 12/19/2008 plaintiff, _____ was arrested on a charge of domestic violence-
assault against defendant, _____. On 12/22/2008 plaintiff sought and received
an Order of Protection against defendant, _____ who requested a hearing to
quash the protective order. The hearing was held on 12/29/2008. The Order of Protection
was affirmed with one modification. The order will be appealed.

At the hearing the judge pro tem, _____ erred in the following areas.

- 1) Judge _____ failed to ascertain that the plaintiff in this matter was the suspect in
the domestic violence incident leading to her petition.
- 2) At the open hearing to quash the Order of Protection, plaintiff was sworn in and
gave incriminating testimony without a Miranda warning by the judge nor had she
counsel present thereby jeopardizing the impending criminal trial.
- 3) The defendant, _____ was not afforded the opportunity to opt for a
jury trial, question his accuser nor call witnesses to his defense of which both
were present.

Judge _____ actions potentially taint the plaintiffs right to a fair trial regarding the
assault charge. Without an ability to confront the plaintiff and call witnesses the
defendant was erroneously held to be a danger to the plaintiff, which is exactly the
opposite of what the outcome should have been.

CONFIDENTIAL

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

Complaint continued:

On 12/19/2008 plaintiff, _____ was arrested on a charge of domestic violence-
assault against defendant, _____ On 12/22/2008 plaintiff sought and
received an Order of Protection against defendant, _____ who requested a
hearing to quash the protective order. The hearing was held on 12/29/2008. The Order of
Protection was affirmed without modification. The order will be appealed.

At the hearing the judge pro tem, _____ erred in the following areas.

- 1) Judge _____ failed to ascertain that the plaintiff in this matter was the suspect in
the domestic violence incident leading to her petition.
- 2) At the open hearing to quash the Order of Protection, plaintiff was sworn in and
gave incriminating testimony without a Miranda warning by the judge nor had she
counsel present thereby jeopardizing the impending criminal trial.
- 3) The defendant, _____ was not afforded the opportunity to opt for a
jury trial, question her accuser nor call witnesses to her defense of which both
were present.

Judge _____ actions potentially taint the plaintiffs right to a fair trial regarding the
assault charge. Without an ability to confront the plaintiff and call witnesses the
defendant was erroneously held to be a danger to the plaintiff, which is exactly the
opposite of what the outcome should have been.