

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 09-161

Complainant: No. 1365210808A

Judge: No. 1365210808B

ORDER

The commission reviewed the complaint filed in this matter and decided to dismiss the case with a confidential advisory letter. The judge should have responded promptly to the complainant's concerns and immediately corrected the problem. The complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: December 1, 2009.

FOR THE COMMISSION

 \s\ William Brammer
J. William Brammer, Jr.
Commission Chair

Copies of this order were mailed to the complainant and the judge on December 1, 2009.

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

MEMO

TO:

FROM:

JUN 24 2009

SUBJECT:

DATE: June 22, 2009

During the course of an operational review (August 2008), reviewers were advised that Judge _____ Municipal Court is also the city attorney/prosecutor for three nearby towns (_____) in the same county. This was confirmed by Judge _____ during the review.

Judge _____ reported to the reviewer that on occasions where a conflict may be present, he advises the parties of such conflict and solicits their decision regarding whether they wish to proceed with him presiding as the judge. Judge _____ reported that even when the parties agree, if he believes the conflict is too questionable, he will recuse himself from the case.

Judicial Ethics Advisory Opinion 95-08 which supplements Judicial Ethics Advisory Opinion 94-08 concludes that government lawyers may not serve as judges citing:

- Canon 1 "A judge shall uphold the integrity and independence of the judiciary.",
- Canon 2 "A judge shall avoid . . . the appearance of impropriety in all of the judge's activities.", and
- Canon 4A "A judge shall conduct all of the judge's extrajudicial activities so that they do not: (1) cast reasonable doubt on the judge's capacity to act impartially as a judge.. ...")

Opinion 95-08 states in part, "our analysis leads inevitably to the conclusion that an assistant attorney general or assistant county attorney, both employees or counsel for state government, cannot act as judges pro tempore in any matter in which the state or any of its political subdivisions or agencies is a party."

Attachments

cc: