

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 09-274

Complainant: No. 1374910530A

Judge: No. 1374910530B

ORDER

The commission reviewed the complaint filed in this matter and found no ethical misconduct on the part of the judge. The issues raised involve legal and procedural matters outside the jurisdiction of the commission. Therefore, the complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: January 15, 2010.

FOR THE COMMISSION

 /s\ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on January 15, 2010.

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

October 1, 2009

I am writing this complaint against Judge _____ . He was my judge in my case filed June 11, 2009 case no. CC _____ in Maricopa County Northwest Justice Court.

Let me first tell you that my husband is active Army and currently deployed to Iraq.

On June 11, 2009 _____ our previous landlord filed a forcible detainer action for non-payment of rent and possession of the rental unit against my husband and I. A hearing was set for June 17, 2009. On June 15, 2009 I requested a stay and attached a copy of my husbands military orders indicating that he was in the United States Army and had been mobilized in support of Operation Iraqi Freedom. The court granted a stay under the Servicemembers Civil Relief Act. Nonetheless a status conference was set for July 13, 2009 and a trial set for July 21, 2009, even though the judge was aware of our situation of my husband deployed. My husband and I had not been able to obtain legal representation by the trial date and requested a continuance of the trial. This court denied the continuance. A default judgment was entered against us on July 22, 2009 by _____

We were never notified of the judgment and therefore were not given the opportunity to appeal it. Furthermore no attorney was ever appointed for my husband and I, so we were unable to assert counterclaims such as wrongful conversion and violations of the Servicemembers Civil Act.

During the pendency of this action since my husband was deployed he was unable to represent himself. I asked judge _____ many times if he could please appoint us an attorney and he said NO. Judge also stated he frowned upon Servicemembers and their families who use the Servicemembers Relief Act to protect them. Isn't why this Act was created? To help us while our loved ones are fighting for our country? And away from their families? He refused to help me in anyway and tried to pressure me into a trial that day. I declined.

Under 50 U.S.C. App. Section 521, when a judgment or adverse ruling is sought against a party who has not made an appearance, the moving party MUST file an affidavit of military service including "necessary facts to support affidavit". If the court determines that the other party is in fact in the military, then the court may NOT enter a default judgment against the Servicemembers without appointing an attorney or the judgment is voidable. Judge _____ refused to appoint us attorney and continued to pass judgment without the affidavit.

Furthermore I requested a stay under the Servicemembers Civil Relief Act which would have been "a period of not less than 90 days". The judge lifted the stay just after the 30 days and evicted us.

Finally, under 50 U.S.C. App. 531 (a), a landlord may not evict a Servicemember in military service or his dependants from a rented home if the rent is less than \$2800 or less per month. In a case where a landlord seeks a court order for eviction of a Servicemember or families and dependants the court is obligated to stay the proceeding up to three months if the Servicemember requests it.

Anyone who knowingly takes part in the eviction is in violation of 531 can be punished by imprisonment up to 1 year, a fine, or both.

I am requesting that you please take this matter seriously. It is a shame when a soldier goes to fight for our country and a judge can violate the law and kick their family out on the streets. Any help in this matter is greatly appreciated.

CJC 09-274

You can contact me

With any questions that you might have.

Please keep my address and phone confidential because I have an Injection Of Harassment in enforce with one of the involved parties.

Sincerely,