

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 09-315

Complainant: No. 1379310836A

Judge: No. 1379310836B

ORDER

The complainant alleged that two judges demonstrate their bias in cases involving photo enforcement violations by ruling in favor of the city without providing any rationale or explanation. The commission reviewed the complaint and found no evidence of ethical misconduct on the part of the judges. The complaint is dismissed pursuant to Rules 16(b) and 23.

Dated: March 12, 2010.

FOR THE COMMISSION

 \s\ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on March 12, 2010.

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

My specific complaint is that Judge _____ and Judge _____ failed to adhere to Canon 3 of the Arizona Code of Judicial Conduct -1993 as amended on June 8, 2008 which states, "A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY AND DILIGENTLY" in the hearing and handling of my red light photo enforcement traffic violation case. Their actions and rulings taken in toto demonstrate a clear bias for the City of Tucson when dealing with photo enforcement traffic violations. I feel this bias in favor of the City is resulting in the Judges to being unfairly prejudiced to the point of prejudgment against any citizen who is unfortunate enough to be photographed by the new system.

In the case of Judge _____ this demonstration of bias begins outside of the her Court with the people at the Court help desk who flatly told me that I didn't have a prayer of winning a case with this Judge and laughed. The comment was that no one had successfully argued a case of this type in front of her. This was followed by the Officer representing the City who horse-collared me before the hearing to try to convince me to go to traffic school versus arguing my case before Judge _____ leaving me with the clear impression that you can't win a case with this Judge. Prior to the hearing, the Judge asked if I was talked to about the traffic school option. This struck me as disconcerting because the traffic school option was discussed in detail with the violation that came in the mail. I was there to argue my case in front of the Judge and didn't need to be pushed towards the traffic school option. In the conduct of the hearing, it was became obvious to me that since I was not a lawyer that I didn't have much of a chance of successfully arguing why I shouldn't be held responsible. After my opportunity to ask questions of the Officer and testimony she quickly ruled in favor of the City without the Courtesy of rationale and/or explanation on her part. I guess that's her prerogative but as an aside, I'm now 63 and spent 39 years with the military in one fashion or another and been assigned overseas several. I came away with thinking the experience was akin to being in a third-world country somewhere. The Judge did not instill confidence in me that she unbiased in her decision making.

I realize that the above comments, while disturbing to me personally, are mostly process oriented and a bit of hearsay. The comments taken by themselves do not form the main basis for my bias complaint. The real guts of my complaint is that the City of Tucson, as represented by Officer _____ was allowed to not tell the truth 2 times during the hearing/Appeal and get away with it. In the first instance, I pointed out to the Appeals Court that the City was incorrect in the numbers it used to show my speed and approach to the intersection with the red light cameras which is important to know so that stopping distance can be considered. It's also important to note at this point that my whole case for arguing that I was not responsible was based upon what happened to me PRIOR to the photo enforcement video beginning. With this in mind and in the second instance of not being truthful, the City as represented by Officer _____ stated that they didn't know what occurred prior to the video starting. I provided proof by way of a local TV station news story to the Appeals Judge showing that this simply was not true. The City did have video available that would have been critical in helping to make my case of not being responsible before Judge _____ I had asked for this video as soon as I got notification from the City of a violation from the violation issuing Officer, Officer _____. He said there was no such video which was wrong (another lie by the City). The Appeals Judge basically ignored my arguments to reverse the lower Court finding based upon the City not being truthful about the video via a footnote in his opinion back to

me. Why is this video important? I'd like to answer the question by referring you to the attached picture of President Obama and French President Sarkozy that was in the news recently. The picture by itself would appear to show one reality when the video (please see this link <http://abcnews.go.com/video/playerindex?id=8049121>) shows a completely different reality! Had the City made the pre-violation video available to me, I would hope that I would have had a great chance of proving my case and being found not responsible for the violation by showing a different reality than the City of Tucson portrayed.

I wonder how many photo enforcement cases being argued at Traffic Court by private citizens (i.e., without lawyers involved) are found in favor of the red light camera. My intuition tells me that it's either at 100% or darn close. In my humble opinion, the photo enforcement system is taking the Judge's "judgment" out of the equation and injecting a very strong and built-in bias for the City and against the public. I believe my case highlights the existence of this bias. Judges would appear to be taking the easy route out and determining that everyone is guilty because camera says so. This is not the way it should be. Last time I looked, the blindfold on the Lady Justice that's on my bookshelf covers both eyes. Elsewhere in Pima County, it would appear that if you look close that one eye is peeking out from under the blindfold and winking at the City of Tucson.

As a non-lawyer (thankfully), I got a headache reading all the legalese fired my way in the Appeals Judge's ruling supposedly justifying the lower court finding. Despite this, it would seem to be a real simple issue to me in that if you, the City as represented by Officer [redacted] lie about the information that you have available which is important and relevant to proving my case then the Judge should rule in my favor or at least throw the whole thing out. What in the world am I missing here? The answer is obvious in that I didn't account for the bias! By the way, I'm guessing that Officer [redacted] probably had no knowledge of additional video beforehand but as the representative of the City he should have.

I respectfully request that the Commission on Judicial Conduct look into my complaint and if found to have validity to take the appropriate action necessary, even if it's hard, to fix the reality and/or perception of bias on the part of the two Judges named in my complaint plus review if the City and/or State have a systemic problem in this regard.

Please feel free to contact me at [redacted] (cell) should you have any questions. I look forward to hearing your response.

November 11, 2009

1 atch - Picture