

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 10-129

Complainant: Lucian Lupea

Judge: Bruce Burnham

ORDER

After reviewing the complaint, the evidence gathered during preliminary investigation, and the judge's response, the Commission on Judicial Conduct finds that Judge Burnham's conduct in this case violated the Code of Judicial Conduct.

Rule 2.5(A) of the code requires that a judge perform judicial and administrative duties competently. In this instance, the judge did not require his staff to use proper bond envelopes, which resulted in the improper suspension of the complainant's commercial driver license and the subsequent detainment of the complainant in another state. When confronted with the consequences of the legal error, the judge initially advised the complainant to hire an attorney to resolve the situation rather than taking appropriate steps to resolve the problem in his court.

Accordingly, the judge is hereby reprimanded for his conduct pursuant to Rule 17(a), and the record in this case, consisting of the complaint, the judge's response and this order, shall be made public as required by Rule 9(a).

Dated: August 19, 2010.

FOR THE COMMISSION

\s\ William Brammer

Hon. J. William Brammer, Jr.
Commission Chair

Copies of this order were mailed to the complainant and the judge on August 19, 2010.

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

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32Circumstances: I own and operate a semi-truck and transport autos coast to coast. On 4/1/2010 I was stopped by an officer in Apache County in Sanders, AZ on I-40. I was not able to locate my insurance certificate. I do have insurance and always did just at that time was not able to locate the proof of insurance to show the officer. Therefore, I was cited with Section 28-4135c ARS for Failure to Produce Evidence of Financial Responsibility. My hearing date was set for 4/22/2010. Once I got home, my wife Leanna Lupea who is co-owner of our business and handles most office documents called Sanders Court and asked for the fee to submit together with the proof of our insurance. She talked to Carol who told her the amount that was mailed certified mail and received by the court on 4/19. Thereafter, Leanna called the court on or around 4/20 to verify that they in fact received our fee and proof of our insurance. Carol assured her that they did and everything was clear. Dur

ing this time I have made trips back and forth from AZ to the east coast. On May 2, 2010 I was stopped by the Maryland highway patrol; I provided them with all our documents registration and proof of insurance. Maryland police told me that their system shows that AZ MVD had reported my tags have been suspended on 4/19 and that my insurance was cancelled on 4/7/2010. Even though I had given them proof that we have insurance and always had insurance never lapsed and proof of our registration they refused to take it in consideration and orderd me to have my truck towed to the nearest truck stop and cited me for driving vehicle on highway with suspended registration and driving uninsured vehicle to which I had to appear in court within 3 days. May 2, 2010 being a Sunday I was not able to contact MVD until next day May 3, 2010. I being stuck in a truck stop in Maryland had my wife in Arizona go to MVD to find out why my tags were suspended. Once my wife contacted MVD they t

old her that on 4/19/2010 Sanders Court orderd our tags to be suspended for not having insurance. She explained to them that we always had insurance and that we had provided the court with proof of our insurance. MVD told her to call Sanders Court so they could order MVD to clear our record. She called Sanders Court talked to Lucinda who said will have the judge prepare the proper documnt and fax it to MVD. On May 3, 2010 Sanders Court ordered MVD to clear the suspension on our tags. At this time, I need a certification from MVD or Sanders Court that states that from 4/19/2010 through 5/3/2010 and especially on 5/2/2010 when I was cited in MD my tags should have not been suspended and that insurance has always been in effect. I have documentation from our insurance company stating that we never lapsed our insurance coverage. Leanna has made numerous calls to MVD talked to Klem Web and Abram Corona who tell her that they cannot furnish such a document; Abram said on 5/

7/2010 that he cannot furnish a document that states the period from 4/19 through 5/3 that our tags should have not been suspended and to talk to Judge Burnam and Sanders Court. During these conversation Leanna has been talking to Judge Burnam who initially said that someone dropped the ball; after a couple of phone calls Judge Burnam refuses to discuss the case and tells us to obtain an attorney. We asked him that we'd like to solve this amicably and all we need is a document from him to be sent to us or to MVD stating that our tags should have not been suspended on 4/19/2010 and that we had proper registration and insurance during this time and especially on 5/2/2010. We told him that we need this document to furnish to the MD Court on our trial date which is set for 7/21/2010. We have documentation

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with proof that we have done everything according to law. I need your help in solving this matter and eventually obtain reimbursement for all the damages caused by this mis take.

33complain_yn: Yes

34ComplaintResponse: Advised me to get an attorney; I did speak to an attorney who advised me to try and obtain this certification myself to save attorneys fees which is a wise advse. Unfortunatley Judge Burnam does not think that. He did say that he asked one of his coleages a Judge in the Justice Court system for their opinion and that he will not talk to me anymore until he hears from his colleague.

35warranty_yn: Yes

36sign_yn: No

37Trans_Date_Month: May 0

38Trans_Date_Day: 01 0

39Trans_Date_Year: 2010

40Trans_Place: highway

41Damages: 590

42SalesPerson: Judge Burnam

43Witness: Lucinda and Carol

44ad_yn: No

45Advertised:

46attorney_yn: No

47Attorney:

48action_yn: Yes

49Agencies: MVD

Klem Web and Abram Corono

50Comments: I am also sending this case to Channel 3 on Your Side.

51Name: Lucian Lupea

52Date: 05/07/2010

submit: Submit



Constable
Ann Messerer

Chief Clerk
Winona Ethelbah

Honorable R. Bruce Burnham

Puerco Precinct Justice Court
P.O. Box 610
Sanders, Arizona 86512
Ph # 928.688.2954/2729
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Court Clerk
Isabel Six
Carole Benally
Lucinda Attakai

June 1, 2010

JUN 04 2010

Honorable Members
Commission On Judicial Conduct
1501 W Washington St, Suite 229
Phoenix, Az 85007

Re: Case No. 10-129

Dear Members:

Thank you for your quick response to the above mentioned case. Being new on the bench I was a little bit reluctant to go any farther with a dialogue with Ms. Lupea as it was getting out of hand. I was a little worried that I shouldn't have been involved at all as she was not the defendant in the case. Be it as it may, I too am interested in seeing justice served. Being the presiding Judge in this court I accept the full responsibility for not only my actions but that of my clerks as well.

I agree with Mr. Lupea that he should not have had his CDL suspended and had his wife just sent the fine for the ARS 28-2153A along with the proof of insurance this mix-up would not have happened. As it is Carol, who is our lead clerk at the front desk who has first contact with the public, answers the phones, and opens the bond envelopes, and upon opening Ms. Lupea's envelope applied the fine amounts to their proper places, entered a disposition code 12 and thought the case was closed. Needless to say, with the electronic filing, when we entered the disposition of the case as a 12 MVD automatically suspended Mr. Lupea's CDL thus setting into motion the events that took place. With my lack of experience, and I'm not using that as an excuse, I wasn't sure I needed to be giving Ms. Lupea legal advice. I thought an appeal was the more appropriate solution. We did however send a court abstract to MVD asking that the CDL suspension be lifted, which it was, but not in time to alleviate what had just transpired.

It is apparent that the fault does lie with our court and ultimately with me. I think that the accusation that I was not open to an amicable solution is farfetched to say the least. Ms. Lupea was very upset and hard to talk to, which I understand and sympathize with.

Respectively Yours,

R. Bruce Burnham
Judge Puerco Justice Court