

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 10-209

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Complainant: Bryan Whitney

Judge: Clyde Andress

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**ORDER**

After reviewing the complaint, the recording of the hearing, and the judge's response, the commission finds that the judge's conduct in this case violated the Code of Judicial Conduct.

Rules 1.1, 1.2, 2.2, 2.3, and 2.8 of the Code of Judicial Conduct require judges to comply with the law, promote confidence in the judiciary, perform all judicial duties fairly and impartially, and to be patient, dignified, and courteous to litigants and others with whom the judge deals in an official capacity. In this case, an attorney alleged that the judge demeaned and yelled at his client and improperly set a high bond to punish him for crying. The attorney further alleged that in a subsequent, unrelated, proceeding the judge referred to his client, in front of the entire courtroom, as "that crybaby." The recording of the hearing substantiated that the judge displayed a clearly improper demeanor and abused his authority in attempting to alter conditions of release without providing notice to the parties or otherwise following procedure. The allegations, coupled with the judge's disciplinary history, would have warranted formal charges except that the judge is no longer on the bench.

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: March 18, 2011.

FOR THE COMMISSION

/s/ Louis Dominguez

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Louis Frank Dominguez  
Commission Chair



2010-209

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August 19, 2010

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

RE: Complaint against Judge Clyde Andress Lake Havasu City Municipal Court

Dear Sir or Madam:

This complaint is in reference to Judge Andress' actions on September 17th 2009. In my opinion Judge Andress violated the following canons of judicial ethics:

1. Canon 3(b)(4) "A judge shall be patient, dignified and courteous to litigants."
2. Canon 2(a) "A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."
3. Canon 1 "A judge should participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved."

This office represented Richard A. Chavez who was charged with a misdemeanor criminal offense in the Lake Havasu City Consolidated Court. The representation began in November of 2009. Mr. Chavez was released on his own recognizance and then scheduled to appear to accept

a plea agreement and be sentenced on 9/17/09. Mr. Chavez had not retained counsel at this point and appeared at the hearing in propria person along with Assistant City Attorney Charles Yager.

The change of plea proceeding began at 9:04:18. *See attached audio recording.* During the ensuing change of plea hearing Judge Address expressed his disagreement with the terms of the plea agreement, and demanded to know why Mr. Chavez was not going to jail. *See attached audio recording minute 9:06:37.* Assistant City Attorney Charles Yager attempted to offer an explanation and justify the terms of the agreement, however was cut off by Judge Address who stated in part "I don't care about his career if he wants to act up in Court, I'm not gonna accept your agreement this week. You come back next week, I'm gonna decide if you get 10 or 15 days." *See attached audio minute 9:07:00.* It should be noted that Mr. Chavez had done nothing out of order or disruptive during this proceeding. Judge Address was most likely referring to the underlying charges which alleged that Mr. Chavez disrupted a Court proceeding before a different Lake Havasu City Judge. (Those charges were ultimately dismissed, *See attached order of dismissal*). Judge Address went on to say "You wanna disrupt Court you're not going to do it in Mohave County step out front and behave yourself" Judge Address' voice was raised and his tone was very condescending. *See attached audio minute 9:07:18.* Mr. Chavez tried to offer an explanation and stated "I didn't interrupt you sir." Judge Address fired back "sit down I'll have somebody come get you today. Sit down right here. You now have a \$10,000 bond. Sit down right over here." Richard Chavez begins to sob and in response Judge Address states "\$12,000". *See attached audio recording minute 9:07:27* Judge Address then further antagonized Mr. Chavez stating "keep making noise" referring to the fact that Mr. Chavez was crying in front of a crowded court room. *See attached audio minute 9:07:42.* Judge Address then orders Court personnel to remove Mr. Chavez and have him brought to jail. Once Mr. Chavez is removed from the Court room he can be heard crying in the background, to which Judge Address laughs and states "is that, that cry baby" in front of a crowded Court room of attorneys, defendants, and other interested parties. *See attached audio minute 9:11:08.*

While any Judge is free to reject the sentencing limitations of a plea agreement, Judge Andress' conduct in this proceeding was unnecessary and unprofessional at best. In addition to violating the cannons mentioned above with his rude and discourteous comments to Mr. Chavez, Judge Andress abused his position of power to manipulate the outcome he desired. Judge Andress was angry that this case was not going to result in the jail time he thought was appropriate, so he manipulated the situation to impose the jail time he wanted. Judge Andress inappropriately and without authority modified Mr. Chavez's conditions of release and had him taken into custody in the Court room because Judge Andress thought he belonged in jail and Judge Andress wanted to make a point. There were no new facts impacting release conditions presented by anyone in the Court room, and there were no facts to support, nor any finding of contempt. The series of events in Court demonstrate that Judge Andress believed jail was appropriate and regardless of any authority to do so he placed Mr. Chavez in custody. Understandably Mr. Chavez begins to sob and a wrathful Judge Andress responds by increasing the bond amount and taunts Mr. Chavez in front of a crowded Court room essentially daring him to continue to cry. As if that was not enough, in the middle of an unrelated proceeding Judge Andress can hear Mr. Chavez crying and Judge Andress sees fit to make fun of Mr. Chavez some more by calling him a cry baby. Not only did Judge Andress abuse the powers of the bench he did so by subjecting Mr. Chavez to unlawful incarceration and public humiliation. I urge the Commission to review the attached paperwork and audio recordings and find that Judge Andress violated the Cannons of Judicial Ethics.

If you have any questions or concerns, please contact my office.

Sincerely

**Judge Andress did not file a response.**