

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 10-251

Complainant: No. 1402010884A

Judge: No. 1402010884B

ORDER

The complainant alleged that an elected candidate for justice of the peace violated laws and used misleading language in some of his campaign materials. After analyzing all of the allegations along with the response from the judge, the commission found no ethical violations regarding most of the issues raised and decided to dismiss the complaint with a private advisory to the judge regarding Rule 4.3(D) of the code. The complaint is dismissed with comments pursuant to Rules 16(b) and 23.

Dated: April 18, 2011.

FOR THE COMMISSION

Louis Frank Dominguez
Commission Chair

Copies of this order were mailed to the complainant and the judge on April 18, 2011.

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

is a candidate for Justice of the Peace in the Apache Junction Justice Court, Pinal County JP Precinct 7. On March 3, 2010, filed a statement of organization with the Pinal County Elections Department, took out nominating petitions and sent out a press release. Any of those actions would constitute being a candidate for judicial office and subject him to the Arizona Code of Judicial Conduct according to Canons 1 and 4.

Violation 1

At the time, was a covered employee of the Arizona Department of Corrections. ARS 41-772 provides that it is a class 1 misdemeanor for a covered employee to become a candidate for a paid public office. Because he was a covered employee, none of the exemptions in 41-771 apply. A copy of a newspaper article (*AJ News*, March 8) printed as a result of the press release is enclosed. The same article can also be found by going to *ajnews.com* and looking at "archives" at the bottom of the home page.

The newspaper published another (enclosed) article (*AJ News*, March 15) pointing out that was ignoring state law. denied his responsibility to resign by saying that he is not a candidate until he turns in his nominating petitions, which is patently false. The resulting public clamor resulted in the Director's office of the AZ DOC hearing about the violation and was forced to resign. The newspaper published a follow up article (*AJ News*, March 29) which is enclosed.

This conduct was a violation of Canon 1, Rule 1.1, and comment 5.

Violation 2

In press release (*AJ News*, March 8, and in other publications), he identified himself as a "COIV or Captain" at the AZ DOC. In fact he is a Correctional Officer 4 in the Programs Division of AZ DOC and there is no such thing as a captain in the Programs Division. While a CO 4 is at the same pay as a captain, the rank is not captain. The use of the description of "COIV" rather than CO 4 is carefully designed to make the unaware reader think that "COIV" is an acronym for a four word title including "captain." This is clearly misleading for potential voters.

This conduct was a violation of Canon 4, Rule 4.3 A and F.

Violation 3

has put up banners and printed tee shirts that read " Justice of the Peace." There are pictures of these signs and tee shirts available on his website, " " Nowhere does he use the words "for, elect, or vote." This tactic is carefully designed to mislead the voters into believing that he

is the incumbent. While he does not use the honorific title of "Judge," the misrepresentation is the same.

On August 14, 2010, [redacted] wore a tee shirt suggesting that he was the incumbent to a bowling tournament fund raiser for the Boys and Girls Club. A copy of a photograph him wearing that tee shirt that day is enclosed. The following day, a big "Meet the Candidates Night" was held at the Pinal County Complex in Apache Junction. [redacted] brought his father to the event and his father was wearing an identical shirt. On election day, [redacted] was greeting voters at the Combs School on Combs Road in San Tan Valley, wearing the tee shirt again, and later in the day his wife joined him wearing the same identical shirt.

This conduct is an ongoing violation of Canon 4, Rule 4.3 A, D and F.

Violation 4

On [redacted] campaign website, as of today's date, in the "about" section, he claims, "[redacted] is a COIV (same rank as Captain)... A copy of that page is enclosed. In addition to the misrepresentation about being the same rank as Captain listed above, he claims that he "is" still a CO 4. Either he was not candid about quitting the AZ DOC and he is still violating Arizona's Little Hatch Act, or, he is claiming to have a job that he does not have.

This conduct is an ongoing violation of either, Canon 1, Rule 1.1, or Canon 4, Rule 4.3.

Violation 5

Candidates are required by state law to report all contributions and expenditures during their campaign. In his report [redacted] lists expenditures for signs that he has put up alongside roads throughout the precinct. However, he lists no expenditures for the sign posts that are holding up the signs. Looking at the signs when they were first put up, it was plainly apparent that the posts were used and not new. It is obvious that his brother, the Pinal County sheriff, either loaned or donated his sign posts to [redacted]. Yet there is no "in kind" donation or loan to [redacted] campaign. That is a criminal violation of election law.

Moreover, [redacted] brother, [redacted] donated \$410.00 in cash to [redacted] campaign, which is the statutory maximum that an individual can donate to a campaign. Needless to say, the "in kind" donation/loan had value to the campaign which is required to be reported. Therefore, [redacted] knowingly received more than \$410.00 in contributions from his brother. That is a criminal violation of election law.

This conduct is a violation of Canon 1, Rule 1.1, or Canon 4, Rule 4.2 (A)(2).

Violation 6

On two occasions, the _____ campaign staged a public rally on two major intersections in the precinct. On each of those occasions supporters stood on each of the four quadrants of the intersection holding up a _____ campaign sign. On each occasion _____ was standing on a corner holding up a sign and on each occasion _____ brother, Sheriff _____ was there with him holding up a sign. The sheriff was wearing civilian clothes but was wearing his badge and a gun. Moreover, given his brothers hyperactive media exposure, he is readily identifiable as the Pinal County Sheriff.

For a judicial candidate use the endorsement of the county sheriff is a violation of Ethics Advisory Opinion No. 96-12.