

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 11-050

Complainant: Paul Anderson

Judge: Clancy Jayne

ORDER

After reviewing the allegations and the response filed by Judge Jayne, the commission finds that the justice of the peace in this case violated the Code of Judicial Conduct.

The record demonstrated that the judge engaged in numerous improper ex parte communications with the parties on one side of the underlying case, which he acknowledged in his response. While the judge subsequently vacated his ruling in the case and a new judge was assigned, his conduct clearly violated Rule 2.9 of the Arizona Code of Judicial Conduct and substantially impacted the underlying case. Further, although the judge was new to the bench, at the time of his numerous ex parte communications, he had served for approximately ten months and had completed all new judge training, including training on the code and specifically relating to ex parte communications. The commission thus found the judge's ethical misconduct warranted the imposition of an informal reprimand.

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: July 26, 2011

FOR THE COMMISSION

/s/ Louis Dominguez

Louis Frank Dominguez
Commission Chair

Copies of this order were mailed
to the complainant and the judge
on July 26, 2011
[Case number corrected on October 5, 2011]

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

Complaint Against A Judge, Addendum

Dated : February 18, 2011

Judge: Clancy Jayne

Trial Court :

Desert Ridge Justice Court,
18380 N. 40th Street #130, Phoenix, AZ 85032

Case No. : CC2009-536146RC (Justice Court),
LC2010-000579-001DT (Lower Court of Appeals, Comm. Eartha K. Washington)

Case Name : In Re: Livestock Lien, Newlin Happersett v. Paul Anderson

Complaint by:

Paul Anderson (Defendant) TEL: 810-730-1120
343 Old Bridge Road
Grand Blanc, MI 48439

Complaint

Judge Jayne, as recognized in the opinion of the Lower Court of Appeals which heard this case on appeal, committed a variety of errors while presiding over this case, many that were grievously serious miscarriages of due process and justice.

Perhaps the most serious of the errors was that on multiple occasions Judge Jayne took testimony and held discussions with the plaintiff and plaintiff's witnesses in defendant's absence while in session and on the record, that is, ex parte. These ex parte proceedings occurred throughout the entire hearing of September 15, 2009, and during the hearing of October 5, 2009 from the time of 11:04:40 AM until 11:07:54 AM, and from the time of 11:27:13 AM until at least 11:28:26 AM, when the video record of proceedings was prematurely terminated (court video record thereafter is missing or deleted).

Further, Judge Jayne had a duty pursuant to Rule 2.9(A)(1)(b) to notify me of the ex parte communication and to give me an opportunity to respond. I received no such notification nor opportunity to respond.

This judicial misconduct is a violation of **RULE 2.9(A) and (A)(1)(b). Ex Parte Communication, Code of Judicial Conduct.**

Throughout the proceedings held on October 5, 2009 Judge Jayne displayed a strong preference and prejudice in favor of the plaintiff.

In contrast, Judge Jayne's demeanor toward myself, the defendant, was consistently brusque and intimidating. At one point Judge Jayne told me that his September 15, 2009 judgment against me was not vacated, even though in the record there was his ruling

vacating that judgment. I felt that Judge Jayne was trying to coerce me by this demonstration of disregard for due process.

This conduct is a violation of **RULE 2.2. Impartiality and Fairness, Code of Judicial Conduct.**

In several other instances Judge Jayne committed intentional errors of law:

A. Judge Jayne summarily denied my motion to transfer to Superior Court, based upon a lack of jurisdiction when my counter-claim exceeded the jurisdictional limit of ten thousand dollars (\$10,000.00) of Justice Court. The judge has no exercise of discretion over this motion, and had a duty to cease proceedings at once and transfer the case to Superior Court.

B. On November 18, 2009 Judge Jayne summarily denied my motion "Notice Of Change of Judge" for right pursuant to ARCP Rule 42(f). Judge Jayne did not have jurisdiction over this motion, as such jurisdiction was held by the Hon. John Ore, Presiding Judge of the Justice Court.

There are video recordings of both proceedings, September 15, 2009 and October 5, 2009. In both proceedings Judge Jayne conducts proceedings ex parte. At proceedings October 5, 2009, Judge Jayne begins proceedings before allowing defendant's telephonic appearance to commence. Then after discharging defendant's telephonic appearance and after defendant departs the proceedings, Judge Jayne continues discussions with the plaintiff and his witnesses. During these discussions Judge Jayne asks the plaintiff what the horse is worth. Plaintiff Happersett stated that the livestock is worth three thousand dollars (\$3,000.00). Judge Jayne then tries to cajole the plaintiff to accept this amount as an award. On October 7, 2009 Judge Jayne issued his judgment against defendant for just that amount, three thousand dollars (\$3,000.00). It seems strongly implied that Judge Jayne's judgment was a direct result of his ex parte discussions with the plaintiff.

Also very disturbing is that the video record of the proceedings for October 5, 2009 supplied to me by the court abruptly cease at the time of 11:28:26 AM while Judge Jayne is engaging in ex parte discussions with the plaintiff and plaintiff's witnesses. This raises the question of how and why the record is incomplete and whether there may be criminal responsibility for this possible obstruction of justice on the part of Judge Jayne or on the part of another court employee(s).

ATTACHMENTS:

1. Record Appeal Rule/Remand, Case No. LC2010-000579-001 DT
2. Appellant Memoranda, Case No. CC2009-536146RC

Paul Anderson

2-18-2011
Date

Perkins, Jennifer

From: Clancy Jayne -
Sent: Tuesday, May 24, 2011 12:23 PM
To: Perkins, Jennifer
Subject: RE: response

In response to the Paul Anderson complaint:
The points of this complaint are correct and accurate and while occurred early in my service there is not excuse for this action.
Before the complaint was filed I did vacate the Judgement as that was the only action I could do to resolve the mistakes from that day. I have at my expense attended and called in trainers who have helped me see the errors of my ways. This included bring in a new Protem who is also a Glendale City Attorney with years of knowledge in the court room. I have benefited form the training from Mr. Nick DePizza.
I also have the serious benefit of three strong Judges in our building at NERCC and the key to this is knowing when to ask or a question is in order.
While I am embarrassed to the facts in this case all I could do is what I did to resolve the case which at the end of the day has stood the new trials and prevailed but with all the proper steps being taken.
My continual training is what I do to keep from sliding back into this kind of action again.
I welcome any additional training or actions the commission feels are in order.
I work hard to be sure each and every person served is respected and their rights or rights are not fully respected.
While this person had a lot of history which I did get in this tranfered case there is not excuse for mistakes made.

Judge Clancy Jayne
Desert Ridge Justice Court.