

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 11-060

Complainant: No. 1350510712A

Judge: No. 1350510712B

ORDER

The complainant alleged that a justice of the peace was rude, improperly interrupted her, and issued erroneous rulings. After considering the allegations and reviewing the video recording of the hearing, the commission found no evidence of ethical misconduct on the part of the judge. The issues generally involved legal and procedural rulings that are outside the jurisdiction of the commission. There was no evidence that the judge was rude or that she improperly interrupted the complainant. Accordingly, the complaint is dismissed in its entirety pursuant to Rules 16(a) and 23.

Dated: June 28, 2011.

FOR THE COMMISSION

/s/ Keith Stott

Executive Director

Copies of this order were mailed to the complainant and the judge on June 28, 2011.

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

Outline of Offenses of Alleged Judicial Misconduct:

January 14 – 25, 2011

HISTORICAL BACKGROUND--Constable Schmoll, &

DESCRIPTION OF JUDICIAL MISCONDUCT

I. Prior to Court (January 14 – 24)

Page 12

- A. January 14 2011 – Scheduling an IAH on January 25 when the Plaintiff's report made clear there was insufficient basis to grant the protective order.
- B. January 14 2011 – Hearing Notice omitted Required Petition
Failure to indicate on Notice of Hearing which of 3 options the plaintiff sought
- C. January 20 2011 - Allowing Constable Brandon Schmoll to phone my home when I was a defendant against 2 of his friends in an active court case. He wanted to discuss incomplete process service and urged I contact Plaintiff directly to "work things out"
- D. January 20-21 2011 - Failure to investigate reported improper conduct by her Constable
- E. January 21 2011 - Allowing a court staffer to assist Constable Schmoll's attempts to deter my filing a CESTB complaint against the Constable for ethics violations (See I-B and I-C above).
- F. January 21 2011 – JP sided with Plaintiff to deny Motion to Continue with no valid reason recorded
- G. January 24 2011 – JP sided with Plaintiff to deny Motion to Dismiss, for the second time refusing to follow ARS 12-1809-R.

II. In the Courtroom (January 25 2011 8:49am – 9:27am)

Page 19

- A. JP excuse for denying January 24 Motion to Dismiss at 8:49.27 am
- B. Repeatedly stopping my testimony
 - 1. "Politics may hurt your feelings" at 9:05.41am
 - 2. Interrupting my testimony several times to call other cases & take phone calls. Preventing my reading pertinent and brief material into the record
 - 3. reading Plaintiff petition statement: "a threatening e-mail"
 - 4. reading applicable law ARS 12-1809-R 9:17.15am
- C. Adopting role of advocate for Plaintiff
 - 1. allowing Plaintiff to submit additional surprise evidence (with no notice to me) for a last-minute attempt to meet criteria of ARS 12-1809-R.
Time 8:50 am
 - 2. defending misrepresentations and false claims (US mail, talk to me) on Plaintiff Petition as "standard" checkoff items on form when no such list exists. Time 9:07:07 am
 - 3. Verdict stated with "spin" toward Plaintiff
- D. Tirade at me for non-existent offenses, again siding with Plaintiff
Time 9:24 – 9:27am
 - 1. Evasion of accountability for her ranting accusations against me by hurriedly adjourning before identifying the "out-of-line" text.

ARIZONA JUDGES OATH OF OFFICE

"I, _____ do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution and laws of the State of Arizona, that I will bear true faith and allegiance to the same and defend them against all enemies, foreign and domestic, and that I will faithfully and impartially discharge the duties of the office of Justice of the Peace according to the best of my ability, so help me God (or so I do affirm)."

Judges are charged with adjudicating the law, and courts have established procedures for enabling them to do their job. Litigants bring cases to court, citing the event(s) and the law(s) they believe have been violated, and the judge is to decide whether or not the law has been violated and if so, implement the legally-prescribed enforcement procedures and/or punishments.

That's what judges are SUPPOSED to do. But Kyrene District Justice of the Peace went awry. When she realized that she couldn't decide in favor of her Constable and his friends (_____) because the Defendant (_____) was too knowledgeable on the cited law and would probably appeal (which I would have), JP just couldn't let it go at that.

She couldn't issue the Injunction Against Harassment that Plaintiff _____ wanted because _____ couldn't prove she was ever harassed (indeed, what Plaintiff _____ presented as "evidence" was pathetic and wasted the court's time). So JP _____ made up 2 new "pseudo-laws" and publicly berated Defendant _____ for "violating" her 2 new laws:

*"use language that would abuse or otherwise harm another person "
and
"chilling the other person's ability to participate in the political process."*

JP _____ couldn't include the Arizona Revised Statute numbers for these "laws" because they don't exist... except in the mind of JP

By "harm" or "abuse," she doesn't mean physical harm because there was ABSOLUTELY NO EVIDENCE of that in _____. The context of JP _____ pseudo-law is "language that would hurt the feelings of another person," and there is no such law—JP made it up on the spot and hoped no one would notice.

By "chilling," she doesn't mean interference—there was none. JP _____ has decided that reminding a potential candidate for elected office of their past track record might make them hesitant to run for office, or "chill their ability to participate in the political process." That's what most voters call "being accountable for past performance."

Those are the 2 pseudo-laws that JP _____ tried to apply in JP _____ couldn't use existing laws like ARS 12-1809-R (anti-harassment legislation) because Plaintiff _____ failed miserably to meet the conditions required.

Arizona Commission on Judicial Conduct
(CC #2011-

In applying her new pseudo-laws, JP violated a number of court principles and provisions of the Code of Judicial Conduct. But she seemed so determined to accommodate friends of her constable that she didn't care.

I believe the Arizona Commission on Judicial Conduct holds a different opinion; that's the reason for my complaint.

* * * * *

On Friday, January 14, filed a request (A) with the Kyrene Court for an Injunction against Harassment based on what she vaguely told the court was "a threatening e-mail."(L-1) She didn't include a copy of the "threatening e-mail" with the request, nor did the form she completed (A) provide specifics of just what made the e-mail "threatening."

Justice of the Peace apparently reviewed the report and decided to hear both sides" before making a decision. There is no indication that JP reviewed to substantiate of "threatening."

But there was no case to "hear both sides" of! The "threatening e-mail" (L-1) that Plaintiff reported didn't even meet the ARS 12-1809-R requirements, and definitely "threatening." That JP didn't require Plaintiff to state her "threatening" claim to insure compliance with ARS 12-1809-R(C) scheduling a hearing was either sheer incompetence or malice on the judge. Or perhaps a combination of both.

Rather than dismissal at that time, JP could have allowed Plaintiff to amend her Petition for Protection to meet the requirements of ARS 12-1809-R(C) if indeed Plaintiff had sufficient evidence and if JP could have done it without legal advice or assistance to Plaintiff

But JP didn't do that. Despite report not meeting requirements for an Injunction Against Harassment, JP issued and signed a "Notice of Hearing"(B) for January 25 that was submitted without the requirements for Protection (D) completed and submitted by Plaintiff and recorded by court staff).

Is JP's slipshod handling of all protective orders as consistent with CC2011-? Or was it because Plaintiff is a friend of the judge's Constable, Brandon Schmoll? Did JP in effect say to the Constable, "Your evidence is insufficient for a case, but we'll try to slip it by since she's a friend of yours."? Neither possibility is appealing.

Yes I submitted a Motion to Dismiss Without Hearing (H) the day prior to court because Plaintiff didn't meet the criteria in ARS 12-1809-R, JP asked the consent

Arizona Commission on Judicial Conduct
(CC #2011-

of Plaintiff who predictably objected, and by her denial of my Motion (I) JP insisted on holding the follow s hearing on a non-case.

JP justification for the previous day's denial (I) when she opened court the next day was nothing more than legalese-sounding double-talk. (M)

Less than an hour later, JP dismissed the case for the same reason as my Motion for Dismissal (H) that she denied the day before and for the same reason the case should have been dismissed (or amended) on January 14: Plaintiff couldn't produce credible evidence of harassment.

The primary outrage is that before she issued a verdict in my favor (K) to dismiss the request that should never have seen a courtroom, JP spent several minutes publicly berating me based solely on her opinion that I "chilled someone's ability to participate in the political process" by using language "that was out-of-line." Nothing was insulting or profane or threatening; JP s "out-of-line." JP then made every attempt to evade several requests that she define just what made the language "out of line."

To the question "why file a complaint against the judge when she ruled in your favor in the end?"

- The case should never have wasted the time of the court and myself, nor taxpayers' Plaintiff post-hearing comment to the news media acknowledged she knew she had n he just wanted to "put r Translated: Plaintiff wanted news media attention that followed her announcement of her alleged need for an "order of protection." Thanks to the aid and enablement of JP Plaintiff got the media attention she wanted.
- JP appalling court beh: ublicly berating me (M) for n ws" she made up on the spot that conform to nothing in ARS or the Arizona or US

I and three friends present that day recognized immediately JP resentment of my e dictionary to show ho Plaintiff "threatening" interpretation of the word "r my research and application of the law and my point-by-point replacement of Plaintiff exaggerated and unfounded claims with provable facts.

Viewing the audio and video CD of the January 25 hearing leaves no doubt why I won the : JP observed my knowledge of the applicable law from research, as well as the concern by JP if she tried to rule in favor of Plaintiff and charade.

In that concern, JP was right, and that would have brought the nightmare of every judge: being overturned on appeal. Had JP believed she would get away with a verdict against me, she would have ruled for Plaintiff And the

The judge clearly objected to my exposing how ludicrous the case was because of the obvious question that would follow: "Who allowed this case to waste the court's time?"

- The "Case that Shouldn't Have Been" diverted 11 days of my time and attention from an important health matter. In January, I'd sufficiently recovered from my December surgery and hospitalization to investigate and evaluate post-surgical treatment options. JP's slipshod handling of the case from the beginning required me to temporarily abandon the medical matter in order to pursue legal action against the frivolous court action by Plaintiff that JP allowed and enabled.
- In addition to attending the January 25 hearing and the hours of phone calls and research, JP's bungling requires trips from my home to the courthouse to obtain documents or to deliver motions or notification letters to the court because her court staffer Annie Cox says "she doesn't accept faxes."

Perhaps JP thinks that rendering a verdict consistent with the law negates her bungling prior to court and her contemptible treatment of me in court.

It doesn't. Adjudicating the law (and nothing but the law) is the job she was elected and swore an oath to do in every case. Judges giving preferential treatment in cases involving family, friends and staff destroy the justice system. Further, she swore to uphold ARS and state and federal constitutions, not the law according to her personal opinion or whatever so-called "law" she makes up on her sloppy and/or biased handling of a case that that a competent judge would never have allowed to waste court time, resources and taxpayers' money.

Her that obligation in is the basis for this complaint.

Submitted:

Signature

February 27 2011
Date

Outline of Offenses of Alleged Judicial Misconduct:

January 14 – 25, 2011

HISTORICAL BACKGROUND--Constable Schmoll, Anthony Miller & Sophia Johnson.

DESCRIPTION OF JUDICIAL MISCONDUCT

I. Prior to Court (January 14 – 24)

Page 12

- A. January 14 2011 – Scheduling an IAH on January 25 when the Plaintiff's report made clear there was insufficient basis to grant the protective order.
- B. January 14 2011 – Hearing Notice omitted Required Petition
Failure to indicate on Notice of Hearing which of 3 options the plaintiff sought
- C. January 20 2011 - Allowing Constable Brandon Schmoll to phone my home when I was a defendant against 2 of his friends in an active court case. He wanted to discuss incomplete process service and urged I contact Plaintiff Sophia Johnson directly to "work things out"
- D. January 20-21 2011 - Failure to investigate reported improper conduct by her Constable
- E. January 21 2011 - Allowing a court staffer to assist Constable Schmoll's attempts to deter my filing a CESTB complaint against the Constable for ethics violations (See I-B and I-C above).
- F. January 21 2011 – JP sided with Plaintiff to deny Motion to Continue with no valid reason recorded
- G. January 24 2011 – JP sided with Plaintiff to deny Motion to Dismiss, for the second time refusing to follow ARS 12-1809-R.

II. In the Courtroom (January 25 2011 8:49am – 9:27am)

Page 19

- A. JP excuse for denying January 24 Motion to Dismiss at 8:49.27 am
- B. Repeatedly stopping my testimony
 - 1. "Politics may hurt your feelings" at 9:05.41am
 - 2. Interrupting my testimony several times to call other cases & take phone calls. Preventing my reading pertinent and brief material into the record
 - 3. reading Plaintiff petition statement: "a threatening e-mail"
 - 4. reading applicable law ARS 12-1809-R 9:17.15am
- C. Adopting role of advocate for Plaintiff Sophia Johnson
 - 1. allowing Plaintiff to submit additional surprise evidence (with no notice to me) for a last-minute attempt to meet criteria of ARS 12-1809-R.
Time 8:50 am
 - 2. defending misrepresentations and false claims (US mail, talk to me) on Plaintiff Sophia Johnson's Petition as "standard" checkoff items on form when no such list exists. Time 9:07:07 am
 - 3. Verdict stated with "spin" toward Plaintiff
- D. Tirade at me for non-existent offenses, again siding with Plaintiff
Time 9:24 – 9:27am
 - 1. Evasion of accountability for her ranting accusations against me by hurriedly adjourning before identifying the "out-of-line" text.

Arizona Commission on Judicial Conduct
(CC #2011-

ARIZONA JUDGES OATH OF OFFICE

"I, _____ do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution and laws of the State of Arizona, that I will bear true faith and allegiance to the same and defend them against all enemies, foreign and domestic, and that I will faithfully and impartially discharge the duties of the office of Justice of the Peace according to the best of my ability, so help me God (or so I do affirm)."

Judges are charged with adjudicating the law, and courts have established procedures for enabling them to do their job. Litigants bring cases to court, citing the event(s) and the law(s) they believe have been violated, and the judge is to decide whether or not the law has been violated and if so, implement the legally-prescribed enforcement procedures and/or punishments.

That's what judges are SUPPOSED to do. But Kyrene District Justice of the Peace went awry. When she realized that she couldn't decide in favor of her Constable and his friends (Anthony Miller and Plaintiff) because the Defendant () was too knowledgeable on the cited law and would probably appeal (which I would have), JP just couldn't let it go at that.

She couldn't issue the Injunction Against Harassment that Plaintiff wanted because couldn't prove she was ever harassed (indeed, what Plaintiff presented as "evidence" was pathetic and wasted the court's time). So JP made up 2 new "pseudo-laws" and publicly berated Defendant for "violating" her 2 new laws:

*"use language that would abuse or otherwise harm another person "
and
"chilling the other person's ability to participate in the political process."*

JP couldn't include the Arizona Revised Statute numbers for these "laws" because they don't exist... except in the mind of JP

By "harm" or "abuse," she doesn't mean physical harm because there was ABSOLUTELY NO EVIDENCE of that in The context of JP pseudo-law is "language that would hurt the feelings of another person," and there is no such law—JP made it up on the spot and hoped no one would notice.

By "chilling," she doesn't mean interference—there was none. JP has decided that reminding a potential candidate for elected office of their past track record might make them hesitant to run for office, or "chill their ability to participate in the political process." That's what most voters call "being accountable for past performance."

Those are the 2 pseudo-laws that JP tried to apply in JP couldn't use existing laws like ARS 12-1809-R (anti-harassment legislation) because Plaintiff failed miserably to meet the conditions required.

Arizona Commission on Judicial Conduct
(CC #2011-

In applying her new pseudo-laws, JP violated a number of court principles and provisions of the Code of Judicial Conduct. But she seemed so determined to accommodate friends of her constable that she didn't care.

I believe the Arizona Commission on Judicial Conduct holds a different opinion; that's the reason for my complaint.

* * * * *

On Friday, January 14, filed a request (A) with the Kyrene Court for an Injunction against Harassment based on what she vaguely told the court was "a threatening e-mail."(L-1) She didn't include a copy of the "threatening e-mail" with the request, nor did the form she completed (A) provide specifics of just what made the e-mail "threatening."

Justice of the Peace apparently reviewed the report and decided that she "wanted to hear both sides" before making a decision. There is no indication that JP reviewed the "threatening e-mail" or asked Plaintiff Sophia Johnson to substantiate her claim of "threatening."

But there was no case to "hear both sides" of! The "threatening e-mail" (L-1) that Plaintiff reported didn't even meet the ARS 12-1809-R requirement of harassment, and definitely wasn't "threatening." That JP didn't require Plaintiff to substantiate her "threatening" claim to insure compliance with ARS 12-1809-R(C) before scheduling a hearing was either sheer incompetence or malfeasance by the judge. Or perhaps a combination of both.

Rather than dismissal at that time, JP could have allowed Plaintiff to amend her Petition for Protection to meet the requirements of ARS 12-1809-R(C) if indeed Plaintiff had sufficient evidence and if JP could have done it without offering legal advice or assistance to Plaintiff

But JP didn't do that. Despite report not meeting requirements for an Injunction Against Harassment, JP issued and signed a "Notice of Hearing"(B) for January 25 that was served to me that night (although without the required Petition for Protection (D) completed and submitted by Plaintiff and recorded by court staff).

Is JP slipshod handling of all protective orders as consistently sloppy as with CC2011- Or was it because Plaintiff is a friend of the judge's Constable, Brandon Schmoll? Did JP in effect say to the Constable, "Your evidence is insufficient for a case, but we'll try to slip it by since she's a friend of yours."? Neither possibility is appealing.

Yet when I submitted a Motion to Dismiss Without Hearing (H) the day prior to court because Plaintiff didn't meet the criteria in ARS 12-1809-R, JP asked the consent

Arizona Commission on Judicial Conduct
Sophia Johnson v. (CC #2011-

of Plaintiff who predictably objected, and by her denial of my Motion (I) JP insisted on holding the following day's hearing on a non-case.

JP justification for the previous day's denial (I) when she opened court the next day was nothing more than legalese-sounding double-talk. (M)

Less than an hour later, JP dismissed the case for the same reason as my Motion for Dismissal (H) that she denied the day before and for the same reason the case should have been dismissed (or amended) on January 14: Plaintiff couldn't produce credible evidence of harassment.

The primary outrage is that before she issued a verdict in my favor (K) to dismiss the request that should never have seen a courtroom, JP spent several minutes publicly berating me based solely on her opinion that I "chilled someone's ability to participate in the political process" by using language "that was out-of-line." Nothing was insulting or profane or threatening; JP just said it was "out-of-line." JP then made every attempt to evade several requests that she define just what made the language "out of line."

To the question "why file a complaint against the judge when she ruled in your favor in the end?"

- The case should never have wasted the time of the court and myself, nor taxpayers' money. Even Plaintiff post-hearing comment to the news media acknowledged she knew she had no case, she just wanted to "put me on notice (J)." Translated: Plaintiff wanted news media attention that followed her announcement of her alleged need for an "order of protection." Thanks to the aid and enablement of JP Plaintiff got the media attention she wanted.
- JP appalling court behavior, publicly berating me (M) for not following "laws" she made up on the spot that conform to nothing in ARS or the Arizona or US Constitution.

I and three friends present that day recognized immediately JP resentment of my use of the dictionary to show how ridiculous was Plaintiff "threatening" interpretation of the word "remind," my research and application of the law and my point-by-point replacement of Plaintiff exaggerated and unfounded claims with provable facts.

Viewing the audio and video CD of the January 25 hearing leaves no doubt why I won the verdict: JP observed my knowledge of the applicable law from research, as well as the concern by JP that I would appeal if she tried to rule in favor of Plaintiff and her ludicrous charade.

In that concern, JP was right, and that would have brought the nightmare of every judge: being overturned on appeal. Had JP believed she would get away with a verdict against me, she would have ruled for Plaintiff. And the rule of law be damned.

The judge clearly objected to my exposing how ludicrous the case was because of the obvious question that would follow: "Who allowed this case to waste the court's time?"

- The "Case that Shouldn't Have Been" diverted 11 days of my time and attention from an important health matter. In January, I'd sufficiently recovered from my December surgery and hospitalization to investigate and evaluate post-surgical treatment options. JP slipshod handling of the case from the beginning required me to temporarily abandon the medical matter in order to prepare a defense against the frivolous court action by Plaintiff that JP allowed and enabled.
- In addition to attending the January 25 hearing and the hours of phone calls and research, JP bungling required 4 trips from my home to the courthouse to obtain documents or to deliver motions or notification letters to the court because her court staffer Annie Cox says "she doesn't accept faxes."

Perhaps JP thinks that rendering a verdict consistent with the law negates her bungling prior to court and her contemptible treatment of me in court.

It doesn't. Adjudicating the law (and nothing but the law) is the job she was elected and swore an oath to do in every case. Judges giving preferential treatment in cases involving family, friends and staff destroy the integrity of the justice system. Further, she swore to uphold ARS and state and federal constitutions, not the law according to her personal opinion or whatever so-called "law" she makes up on the spot to cover her sloppy and/or biased handling of a case that that a competent judge would never have allowed to waste court time, resources and taxpayers' money.

Her refusal to fulfill that obligation in complaint.

is the basis for this

Submitted:

Signature

February 27 2011

Date