

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 11-187

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Complainant: Lisa Jacob

Judge: Michael Pollard

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**ORDER**

The complainant alleged two municipal magistrate judges engaged in ethical misconduct. The commission finds that one judge did not engage in misconduct and, pursuant to Commission Rule 9(a), identifying information pertaining to him has been redacted. After reviewing the response filed by Judge Pollard, the commission finds that he violated the Code of Judicial Conduct.

Rule 1.2 of the Code requires a judge to avoid impropriety and the appearance of impropriety and Rule 1.3 forbids a judge from abusing the prestige of the office to advance the personal or economic interests of others. In this case, the judge improperly made inquiries to two other judges about a case on behalf of family friends involved in that case. While the judge assured his friends that he had no authority to change the decision previously made, his inquiries may have led the complainant to believe he could, in fact, impact the outcome of the underlying case. The judge's conduct in making the inquiries was improper and also gave the appearance of impropriety. To the extent that additional allegations were raised regarding the substantive legal ruling in the underlying case, the commission finds no misconduct and dismisses those allegations.

Accordingly, the complaint is dismissed as to the first judge and Judge Pollard 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) and to the extent consistent with the decision to dismiss the complaint against the first judge.

Dated: December 20, 2011,

FOR THE COMMISSION

/s/ Louis Dominguez

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Louis Frank Dominguez  
Commission Chair

Copies of this order were mailed to the complainant and the judge on December 20, 2011.

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

July 25, 2011

I can't stress enough, how urgent, and critical my situation is. Being my last opportunity to find one honest person, in our justice system, with respect for our laws, this brings me to you.

My complaint begins, with a Tucson city court judge. Another Judge, Judge Michael Pollard also took part.

I was cited by Law enforcement. Tucson Police dept. He was simply doing his job. I did not have a current insurance card with me at the time I was stopped...yes, my vehicle was insured. I took proof of insurance to the court. This is where my situation began..

The clerk at city court told me, even though I was fully insured, she could not accept proof. Reason being, the law had changed in 2009, and the law now states "if you have a prior insurance violation within 2 yrs. (24 months) then the court is **prevented by law** from reducing or waving the penalty.

In April, 2009, I had to go to court to show proof of insurance. Since the fine was reduced, this is a prior violation..

Unfortunately the fine is \$992.00, and when I pay this, they also have to suspend my license for 6 months...yes, even though I had insurance on the vehicle.

In disbelief, I requested to see a judge... Now to do so at city court, the judge has to accept your motion to see him, by mail. So I proceeded by paying the fee, I filed a motion requesting to see him, and submitted proof of insurance with the motion. On 06/05/11 I received a response back from denying the motion, and my request to see him. stated that because the law had changed in 2009, and my prior violation was within 2 yrs, the law prevented the court from waving the penalty.

This is when I came in contact with Joe grant. Legislative coordinator for the Tucson legislative office, District 26. Joe mailed me a copy of the chapter. House bill 2224, section 28-4135, which also included the 2009 revision, section 28-4137.

She suggested I take this back to the judge, file another motion. This could have been an honest mistake on part. A legal error... what the revised statute in fact says is this...

REVISED STATUE 28-4137 REDUCTION OR WAIVER OF PENALTY RULES:

The court may reduce or wave the penalty imposed if the person presents both of the following to the court (2 items)

1. The person had no previous violations of this section within 2 yrs (24 months) **OR**  
**Not more than one** in the past 3 yrs. (36 months)

2. proof of insurance

So I filed another motion. I enclosed a copy of the statute, this time with 2 yrs. Proof of insurance. I highlighted the revision. It doesn't only say "no violations in 24 months." It clearly says "OR not more than one in 36 mo." I asked to please review the evidence the state provided for me, or for a fair hearing.

07/03/11 I received a response from [redacted] denying the request and the motion. This time, with no explanation.

My father contacted Judge [redacted]. Judge [redacted] was a friend of the family. Mr. [redacted] said he couldn't change the Judge's decision, but he could look at it, or have another judge review it for a second opinion. I delivered copies including a copy of the statue to the court as he requested.

I received a call from Judge [redacted] on July 11<sup>th</sup>...this was the most frustrating, unjust, and humiliating part of this yet...

Judge [redacted] proceeded to tell me, that he agreed with Judge [redacted] decision...My license should be suspended.

In disbelief, I asked him if he read the statue??? Judge [redacted] response was "it just doesn't say that. It says nothing about 36 months. It says you can't have any violations in 24 months. It only references 2 yrs. Ms. Jacob. I even had 3 other judges look over it, and they all agreed. I don't know what your reading exactly, but we didn't see it. I'm sorry; all we saw was 24 months. So the sentence was appropriate...we just can't help you."

Now, in an emotional state, I thanked him for his time and ended the call. I knew at that point, this was no more than complete dishonesty, and obvious disregard for the law.

Immediately I contacted Joe Grant, Tucson legislative coordinator, again. She said that my next step would be to file a complaint with the Commission on Judicial Conduct. My father and I went back to court to find any way of getting a hearing, or filing an appeal. City court administration, completely understanding of how upsetting the situation was, said the only thing at this point I could do, was to file a complaint against the judge. She referred me to 3 organizations;

- 1) The city magistrate-Merit selection commission (cannot override judge's decision)
- 2) The commission on judicial conduct (cannot override judge decision)
- 3) The mayor and council (can override judge's decision)

My license is now suspended until December 2011. I'm a single mother. My oldest daughter [redacted] now has to walk to work. My youngest daughter [redacted] has no transportation to school. [redacted] has serious medical conditions, chronic asthma, E.R. and doctor visits are normal for her. I was laid off in Feb. due to a staff reduction. I can't look for work, or get to work without my license. Our survival depends on me working. This has put an enormous and unnecessary strain on my family.

Please review the information I've submitted to you...I agree that I should have to pay a penalty for having the wrong insurance card in my vehicle. That was my mistake. Any help you can offer is greatly appreciated.

Thank you for your time,



OCT 03 2011

CITY OF  
TUCSON  
CITY COURT

September 29<sup>th</sup>, 2011

Commission on Judicial Conduct  
1501 West Washington Street, Suite 229  
Phoenix, AZ 85007

Honorable Chair and Commission Members

This letter is a response to your letter of September 21<sup>st</sup>, 2011 concerning Case No. 11 - 187

My contact with this matter began on July 5<sup>th</sup>, 2011, when I received a phone message advising that Richard Jacob, a personal friend, had called requesting that I call him back. I did so. During that conversation, Mr. Jacob, whom I had known for over 40 years, advised that his daughter was having problems with a legal matter here at Court. I advised him that I could not change a judge's decision. He asked that I speak with his daughter. After several phone calls, I spoke with Ms. Jacob. She advised me that she was being denied her license based upon an incorrect interpretation of the insurance legislation. She advised that she had obtained information from a legislative office that said that if she had not had more than one violation in 36 months and showed proof of valid insurance that the fine should be suspended and she should be granted her driving privileges. I also advised her that I could not change a judge's decision. I should have ended the discussion at that time. I apologize to both Ms. Jacob and the Commission for not doing so.

Because of Ms. Jacob's insistence that the Judge ( ) was incorrectly applying the law, I told her that I would look into it and get back to her. I asked that she forward copies of all the paperwork. She and /or her father did so the next day. I reviewed the paperwork provided and felt that had correctly interpreted the statute A. R. S. 28 - 4137 A 1, since it provided that the person had to provide proof that he/she had "not been found responsible for a violations of 28 - 4135 within the past 24 months or not more than one violation with in the past 36 months as evidenced by the person's driving record". Nonetheless, on July 7<sup>th</sup>, I spoke with I attach a copy of Ms. Jacob's citation dated April 29<sup>th</sup>, 2010 and her MVD record showing a violation of C on and I both concurred that, although, unfortunate, the law prohibited Ms. Jacob from from receiving a suspended fine and

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having her driving privilege reinstated. I also reviewed the matter with the Presiding Magistrate Judge Riojas

On the morning of July 12<sup>th</sup>, I called Ms. Jacob and tried to explain the situation to her. She broke into tears and the conversation ended. I have time records available documenting the above dates and time, should the Commission desire.

The case was not assigned to me so I do not believe any ex parte communication could have taken place. As the matter had been adjudicated, it was not pending or impending. I spoke only to Judge Riojas and another Judge whose name I cannot remember. As Ms. Jacob acknowledges in her complaints to the Commission and to Mayor Walkup (attached), I told her and her father that I could not change the judge's decision so I do not understand how she could consider my actions or representations an appeal of any sort.

I thank you for your time and consideration.

Michael P. Pollard

City Court Magistrate