

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 11-268

Complainant: No. 1430010515A

Judge: No. 1430010515B

ORDER

The complainant alleged that three justices of the peace engaged in improper procedural irregularities and erroneously dismissed his case without prejudice.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the judges engaged in conduct that violated the provisions of Article 6.1 of the Arizona Constitution or the Code of Judicial Conduct and, if so, to take appropriate disciplinary action. The purpose and authority of the commission is limited to this mission.

After reviewing the information provided by the complainant and the response from the judges, the commission found no evidence of ethical misconduct and concluded that the judges did not violate the Code in this case. Accordingly, the complaint is dismissed in its entirety pursuant to Rules 16(a) and 23.

Dated: February 23, 2012.

FOR THE COMMISSION

/s/ George Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on February 23, 2012.

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

CONFIDENTIAL

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

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2011-268

COMPLAINT AGAINST A JUDGE

Your name:

Judge: Hon.

Date: October 25, 2011

Primary Issue of Complaint: "Arizona Code of Judicial Conduct"

Rule 1.1 – "Compliance with the Law"

Rule: 1.2 – "Promoting Confidence in the Judiciary"

Rule: 2.4 – "External Influences on Judicial Conduct"

Rule: 2.5 – "Competence, Diligence, and Cooperation"

INTRODUCTION

On March 7, 2011, I, _____ attended a scheduled meeting of the Mohave County Board of Supervisors, at the Mohave County Administration Building, in Kingman, Arizona. Prior to the meeting, a rally, conducted by the Western States Constitutionals Alliance, Inc. (WSCA), (a non-profit educational organization) to honor the American Flag and to proudly display a number of such flags on a island area in the parking lot, in violation of a County Procedure 3-1. Also in dispute was the free distribution of the United States Constitution & Declaration of Independence. After much discussion, all peaceable, and the issuance of two written notices of "Trespass", the rally peacefully disbanded. As part of that rally, and published in the local newspapers, I stated my intention to commit "civil disobedience" in regards to this Unconstitutional Procedure, and also "Mohave County's Rules of Order – Sec. 2 – Rule 4" an extensive and restrictive order banning ALL flags, including the United States Flag from being displayed within the County Administration Building, and establishing a "strict dress code" including hats, caps, scarf's, and other head gear.

After the disbanding of the "Flag Rally", I entered the County Administration Building, signed up to speak on an Agenda item of my concern. When called upon, I spoke on my topic, placed a patriotic cap on my head, and waved a small American Flag. I was instructed by the chair to remove my hat and dispose of the flag. I refused. I was subsequently arrested for "Trespassing", and escorted to the County Jail. I had a video – bail hearing, the presiding Judge, lowering the complaint from a Class 2 Misdemeanor to Class 3 Misdemeanor, and I was subsequently released on my own recognizance.

I was scheduled for a preliminary hearing, in Kingman/Cerbat Justice Court, but was later advised that the "hearing" was transferred to Lake Havasu City Consolidate Court. I attended same on time

and was advised that court refused to hear the case... no reason was ever delivered to me. At that time I filed a number of motions, including "ready for trial", and "motion to dismiss" on April 13, 2011, and received no response. I was instructed, via phone, to re-contact Kingman Justice Court, which I did, and was advised that it was no longer in their court... but not advised where it was transferred to, or who authorized the transfer. Much later, on August 17th I received a "summons" from the San Louis Justice Court, dated August 10th, mailed on August 15th. On insufficient time to appear, the San Louis Court was contacted by phone, and I was advised that there would be no "Preliminary Hearing" on the case on that date, no reason was provided. I asked how the case was transferred to that court, but received no answer. In written memorandum to the court, I again asked for clarification of the status of the case, also advising that the "speedy trial" rule was rapidly approaching, that the 20 day rule for "Preliminary Hearing" had passed without event, a violation of Arizona Rules of Court Procedure. All courts have refused to respond to "Motions", "Memorandums", and questions.

Finally, on October 21, 2011 I received a Court Ruling, Dated September 26, 2011... from the San Louis Court "Dismissing" the Case "Without Prejudice". The Court finding that the State made no errors.

I do not believe that I made any errors, either in filings, timeline, or otherwise... therefore I can only conclude that the errors were "judicial" and multiple. This Case should have been "dismissed with prejudice", in the interest of justice, if for no other reason. A number of violations of Arizona Rules of Court Procedures have been made. I have had "NO Day in Court", which was my objective, and allowable in our Court System.

I respectfully request the Committee, to order the "Dismissal Ruling" to reflect the facts of this Case, the obvious violations of Rules, and order the San Louis Judicial Court, to re-address the Case, and Dismiss With Prejudice.

AND FURTHER:

Admonish all Judges for their failure to follow the Rules of Court and Rules of Conduct.

1. Article 2, § 11 of the Arizona Constitution requires that "Justice in all cases shall be administered openly, and without unnecessary delay." Article 6, Section 21 provides that "Every matter submitted to a judge of the superior court for his decision shall be decided within sixty days from the submission thereof. The supreme court shall by rule provide for the speedy disposition of all matters not decided within such period." See Rule 91(e), Rules of the Supreme Court; A.R.S. § 12-128.01. In addition, A.R.S. § 11-424.02(A) prohibits a justice of the peace from receiving compensation if a cause "remains pending and undetermined for sixty days after it has been submitted for decision." These and other time requirements are discussed in depth in Arizona Judicial Ethics Advisory Committee, Advisory Opinion 06-02 (April 25, 2006).

RULE 2.6. Ensuring the Right to Be Heard

- (A) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.
- (B) A judge may encourage parties to a proceeding and their lawyers to settle matters in dispute, but shall not coerce any party into settlement.

Respectfully submitted,