

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 11-289

Complainant: No. 1350710929A

Judge: No. 1350710929B

ORDER

The complainant alleged that a superior court judge improperly delayed implementing directives from the Court of Appeals.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the judge 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, the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. The commission does not have jurisdiction to investigate the legal sufficiency of the judge's rulings. Accordingly, the complaint is dismissed in its entirety pursuant to Rules 16(a) and 23.

Dated: December 27, 2011.

FOR THE COMMISSION

/s/ George Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on December 27, 2011.

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

2011-289

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November 8, 2011

Judge Ann A. Scott Timmer
1501 West Washington
Phoenix, AZ 85007

Greetings Judge Timmer:

I write you because you were one of the judges in the July Special Action of *Costa v. Judges Mackey and* 1 CA-SA 11- (Pertinent pages of your Opinion attached.) Please know that I'm not a Costa supporter. I'm simply driven by my Lord's command, per the footer below.

I'm writing to make sure I don't step on your toes in a complaint of judicial misconduct should you decide to act. For I'm asking that, pursuant to Rule 2.15 in your Code of Judicial Conduct, you hold Judge in contempt of [your] Court. And since I'm asking for the moon, I ask that you to file an information with the Prescott Police Department (or the Yavapai County Sheriff's Office, whichever is most appropriate) as an officer of the court for at least five counts of Interfering with judicial proceedings, a Class 1 misdemeanor. All these as a proximate result of Judge willful refusal to comply with your order in *Costa* "directing her to set bail and impose other release conditions in the least onerous manner necessary to achieve the purposes of bail."

Now, please pardon my cynicism, but I'm old enough to see that Orwell was right, that some animals are more equal than others; that, even in our country, judges are above the law; and therefore the claim "Equal Justice Under the Law" is just an illusion. (The Chief Justice of the Wisconsin Supreme Court, Shirley S. Abrahamson, has correctly said anarchy will follow.) So I don't really expect you'll do the right thing. But, to be fair, I have to give you a chance by making you aware of the violation, if you didn't know already.

To that end, I have attached three newspaper reports regarding Judge response to your Order. Normally I question the veracity of newspaper reports, but this particular reporter, Mr. Orr, has shown himself to be very diligent and quoted Mr. Costa's attorney. Of course you will cite the court record if you choose to act.

Even though I empathize with Mr. Costa, since he's been in jail waiting for trial since December 2008, I'm willing to be gracious to Judge _____ allowing her some wiggle room to respond when your Opinion was first issued. After all, she couldn't know in July how you were going to rule. So I'm not counting it contempt when she didn't react right away to the summary of your ruling, per the July 11 [Prescott] Daily Courier story. (Attached.)

Instead, she set herself a deadline of August 2, about two weeks later and about a week after your full ruling was published. Nevertheless, she didn't hold the bond hearing until August 17, per the story of the same date, attached. (Whether the delay was her fault or scheduling conflict, I do not know. If no good cause, then I ask you to impute the delay to her.)

But despite your clear order to reduce bond, even with all this delay, Judge _____ waited five days more after the August 17 hearing before finally complying with your Order!

This is inexcusable. Judge _____ had a month to brief and be ready to rule on bond reduction. Even Mr. Costa's attorney said, "The Court of Appeals did not envision that it would take us a month to resolve this issue." She should have made her decision that day. She refused. Mr. Costa's attorney said "I don't believe you have the legal authority to issue a no-bond." Isn't Judge _____ in contempt of court? I would be if I violated your Order.

Now, it's been my layman's observation that when one of us reg'lar folks violates a court order, we are charged one Count for every day we are in violation. I ask the same for the judge. Both for contempt of court and for a criminal violation. I know the Prescott Police can cite her with five counts of A.R.S. § 13-2810. **Interfering with judicial proceedings**, because the PPD once charged me with same.¹

A. A person commits interfering with judicial proceedings if such person knowingly:

2. Disobeys or resists the lawful order, process or other mandate of a court;

Again, I'll be surprised if you act against a sister judge and colleague, even though to not act would be judicial misconduct on your part. But hope springs eternal. (I must be a fool.) Maybe you'll surprise me by doing the right thing? If so, will you please write me to let me know if you act and what you do?

Or should I continue to hold to Orwell?

Attachments (4)

¹ A bogus charge of "criminal faxing" after my attorney faxed a courtesy copy of an Emergency Motion to my adversary. Charges were dropped, exculpatory evidence withheld by the Prescott Prosecutor. A federal civil right lawsuit for malicious prosecution is underway.