

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 12-037

Complainant: No. 1435310864A

Judge: No. 1435310864B

ORDER

The complainant alleged that a pro tem justice of the peace failed to follow the law, issued conflicting orders, and was biased.

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 and the judge's response, 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 consider the legal sufficiency of the judge's rulings. Accordingly, the complaint is dismissed in its entirety pursuant to Rules 16(a) and 23.

Dated: May 21, 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 May 21, 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

FOR OFFICE USE ONLY

2012-038

COMPLAINT AGAINST A JUDGE

Your name:

Judge's name:

Date: Feb 4, 2012

Instructions: You can use this form or plain paper of the same size to file a complaint. Please describe in your own words what the judge did that you believe constitutes judicial misconduct. Be specific and list all of the names, dates, times and places that will help us understand your concerns. You may attach additional pages but not original court documents. Print or type on one side of the paper only, and keep a copy of the complaint for your files.

BRIEF DESCRIPTION OF THE CASE

The Homeowner Association Phase III (HOA) kept demanding me to do things costing me money then they imposed fine on me to pay for alleged violation such as not trimming the tree, which is in my property and did not infringe on the street. I filed the enclosed claim (Exhibit A1, A2, A3) in the Small Claim Court, Justice Court. I served the defendants my demanding letter as required by the court rule, then I filed the Green Card with the court 5 days before the deadline for the defendants answer. When the deadline expired, I applied for default judgment because the court told me the attorney did not file response (Exhibit B1, B2 and B3). The court returned the documents back to me (Exhibit C1, C2), claiming proof of service has not been filed, even though the court has it in file 5 days before the deadline. This gave the defendants' attorney the chance to file a response, avoiding the default judgment. I complained, wanting to see the judge (Justice of the Peace), the court clerk told me you cannot see the judge. This was clerk's mistake, did not see the document in the file. The court did not take action to correct the mistake. That was the first bending of the court rule in favor of the attorney. Later, it became clear to me through successive actions that the court was always in favor of the defendants' attorney ignoring my rights as will be shown in the under listed events, showing I was denied every motion I submitted and the Justice of the Peace approved every motion the attorney submitted against me and I was sanctioned. I believe the case is pending mediation on Feb 14, 2012. Unless the charges against the HOA is considered, I do not know what mediation would it be if the charges against the defendants were dismissed. The court did not approve even my motion for the defendants to appear in the mediation as witnesses. It gave the attorney a chance to deny any solution so that he will carry it to the civil court trial, which was already approved, and trying to charge more fees and perhaps makes me pay as he always claimed to threatening me in his motions.

**The Justice of the Peace
Bent the Court Rules in favor of the defendants' Attorney**

1- The court denied me the chance of getting a default judgment against the defendants because they did not file response before the deadline. The court pretended that I, the plaintiff, did not file proof that I served the defendants, even though the proof of (The green Card) was in the court's file 5 days before the deadline (Exhibit B1, B2, B3, C1, C2). The court did not do anything to correct its mistake, but continued to punish me. My letter to dated Nov 15, 2011 (Exhibit D, attached to it supporting documents). The letter was ignored.

2- On 11-24, 2011 the Justice of the Peace signed an order in response to the defendant attorney motion dated 11-02-2011 requesting dismissal of the charges against the defendant [redacted]. The order denied the motion of dismissal (Exhibit E). On 1-25-2012 the same Justice of the Peace signed an order in response to defendant [redacted] motion dated 12/28/2012 (Exhibit F. Please look at the date of the attorney filing "Dec 2012" while we are still in "Feb 2012"). What makes this decision strange is that it ignored the previous decision of the same Justice of the Peace, in which he denied such motion, but now approves it by saying "Moot-Dismissed on 1-11-12. Furthermore, the Justice of the Peace signed an order dated 1-25-12 granting the defendant motion to sanction me based on the defendant's motion dated 12/28/2012! (Exhibit G) For what?

3- During the period of disclosure and discovery, I filed three times request to obtain related information from the defendants and their attorney. The attorney refused to submit such information, except for the minutes of the meeting of the Board of Directors of the HOA. It was a redact full with wrong information no one signed it, showing that I was treated very well, while I was given like a Kangaroo court trial instead of a hearing. A member of the board told me to leave the area, which was not mentioned in the redact of the meeting. I asked the court to have the HOA president and the Manager sign the redact of the meeting but the court refused to allow that.

4- The court followed whatever the attorney said, ordering the court to do this or that, depriving me from my rights. For example: The attorney claimed that [redacted] is the president of the organization, he is not responsible. I responded by saying that Sarbanes-Oxley Act considered the presidents responsible. The attorney claimed that this act does not apply to the nonprofit organization. I sent publications of scholarly work telling the nonprofit organization should follow the act. Nevertheless, the court approved all the motions of the attorney to dismiss the case against the defendants, refusing even to allow the defendants attend the mediation meeting as witnesses.

5- I asked the court to sanction the attorney for his continuous threat demanding the court to make me pay his fees. The court did not act to protect me against such threats. Finally, it sanctioned me rather than the attorney.

6- I sent letter to judge [redacted] and [redacted] (Exhibit H1, H2) complaining about the defendant's attorney attempt to prevent me from obtaining the needed information by claiming that the court did not allow me to make such discovery. So far, I did not get any response but all kind of dismissals.

I will appreciate if the commission expedite the investigation before the mediation date of Feb 14, 2012.

Respectfully,