

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 12-051

Complainant: Gerald Williams

Judge: Phillip Woolbright

ORDER

After reviewing the complaint, the response filed by Judge Woolbright, and relevant hearing recordings, the commission finds that the judge violated the Code of Judicial Conduct.

Rule 2.5(A) of the Code requires a judge to be competent in the performance of judicial duties. The complainant alleged that Judge Woolbright conducted a series of initial appearances and arraignments improperly, treating civil and criminal matters interchangeably and failing to review the constitutional rights of defendants. Providing defendants with a recitation of their rights is the most fundamental aspect of an arraignment proceeding. New judges receive training in this aspect of criminal proceedings during their orientation sessions, which Judge Woolbright attended twice in two years. Further, there are scripts available to new judges for the purpose of protecting the rights of litigants. The judge failed to avail himself of these scripts, disregarded his orientation training, and failed to accept responsibility for his actions in doing so by choosing instead to lay blame for his failures on others.

Accordingly, the judge 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).

Dated: August 21, 2012.

FOR THE COMMISSION

Louis Frank Dominguez
Commission Chair

Copies of this order were mailed to the complainant and the judge on August 21, 2012.

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



2012-051

NORTH VALLEY
JUSTICE COURT

FEB 01 2012

Gerald A. Williams
Justice of the Peace

31 January 2012

George A. Riemer
Executive Director
Arizona Commission on Judicial Conduct
1501 West Washington Street, Suite 229
Phoenix, AZ 85007

Re: Potential Complaint; Judge Phillip Woolbright; Arrowhead Justice of the Peace

Dear Mr. Riemer:

Last Thursday, an attorney indicated that she had some concerns about a series of video arraignments that Judge Woolbright completed. I asked her to confirm the date and she did so. I watched the enclosed FTR record and made the attached notes.

Throughout the video arraignments, Judge Woolbright never advised any of the in custody defendants appearing via video of their constitutional rights. In some situations, it did not appear he knew what he was doing. He treated a criminal charge as if it was a civil traffic violation and in one extreme situation, he apparently sentenced a defendant to a sentence of 30 hours of community service without asking her to enter a plea of guilty. Just as odd, he then correctly did two DUI cases.

If the Judge Woolbright is assigned a mentor, perhaps this material could be forwarded to that mentor.

Sincerely,

Gerald A. Williams
Justice of the Peace
North Valley Justice Court

Enclosures

GERALD A. WILLIAMS
Justice of the Peace

PHIL HAZLETT
Constable

Notes from Arrowhead FTR on 20 July 2011

First case on FTR – A student requested a modification of his work release hours from confinement so he could stay enrolled as a technical student and keep his job. Judge Woolbright responded, “Seven days of work release creates the jail as a hotel, so that’s not going to work.” When the Defendant modified his request to six days of work release, Judge Woolbright repeated the hotel reference and only gave him five days of work release. Judge Woolbright then stated that “the statutes are pretty clear,” that work release was “a luxury” and that he “should really be in jail without work release at all.” Judge Woolbright then denied the defendant’s request and instead recommended that he contact the technical school and request that they allow him to make up his course work to accommodate his jail sentence.

Video arraignments:

1st Video Defendant; Spanish Speaker – “You’re in jail because you failed to appear as promised. Is that correct?” Judge Woolbright then asked the defendant to enter a plea of either guilty or not guilty to each charge, even though some of the charges were civil traffic offenses. Judge Woolbright then entered a plea of guilty to the misdemeanor offense of driving on a suspended license and imposed a fine without going over any of the rights outlined on the guilty plea proceeding form. Judge Woolbright never advised the defendant of any of his constitutional rights and treated the criminal charge as if it were only a civil traffic violation. He then reduced the total fines to \$700; but “held” the defendant for 10 additional days in jail. He then set “bail” at \$700.

2nd Video Defendant; Spanish Speaker - Judge Woolbright also asked this defendant whether he was in jail because he failed to appear as promised. Judge Woolbright appropriately entered pleas of not guilty to DUI charges on behalf of the defendant. He then set bail at \$3,600.00; but then told the defendant “I’m going to hold you in the county jail for your pre-trial conference.”

3rd Video Defendant – Judge Woolbright asked the defendant why he was in jail. The defendant responded that he owed back child support. The defendant apparently also owed \$400.00 on a fine imposed in the Arrowhead Justice Court. Judge Woolbright then set a follow-up court date for the defendant to be “re-seen;” but then gave the defendant \$504.00 in credit for time served. He then appropriately released the defendant; but Judge Woolbright then instructed the defendant to “remind me of my notes” when he sees him again.

4th Video Defendant – Judge Woolbright informed the defendant had he had missed his pre-trial conference date. Without any analysis, Judge Woolbright concluded, “I think you’re entitled to a pre-trial conference; but I’m afraid that you’re a flight risk.” The defendant

responded that he had missed his court date because he did not have a ride to Surprise. Next, even though jail time cannot be imposed for a civil traffic offense, Judge Woolbright gave the defendant credit for time served in jail for his civil traffic fines. He then released the defendant.

5th Video Defendant - Judge Woolbright asked the defendant why he was in jail. The defendant indicated that he thought his sister had paid the amounts due. He then released the defendant and gave him credit for time served, apparently toward the warrant fees that had accumulated in this bad check case. Judge Woolbright set up a payment schedule with the defendant; but concluded “you have a file that’s incredibly thick and I’m only going to look at this one more time.”

6th Video Defendant – Judge Woolbright asked the defendant why she was in jail. He then gave her credit for time served for her criminal fine in one case. He then said, “However, you have another charge in front of this court. It’s interference with judicial proceedings. Did you fail to follow a court order?” The defendant then told the court about the facts of that case and about her family. Judge Woolbright then announced, “Okay, I’m going to release you on this charge and give you credit for time served and waive all of you fines and fees; but I’m going to sentence you to 30 hours of community service and I want you to perform that.” Then there was a discussion about how to document the community service hours. He then released the defendant.

Telephonic DUI Plea with Attorney – Judge Woolbright went over the defendant’s rights, determined whether there was a factual basis for the plea and then found the defendant guilty. He then went over the amounts due and noted that two of the charges had been dismissed (in accordance with the plea agreement). Judge Woolbright granted the defense counsel’s request to allow the defendant to serve jail time at a facility in California and to be released for work release Monday thru Friday. In short, Judge Woolbright did everything correctly.

In Person DUI Plea – Judge Woolbright essentially did everything correctly in this case as well. (Note: The public defender often does not appear for the guilty plea proceeding unless there is an issue.)

THE COHEN LAW FIRM

ATTORNEY AT LAW
P.O. BOX 10056
PHOENIX, AZ 85064

Larry J. Cohen, Esq.

State Bar of Arizona
Board Certified Specialist In
Injury and Wrongful Death Litigation

May 18, 2012

MAY 18 2012

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

Re: **Response to January 31, 2012 Complaint**
(Case No. 12-051)

Members of the Commission:

Judge Phillip Woolbright, through counsel, submits the following as his answer to the Complaint filed by Judge Gerald Williams on January 31, 2012.

Judge Woolbright attended the new judge orientation program following his election as Justice of the Peace of the Arrowhead Justice Court. Additionally, he was assigned to Judge Keegan for purposes of his training. He was then assigned to Judge Williams as his mentor.

Testimony during the recently completed hearing before the Commission was consistent in describing Judge Woolbright's intent to learn the responsibilities of a Justice of the Peace. Toward that end, he began observing judicial activities at the Northeast Courthouse immediately after his election. He was described by Ms. Resendes as someone eager to learn and receptive to comments and suggestions. He was described likewise by Judge Fine as a hard worker, who seeks assistance when needed and is open to learning from others. Finally, there were no complaints by those training or supervising him prior to the events commencing in March, 2012. In short, there is a history of Judge Woolbright's hard work and commitment to judicial competence.

With respect to Judge Williams' general observations in his January 31, 2012 letter to the Commission, Judge Woolbright recalls being trained by Judge Keegan that defendants in custody appearing by video had been read their constitutional rights, leaving Judge Woolbright with the understanding that it was not necessary to read these defendants their rights again before commencing these

proceedings. Judge Woolbright understood that constitutionality was a matter of considerable interest to Judge Keegan. In that regard he recalls being instructed by Judge Keegan to dismiss all photo radar tickets on the ground that photo radar tickets were unconstitutional. Judge Woolbright came to understand later that this Judge Keegan's views on that subject were not shared by all Justices of the Peace on this issue. Still Judge Woolbright gathered from Judge Keegan's training that Judge Keegan took constitutional issues very seriously and so he was particularly attentive when Judge Keegan addressed constitutional matters with him.

Judge Woolbright believes that in his role as mentor Judge Williams observed him doing proceedings involving custody defendants appearing by video. Judge Woolbright does not recall Judge Williams ever making any comments to Judge Woolbright about how he handled such proceedings. That being said, he agrees that Judge Woolbright is clear that he should go through the defendant's rights with each defendant in each case.

Judge Woolbright has reviewed the FTR hearings provided him and makes the following observations and statements:

1. First Case on FTR: Judge Woolbright became aware of the phrase "Seven days of work release creates the jail as a hotel" from observing Judge Williams using that phrase hearing cases in his Court.

Upon closer review of the case, the individual seeking a work furlough for seven days was working only two days a week. Judge Woolbright agrees he could have used a better term than "luxury" but under these kinds of circumstances furlough for seven days would appear to be unwarranted.

Judge Woolbright based his decision on his interpretation of the work furlough statute, A.R.S. § 31-333, which provides that if the individual is not at work, he or she should be incarcerated during their sentence. He cannot be certain but believes he was observed by Judge Keegan or Judge Williams applying that interpretation when hearing cases and does not recall ever being informed that this was an improper interpretation of the statute.

2. 1st Video Arraignment: Judge Woolbright recalls being trained by Judge Keegan that defendants in the jail had been read their rights and did not have to read them their rights again at

May 18, 2012

Page 3

the arraignment. He understands the better practice is to read defendants their rights at the arraignment regardless of whether they are in confinement to ensure they understand their rights.

Judge Woolbright also was told in his training that the terms "guilty" and "not guilty" are more readily understood by the public than the terms "responsible" and "not responsible." He himself observed this confusion despite the fact of a video at the Arrowhead Court that explained the differences between civil and criminal proceedings. That having been said, Judge Woolbright agrees that language appropriate to the respective criminal and civil proceedings should be used.

Judge Woolbright agrees that he used the wrong terminology when he used the word "fine" instead of "bail" when it was set at \$700. His intent was to hold him in jail for ten days if he did not pay the fine, with the understanding that he would be released if he paid the fine. Under these circumstances, the term "bail" was not appropriate. His statement should have been to the effect that "if you pay your fine at any time you will be released from jail and that will satisfy your obligation."

3. 2nd Video Arraignment: As with the previous video arraignment Judge Woolbright agrees he should not have relied on the defendant being read his rights previously and should have read them to the defendant again.

Judge Woolbright concedes that he used a poor choice of words when he told the defendant "I'm going to hold you in the county jail for your pre-trial conference." Judge Woolbright intended to explain that the defendant would remain in the county jail unless his bail was posted.

4. 3rd Video Arraignment: The defendant in this case owed more than \$400; without access to the file Judge Woolbright believes he owed \$904. If so, then there was a reduction of \$504 that brought the payment obligation down to \$400. In the course of the proceeding the defendant is indicating that he is intent on paying the \$400 and that his employer will bring \$400 to court. The defendant was concerned about whether he would be released by August 20 and so Judge Woolbright set up the file for a follow-up on August 10 to determine where matters stood at that point.

The comment to "remind me of my notes" was to empower

May 18, 2012

Page 4

the client, who was concerned about his release, to the extent of feeling free to review the substance of the hearing that at the next hearing in the case. Judge Woolbright recalls his practice to be to make notes in the file sufficient that another Judge hearing the case (e.g. a pro tem) would understand what happened.

Later in the FTR recording Judge Woolbright asked the clerk to "tickle" the file to remind him to review the case and further that he would do a video status conference with the defendant if he was still in jail on the 10th.

In short, Judge Woolbright wanted to be sure that the circumstances of this case did not get lost in the system. He was trying to be attentive to the defendant's concerns.

5. 4th Video Defendant: Judge Woolbright believes this to be a case in which the defendant has missed his pretrial conference twice. The point Judge Woolbright was trying to make is that the defendant certainly was entitled to a pretrial conference, but in light of his history Judge Woolbright was concerned that he may not appear for the pretrial conference.

Judge Woolbright agrees that stating he was giving credit for time served in a civil matter was incorrect. He felt under the circumstances of an individual who had been held in confinement that suspending the civil fine was appropriate.

6. 5th Video Defendant: Judge Woolbright made the statements about the file being thick and about reviewing the file one more time to encourage the defendant to pay the victim the ordered restitution. Judge Woolbright's intent was to convey the message that there may be consequences when a defendant does not obey the court's order.

7. 6th Video Defendant: Judge Woolbright's inquiry about the interference with judicial proceedings case was to get factual information about what had happened. If the defendant denied violating the order he would have entered a plea of not guilty. He agrees he should have inquired directly about a plea of guilty or not guilty.

The defendant admitted violating the order by going to her mother's home in violation of the order. This confirmed to Judge Woolbright that the factual foundation for the interference charge was established.

May 18, 2012

Page 5

The defendants' subsequent statements about being homeless, feeling helpless and wanting to put these problems behind her were factors Judge Woolbright considered in deciding an appropriate result in light of her admission that she violated the order. He sentenced her to 30 hours of community service and informed her of the conditions associated with community service. She appeared to understand what he told her.

Judge Woolbright would be happy to elaborate on these matters. In order to do so he will need access to the files and perhaps to larger segments of the FTR recordings so he can put the matters in further context.

Sincerely,

Larry J. Cohen