

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 12-176

Complainant: Mark Moran

Judge: Joseph Lodge

ORDER

After reviewing the complaint, Judge Lodge's response letter, and related records, the commission finds that the judge violated the Code of Judicial Conduct.

Rule 1.2 of the Code requires judges to "act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary" and to "avoid impropriety and the appearance of impropriety." Rule 2.2 similarly requires judges to perform their duties fairly and impartially. Rule 2.6(A) mandates that judges ensure litigants' right to be heard according to law, and Rule 2.8(B) obliges judges to be "patient, dignified, and courteous to litigants."

Judge Moran, the presiding superior court judge of Coconino County, reported allegations that Judge Lodge conducted a court proceeding under the influence of alcohol. Judge Lodge confirmed that he consumed three beers late on a Friday afternoon and when he returned to the court to close up, he was called upon to conduct a protective order hearing. The transcript of the proceeding revealed that the judge treated the litigant discourteously, and displayed an improper demeanor. The judge's conduct in proceeding with the hearing despite his alcohol consumption as well as his conduct during the hearing violate the rules summarized above.

Accordingly, the judge is hereby reprimanded for his conduct pursuant to Commission Rule 17(a). Further, the Commission hereby notifies Judge Lodge that he is expected to maintain his sobriety on the bench moving forward, and to complete the course of rehabilitative actions described in his response letter. Once the judge has completed these steps, he is directed to provide proof or certification to the Commission of that completion. The record in this case, consisting of the complaint, Judge Lodge'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.



June 26, 2012

JUN 27 2012

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

CONFIDENTIAL

Dear Members of the Commission:

I am the Presiding Judge of Coconino County Superior Court. On June 5, 2012, my Court Administrator, Gary Krcmarik, and the Clerk of the Court, Debbie Young, brought to my attention conduct by the Hon. Joseph Lodge, Division 5, committed while discharging his duties which may be a violation of the ethical rules.

The facts related to me by the clerk assigned to Division 5 regarding the events of Friday, June 1, 2012 are as follows:

A customer came to the window shortly before 5 p.m. seeking an order of protection. The clerk provided the petition to the customer to fill out. The clerk contacted Division 5 to alert them to the pending petition. Division 5, Judge Lodge, was the duty judge. Before the petition could be completed, the clerk was contacted by Judge Lodge's division and told to come up immediately to court with the petitioner. The clerk took the paperwork into the office area of Division 5 and spoke to Judge Lodge's judicial assistant, Patty Normington. The clerk also provided the case file to the judicial assistant. The petitioner was seeking to "renew" an order of protection in an existing domestic relations matter. The file and petition were given to the Judge Lodge by the JA, and the clerk heard Judge Lodge tell the JA that she did not have to stay after 5 p.m. and could leave for the day. The clerk went into court. The petitioner was also sent into the courtroom. Judge Lodge came into court along with the court reporter, Kim Faehn. The hearing was on the record. The petitioner was not sworn. The specifics of Judge

Lodge's actions, demeanor and comments are reflected in an affidavit accompanying this letter from the clerk, Jan.

The most serious allegation was that Judge Lodge conducted court after having consumed alcohol. It is obvious from the affidavit from the clerk of the court that the alcohol affected Judge Lodge's judgment and demeanor.

I met with Judge Lodge along with my court administrator on June 12, 2012 in my office. I related to Judge Lodge what I knew about the allegations. He neither admitted nor denied what had happened. What he did say was that he is an alcoholic and has been in treatment since 1995, had attended AA, had a sponsor and had been clean and sober until 2010 when he "fell off the wagon." Judge Lodge led me to believe that he had delayed the meeting with me to discuss the allegations so that he could enter "detox" over the weekend.[The actual period of time he was absent from court was Thursday, June 7 through Monday June 11]. Judge Lodge related to me the specifics of his current treatment plan. I do not include these specifics, but will say that what he told me he was doing was what I believed would be an appropriate response to the allegations. In addition, I also told Judge Lodge that I was ordering him to do specific training related to domestic violence issues and law.

I told Judge Lodge that his actions were ethical violations, and that I would be filing a referral to the Commission on Judicial Conduct. I mentioned some specific rules that I believed he had violated. The applicable rules include: Rule 1.2 Promoting Confidence in the Judiciary; Rule 2.2 Impartiality and Fairness; Rule 2.3(B) Bias, Prejudice; Rule 2.5 (A) Competence; Rule 2.6 Ensuring the Right to Be Heard; and Rule 2.8(B) Decorum, Demeanor and Communication with litigants.

Judge Lodge has not met with me since this date. I do not have any further specifics to relate regarding these allegations. I am copying Judge Lodge with this referral. Thank you for your attention to this matter.

Sincerely,

Hon. Mark R. Moran
Presiding Judge Coconino County Superior Court
cc: Gary Krcmarik; Judge Joe Lodge; File
Enc: 1

12-176

July 24, 2012

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

JUL 27 2012

CONFIDENTIAL

Dear Members of the Commission:

I am responding to Presiding Judge Moran's June 26, 2012 letter and to address the ethical rules mentioned. On April 25, 1995 I entered the rooms of Alcoholics Anonymous and had over 16 years of continuous sobriety (Judge Moran mistakenly said my sobriety ended in 2010). I employed all the tools recommended to me. I went to meetings several times a week, got a sponsor, performed service work and sponsored other men. The program allowed me to have a very successful career as an Assistant United States Attorney in the District of Arizona and then I was fortunate to take the bench in January, 2011. In early 2012, I experienced two very emotional tragedies. This is not an excuse. There is no excuse. I am responsible for my conduct but wanted to put the events in context. Unfortunately, I turned to alcohol for comfort.

On June 1, 2012 I drank three beers at approximately 4:00 p.m. When I returned to close up the office there was a request for an emergency hearing. This was the first and only time I took the bench after drinking. Again, there is no excuse. I was wrong. On June 5, 2012, Judge Moran asked me to come to his office and told me I needed to meet with him and the Court Administrator the following week. I knew the topic of the meeting was my deplorable conduct of June 1. I returned to Judge Moran's office later that day and told him I needed to take a few days off. I immediately entered a five day detox program and then enrolled in an Intensive Outpatient Program which meets three nights a week for three hours a night. I returned to the program of Alcoholics Anonymous and reconnected with my sponsor who required that I attend ninety meetings in ninety days in addition to the Outpatient Program. I also met with former Coconino County Judge and Judicial Assistance member Robert VanWych to alert him of my conduct and to consult him about my recovery plan. I also enlisted the services of my mentor, former Presiding Judge Jeff Coker. I readily admitted the events of June 1 to Judge Coker and sought his counsel. All of these people have been a tremendous source of support and friendship. I am truly grateful to each of them. All of these steps were taken before I met with Judge Moran and the Court Administrator on June 12, 2012.

I have not had a drink since June 1, 2012 and feel good about my recovery which I know will be successful if I keep doing what works. Nevertheless my conduct was shameful and I am truly remorseful. Until that day I took great pride in my performance as a superior court judge. Now the only thing I can tell you is that there has not been a similar incident since June 1 and nor will one occur. On the positive side, I have used this experience to look at my overall judicial demeanor and become more cognizant of my role as a superior court judge. I hope I have addressed all of your concerns and would gladly answer any questions you may have. Thank you for your time.

Sincerely,

Joe Lodge