

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaints 12-179 and 12-197

Complainant: Keith Ambrose
Jeffery Mehrens

Judge: Marie Martinez

ORDER

The complainants alleged that a municipal court hearing officer was biased, impatient, and discourteous.

After reviewing the complaints, the relevant hearing recordings, and the judge's responses, the Commission finds that Hearing Officer Martinez violated the Code of Judicial Conduct, warranting an informal sanction. Specifically, in two hearings Hearing Officer Martinez displayed an improper demeanor and was discourteous to litigants and individuals in the courtroom in violation of Rule 2.8(B) of the Code by screaming at them repeatedly. The Commission was particularly concerned that Hearing Officer Martinez appeared not to realize, either during the hearings or in subsequent communications with the Commission, that her demeanor was improper. Thus, the Commission determined that the judge should obtain additional training in proper judicial demeanor.

Accordingly, Hearing Officer Marie Martinez is hereby reprimanded for her conduct as described above and pursuant to Commission Rule 17(a). The record of this case, consisting of the complaints, the judge's responses, and this order, shall be made public as required by Rule 9(a). The Commission also directs Hearing Officer Martinez to attend the portion of Limited New Judge Orientation in 2013 that addresses proper judicial demeanor, pursuant to Commission Rule 17(b).

The Commission dismissed all remaining allegations.

Dated: December 4, 2012.

FOR THE COMMISSION

Louis Frank Dominguez
Commission Chair

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Copies of this order were mailed
to the complainant and the judges
on December 4, 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

- 1) EXCEEDING JURISDICTION
- 2) DUE PROCESS VIOLATION
- 3) ABUSE OF DISCRETION
- 4) BIAS
- 5) INCOMPETENCE

FOR OFFICE USE ONLY
2012-179

COMPLAINT AGAINST A JUDGE

Your name: Keith AMBROSE Judge's name: JUDGE MARTINEZ Date: 6/21/2011

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.

MY TRIAL WAS JUNE 27th 2012 -
SHE LIED, USED HER POWERS IN AN
UNAUTHORIZED FASHION. WOULDN'T RESOLVE
H.R. SELF,
SCREAMED & YELLED AGAIN.
DISRESPECTFUL
MALFEASANCE
ATTACHE
DOSSIER
(INCOMPETANT)
(BROUGHT IN)
(FORENSIC SCIENCE)
(MISCONDUCT)
COERCING FALSE CONFESSIONS
LYING
RELYING ON FRAUDULENT EVIDENCE
TREATING ME & MY BROTHER AS HOSTILE
UNETHICAL

VIOLATED OBLIGATIONS OF IMPARTIAL CONDUCT
* PERFECTION OF DUTY
"TOOK ADVANTAGE OF MY MENTAL ILLNESS."
CONDUCT UNBECOMING
(Attach additional sheets as needed)



Scottsdale City Court

B. Monte Morgan
Presiding Judge

Janel G. Cornell
Court Administrator

3700 N. 75th Street
Scottsdale, AZ 85251

PHONE 480-312-2442

FAX 480-312-2764

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SEP 11 2012

August 27, 2012

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

Re: Response to Notice of Complaint
Case No. 12-179

Dear Commissioners:

This response is a result of the inquiry by the Commission on Judicial Conduct pursuant to a complaint filed by defendant Keith Ambrose. The following events, which is supported by the enclosed audio of the oral argument and civil traffic hearing, is what transpired in this case.

On Friday, June 1, 2012, an oral argument hearing was scheduled at 1:00 p.m., based on the defendant's motion challenging service of process on five photo enforcement complaints. The defendant was accompanied by an unidentified male who was seated with the defendant at the defense table. As the hearing began, the undersigned judge observed that person appeared to be acting as co-counsel for the defendant. The court advised the yet unidentified individual that he could not coach the defendant because he was not an attorney. That individual then advised the court that he was an attorney and the defendant was his brother. The undersigned hearing officer requested that defendant's brother sit at the back of the courtroom because he did not file a notice of appearance. The court was then advised that the defendant's brother was not licensed to practice law in the State of Arizona. The defendant's brother refused to have a seat in the back of the courtroom and argued that the defendant was mentally disabled and that he was entitled to assist him. At this point, this judicial officer raised her voice and ordered the defendant's brother out of the courtroom since he refused to move from the defense table. Even after this judicial officer raised her voice, the defendant's brother remained at the defense table so the court advised him that he could be in contempt of court for refusing to obey the judge's order. The undersigned judge does not recall whether the defendant eventually complied or whether security had to escort him out of the courtroom.

The oral argument hearing proceeded without the defendant's brother being allowed back into the courtroom. The undersigned judge began by explaining the process or procedure for oral argument hearings when she observed the defendant seemed to be having trouble hearing and inquired whether he needed a hearing device. Initially, the defendant stated that he wished to proceed without a device and the undersigned hearing officer advised that she would speak a little louder to ensure the defendant could hear her. At this point, the undersigned judge checked the bench microphone to ensure it was on. This judicial officer never turns her microphone on as she speaks quite loudly. In any

event as the judge began describing the procedures for the oral argument hearing, she observed that defendant was still having difficulty hearing, so the court took a moment and provided him with a hearing device.

After the defendant presented his case and before he was cross-examined by the prosecutor, the defendant advised the court that he was disabled. The court inquired as to whether there was a judicial finding that he was mentally incompetent. The defendant stated he had been declared "seriously mentally ill" by the State of Arizona. He further advised the court that he is bipolar. The defendant presented a letter from a medical treatment provider about his mental illness. The court explained the law on service of the summons and complaint on a mentally incompetent person. He then stated that he does not have a court order declaring him mentally incompetent. The defendant corrected the court's reference that he was mentally incompetent. He stated that he was not mentally incompetent, but is "seriously mentally ill" and that there is a difference. The undersigned judge apologized to the defendant and stated that she "misspoke." The defendant indicated that there was no need for the court to apologize. The hearing continued for a few more minutes. The court found that alternative service was proper and scheduled all five cases for a civil traffic hearing for June 26, 2012.

On June 26, 2012, the defendant's hearing was scheduled for 3:00 p.m., but the court did not hear the matter until 4:00 p.m. since the defendant and the prosecutor were attempting to negotiate a plea agreement. After the State rested its case, the defendant moved to dismiss the complaints and also moved for a change of judge on the basis that the undersigned Judge may be biased due to her previous interaction involving the removal of his brother from the courtroom at oral argument hearing. The defendant further argued that the undersigned judge was biased because of the defendant's mental illness and was upset that he was required to divulge his mental illness at the oral argument. Defendant argued that because his brother was removed from the courtroom at the oral argument hearing he lost his advocate and his ability to defend himself. The court advised that she did not recall the prior incident until defendant reminded her and further advised that he was not entitled to a change of judge for a civil traffic matter and denied the motion to dismiss. The defendant was also advised that if the undersigned judge's action in having his brother removed from the courtroom was inappropriate, he had the right to file a complaint.

The court proceeded with the hearing. As the defendant presented his case, he was admonished by the court to refrain from standing next to the prosecutor and raising his voice. The defendant complied. As part of his trial exhibits, the defendant presented a brochure on how to file a complaint with the Commission on Judicial Conduct. Defendant was advised that not only is the brochure not relevant to the civil traffic hearing, but that he should keep it should he choose to proceed with the complaint against the undersigned judicial officer. At end of the hearing as the court rendered its ruling the defendant advised that he was leaving and was not interested in being present for his sentencing. The court advised the defendant that he would be sentenced in absentia. The defendant left the courtroom and was sentenced in absentia.

The source of the defendant's complaint is that this judicial officer removed his brother from the courtroom leaving him without an advocate to act on his behalf. Based on the judicial officer's experience, third parties who sit at the defense table with the defendant tend to act as de facto counsel so unless he or she is testifying as a witness, it is her practice to request that the third party sit behind the defendant for moral support. At the oral argument hearing, the defendant's brother was ordered to leave the courtroom because he was asked on more than two occasions not to sit at the defense table, but refused to comply. To the extent that defendant contends this judge forced him to divulge his

mental illness, as you will hear from the audio, it was the defendant who brought it to the court's attention. Because there is a different standard for service of process for persons who are found judicially mentally incompetent, it was important for the court to inquire about it at the oral argument.

The enclosed audio supports the events described in this letter. However, if the commission has further questions, please do not hesitate to contact me. Thank you for allowing me to comment on this complaint and await the commission's response.

Sincerely,

Marie R. Martinez
Civil Traffic Hearing Officer

2012-197

THE LAW OFFICES OF

JEFFERY MEHRENS

JUL 23 2012

July 17, 2012

Arizona Supreme Court
Commission on Judicial Performance Review
1501 W. Washington Street, Suite 227
Phoenix, Arizona 85007-3231

Dear Commission Members:

Sadly, it is my duty to report Scottsdale Municipal Court Hearing Officer Maria Martinez for violations of the Code of Judicial Conduct. I am enclosing audio of my one and only appearance in front of this hearing officer. (I nearly exclusively do criminal defense work and seldom take cases strictly involving civil traffic infractions.) As the enclosed audio demonstrates (in particular, the last two minutes or so), Hearing Officer Martinez violated Canon 3(B)(4) which requires a jurist "be patient, dignified and courteous". Hearing Officer Martinez refused to allow me to make a record for appeal (a violation of Canon 3(B)(7)), and interrupted me (by screaming at me and threatening me) in my attempts to do so. Indeed, when I attempted to make a record for my client, she immediately threatened me with a bar complaint. She then ordered me to leave the courtroom without allowing me to make a record.

Because I have never appeared before this Hearing Officer in the past, I thought it might be an isolated incident; however, in doing my due diligence by discussing this jurist with other attorneys who have appeared before her, they universally were of the opinion that she regularly behaves in a manner that is extraordinarily discourteous and impatient, and regularly addresses litigants in a minatory tone.

Very truly yours,

Jeffery Mehrens
Attorney at Law



Scottsdale City Court

B. Monte Morgan
Presiding Judge

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SEP 12 2012

September 7, 2012

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

Re: Response to Notice of Complaint
Case No. 12-197

Dear Commissioners:

In response to the inquiry by the commission involving a complaint filed against the undersigned hearing officer by Jeffrey Mehrens, the following, as supported by the enclosed audio, is what transpired on the day in question.

Defense counsel Jeffrey Mehrens, appeared before the undersigned hearing officer for a civil traffic hearing on June 25, 2012, at 3:08 p.m., in *State v. Renteria* (case number TR 2012010701). The defendant, through counsel, waived her personal appearance for the hearing. The officer appeared and presented his testimony. He was cross-examined by defense counsel on the details involving the defendant's identification at the time of the traffic stop. At the conclusion of defense counsel's closing argument, the undersigned judge rendered a guilty verdict against the defendant and explained her reasons for doing so, sentenced her to a sanction of \$297 and advised counsel of her right to appeal.

As the judge was writing the defendant's disposition for the bailiff, defense counsel Mehrens blurted out "okay Judge, you know that's the not the rule of law." Although the hearing had concluded the undersigned judge thought perhaps counsel did not understand the basis for the court's ruling and repeated her reasons for finding the defendant responsible. Mr. Mehrens acknowledged that he understood, but stated that he had a right to make a record. The undersigned hearing officer was bewildered as to what record defense counsel was making since the defendant could exercise her right to appeal if the judge was wrong on the law. In any event, the undersigned judge again repeated her ruling and again advised counsel of defendant's right to appeal. Mr. Mehrens argued that he understood the court's ruling, but did not agree. The undersigned judge advised defense counsel that his objection was noted for the record.

Defense counsel again stated he understood the court's basis for its ruling, but he did not agree and as the undersigned judicial officer reiterated the basis for her decision a third time defense counsel interrupted and continued speaking as this judicial officer was attempting to explain her findings. At this point, the undersigned judge raised the tone of her voice to get counsel's attention as he continued speaking and reminded him that he was an officer of the court and that she would file a bar complaint if

he continued his course of behavior. Having refused to abide by the court's order and the undersigned judicial officer having realized that counsel was not interested in hearing the basis of this judge's ruling, she ordered him out of the courtroom. As he was exiting the courtroom, defense counsel continued to express his disagreement with the judge's ruling and threatened to file a complaint against her.

The enclosed audio supports what occurred during and after the hearing as explained above. What's not in the audio is that after leaving the bench, the undersigned hearing officer immediately sought the advice of the presiding judge on how to handle a situation like this. She candidly advised her presiding judge that she raised her voice. Judge Olcavage acknowledged that all judges at one time or another deal with difficult attorneys, but we must be mindful of our behavior at all times. This judicial officer acknowledges that she should never have raised her voice and takes full responsibility for her actions. No matter what outcome the commission decides on this matter, the undersigned judicial officer is reminded that this job comes with an awesome responsibility entrusted to a few which should never be taken for granted. A judge's patience is frequently tested but we must remember to exercise judicial temperament no matter how difficult a defendant or defense counsel can be because even though we are human, we are held to a much higher standard. Four years ago when I became a judicial officer, I placed a sheet of paper on the bench with the following words "judges at all times, must act in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary," (Cannons 1, 2A, and 4(A)(1), so that I would never forget to ensure that those that appear before me are confident that they were heard and that I was fair. Perhaps I have forgotten that I also needed to be patient.

Finally, Mr. Mehrens claims that there have been other incidents with other attorneys, but presents no evidence for this judge to respond to those allegations appropriately. In any event, I thank you for allowing me to respond and await the commission's decision on this matter.

Sincerely,

Marie R. Martinez
Civil Traffic Hearing Officer