

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 12-294

Complainant: No. 1412300421A

Judge: No. 1412300421B

ORDER

The complainants alleged a hearing officer improperly dismissed a traffic citation.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the hearing officer 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 all of the information provided by the complainants and the hearing officer's response, the commission found no evidence of ethical misconduct and concluded that the hearing officer did not violate the Code in this case. Accordingly, the complaint is dismissed in its entirety pursuant to Rules 16(a) and 23.

Dated: February 19, 2013.

FOR THE COMMISSION

/s/ George Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on February 19, 2013.

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

To Whom It May Concern:

RE: Complaint against Hon.

Our complaint is with Hon. _____ decision to dismiss _____ Deputy Sheriff
_____ traffic ticket (TR _____) on April 1, 2011 in his judge's chambers. This
decision directly affected our Notice of Claim case with _____ County.

Our daughter, [REDACTED], was involved in an automobile accident with PCSO Deputy [REDACTED] on June 14, 2010 approximately 9:30pm in NW [REDACTED] and north [REDACTED] Road. We received a phone call in July, 2010 from Deputy Curtin that Deputy [REDACTED] was issued a ticket for this incident – ARS§28-272 (passing in a no passing zone). This ticket was recorded on the [REDACTED] Justice Court website on August 25 but had continuances for 10 months. In fact, there was no activity from Nov. 5 to April 1. Why did the courts take over a month to post the ticket on their website and allow this many continuances for so long?

We filed a Notice of Claim with _____ County in regard to this incident on November 10, 2010. Our claim was denied by the county on June 2, 2011 because the judge dismissed Deputy _____ ticket. We requested an audio transcript of this court hearing. The Hon. _____ held the hearing in his chambers, so there is no recorded audio or paper transcript available. We do not know who attended or what transpired at this hearing. We are appalled that this ticket was dismissed, because our evidence shows that Deputy _____ did pass in a no-passing zone.

Our basic complaints are:

A. Why did the Judge choose to have the hearing in chambers thereby denying us access to the logic leading to his decision? Our question is did the Judge decide to dismiss because of lack of opposing evidence, to protect a county employee, to save money for the county or all three reasons? There is no trail of evidence or recording to prove why he decided in favor of the Deputy. Since our claim was denied and we were harmed due to the Judge's decision, we think that we should have, at least, been able to attend the hearing, provide opposing evidence or have legal representation present to protect our rights.

B. Was the Judge aware of our Notice of Claim before he made his decision?

We later learned that Deputy [REDACTED] had other citations with [REDACTED] Municipal Court. Three traffic citations were dismissed because Deputy [REDACTED] attended defensive driving courses. Was Judge [REDACTED] aware of these other citations, as well as our Claim of Notice with the [REDACTED] County?

We understand that, possibly, other, previous traffic citations may not be admissible and therefore withheld from the Judge. However, we believe that previous behavior patterns probably have an effect on the case at hand.

We also believe he was aware of our Notice of Claim against _____ County due to the fact that he chose to have this hearing take place in his private chambers and not recorded.

Because of this, no evidence would be available that could prove his reasons for his decision. From past practice, he probably knew that if the citation was dismissed then the Notice of Claim would be denied hence protecting the Deputy, saving the county money and denying the citizen to be made whole.

We believe that County and the Justice Court colluded together to protect one of their own employees rather than uphold the law, their oaths and to protect a citizen. We want our complaint against Hon. investigated and all of the findings transmitted to us. What he and the county administration did is reprehensible and wrong.

Respectfully,

You may contact us by email. Please use:

Enclosures:

Letter to State Attorney General
Criminal Division – Fraud and Public Corruption Unit

Notice of Claim against Pima County
Denial Letter of Oct. 4, 2012

Pima County Consolidated Courts - Traffic Ticket (Deputy)
Municipal Court (Deputy)