

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 13-140

Judge:	No. 1067114695A
Complainant:	No. 1067114695B

ORDER

The complainant alleged a municipal court judge was rude and 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 allegations and the recording of the hearing, 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 review the legal sufficiency of court rulings. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: August 21, 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 August 21, 2013.

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

I recently had reason to review the audio recording of my hearing held in _____ court. About five months ago, on 12-19-12, I challenged a citation for riding my bike in the wrong direction. I submit the following complaints and issues for your consideration.

1. It is obvious from listening to the audio that _____ is a biased judge in my case. The tone and tenor of her communications throughout the hearing with the Officer was respectful, patient, and to be blunt, fawning. Conversely, the Judge's tone towards me, the citizen defendant, was impatient, abasing, and to be blunt, disrespectful.

Her disgraceful attitude towards me started early during my questioning of the Officer after he had testified. My second question to him elicited that he had written notes of our contact, which I requested to review before continuing. _____ admonished me by saying:

“it would have been nice if you'd have asked us at the beginning of it if he had notes.”

She then said:

“In the future, sir, if you come into the courtroom... and you're going to ask for notes, you should ask the Officer prior to the start of the hearing.”

It was from this point forward that _____ demeanor towards me progressively deteriorated. In addition to this being the impetus of this Judge's partiality, I bring to your attention the fact that _____ mistaken in her understanding of this matter.

Civil traffic hearings are conducted according to rules, specifically, by the Rules Of Procedure in Civil Traffic and Civil Boating Violation Cases. Rule 13 (c) states:

“During the hearing, upon request of the defendant, the citing officer shall produce any notes made by the officer in reference to the civil traffic complaint.”

_____ admonishment to me was in direct violation to this rule and demonstrates that, from the very start, she was biased against me.

During the same exchange, _____ then feigned concern that my review of the Officer's notes was somehow a waste of the Court's time, saying:

“this is a waste of the court's time. And I wouldn't care about my time, but there are other people waiting here, and it's their time that I'm more concerned about at this point.”

Her fallacious plea is contradicted by the fact that she was late coming into court. My hearing was scheduled for 10:00am and I was the first case called, yet, _____ did not even come into the courtroom until 10:15am. Besides being a hypocrite, she again evinces her bias against me.

2. About half way through my questioning of the Officer, _____ rebukes me again. During this exchange I explained, at her request, that my defense was based upon the Officer having a motive, other than violating the statute, for citing me: specifically that he was reacting to my disrespectful comments immediately prior to being detained.

Less than a minute after I resumed questioning the Officer about his perception of my conversation with him, _____ again interrupted me. I had just asked,

“what was your impression of me asking these questions?”

stopped me and stated:

“OK. OK. Again, you’ve gone through ad nauseum about the questions. Get to the point that you’re trying to make, OK... you’re wasting a lot of time here and not getting to the point.”

The fact is that I was engaging in the very crux of my defense and stopped me. In the process of doing so, she relieved the Officer of having to respond to this line of questioning.

3. Judges, like juries, are not permitted to abandon their own common sense and life experience when determining what the facts are based on the evidence, including testimony. did exactly this, however, when it came to this Officer’s testimony. Specifically, the Officer testified to the following:
 - I was 8-10 feet south of him, facing eastbound, while standing on my bike, in the westbound bike lane, while talking with him;
 - When I left a few seconds later, he observed me “drive off in the bike lane... with two turns of the pedals” and travelled 6-8 feet;
 - He (the Officer) then “probably walked in a very quick manner”, from his original position to directly in front of me in the bike lane, to detain me.

This testimony means that the Officer is claiming to have “walked” 14 to 18 feet in the same amount of time it took me to pedal twice and go 6-8 feet. This is physically impossible. Furthermore, common sense in 21st Century America would tell you that to pedal “with two turns of the pedals”, even on a Big Wheel let alone a 26-inch mountain bike, would require more distance than 6-8 feet.

It is also not even realistic. A cop does not “walk quickly” to detain a bicycle law violator when he is only 5-7 steps away. He would simply command them to stop. “believed” this story and did not utilize reason, common sense, or discernment. She, again, clearly demonstrates her bias and prejudice.

4. also demonstrated that she was not familiar with the relevant law. I was cited for violating ARS Section 28-815(A) which regulates a person “riding a bike”. Four times during the hearing referred to me as “driving” in the wrong direction. In her ruling, she concluded that “travelling... any distance going the wrong direction in the bike lane is a violation.” Her understanding is incorrect.

The statute requires a person to be “riding”, not “travelling”. Riding, in turn, requires “pedaling”. The Officer realized this and he lied during his testimony. To an unbiased reasonable person, his story would not have been believed.

If I could find a way to include this Judge in a lawsuit for violating my Constitutional Rights, I would. For good or bad, the legislature and judiciary of this country has determined that judges have absolute immunity for acts done in thier official capacity. And just like I can’t sue this Officer’s for his perjury, it doesn’t change the fact that this Officer is a perjurer, and was complicit in his violation of my rights. It is clear her loyalty is to the and her fellow employee and is of more value than the interests of justice. o be forthright, I m disgusted.