

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 13-141

Judge:	No. 1469615623A
	No. 1469615623A
Complainant:	No. 1469615623B

ORDER

The complainant alleged two superior court judges delayed making rulings in his case.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the judges 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 information provided by the complainant and court records, the commission found no evidence of ethical misconduct and concluded that the judges 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: July 3, 2013.

FOR THE COMMISSION

/s/ George Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judges on July 3, 2013.

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, AZ 85007

COMPLAINT AGAINST A JUDGE

June 7, 2013

I filed a Civil Rights Complaint, which also contained a constitutional challenge to certain state laws, in Superior Court in _____ County on October 2, 2009. The court assigned _____ then transferred it to _____ County and reassigned it as _____

The Arizona State Constitution, Article 6 Section 21 mandates that each and every superior court judge shall decide every matter within sixty days.

I filed a Rule 12(e) Motion for More Definite Statement on December 9, 2009.

The judge failed to decide within sixty days, which elapsed in February.

I then filed a Motion for Recusal on March 15, 2010. In that motion I stated, "Therefore, at the outset, having already disregarded a citizen's basic civil rights, how can the court then proceed to judge the civil rights case?" The court lost any moral authority to judge, and lost jurisdiction after the sixty days elapsed.

In this same Article 6 Section 21, the Arizona Constitution provides the sole remedy in such a case, with no exceptions, that once the sixty-day mandate upon judges is violated, the supreme court shall provide for the speedy disposition of the matter.

Rather than adhere to this provision in the constitution and allow the supreme court to decide, upon knowledge and belief, _____ did not inform the supreme court that a violation had occurred, but followed the unlawful order of presiding _____ and retook jurisdiction of the case. But the court had lost jurisdiction: it is an incontrovertible fact that more than sixty days had elapsed, and that the constitutional mandate was disobeyed. He is bound to obey the constitution himself even if the presiding judge rules to the contrary.

By so doing, the judge disobeyed the plain stipulations of the Arizona Constitution; he interfered with the constitutionally-directed operation of the courts; he prevented the supreme court from hearing the matter; he deprived me, a born citizen of the United

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States and citizen of the State of Arizona, from my due process rights guaranteed to me by state and United States constitutions; he unlawfully infringed upon my civil rights and constitutional liberties, and proceeded to adjudicate the case without jurisdiction and devoid of moral authority to do so.

This matter is jurisdictional. After sixty days the superior court loses jurisdiction, unless and until the Arizona supreme court decides the matter. But the supreme court never decided the matter because the judge prevented it from doing so, and, upon knowledge and belief, the supreme court was not even informed that a violation had taken place.

Moreover, still lacking jurisdiction, he nevertheless illegitimately dismissed my case on dubious grounds on June 9, 2010. For example, he contradicted his own findings. He made findings on the record in the Minute Entry of April 22, 2010, namely, that plaintiff's complaint is not devoid of factual statement . . . This court does not find that plaintiff utilized broad conclusory statements rather than facts in his complaint." Thus, there was no need to amend the complaint and cure any deficiency of facts. Shockingly, the court contradicted itself and dismissed the complaint, stating, in part, that "Plaintiff's complaint is replete with conclusory allegations . . ." Had the court made this finding earlier, I could have cured the complaint by amendment; however, by making the finding in the dismissal of the case, in a sort of legal bait-and-switch, the court prevented me from having the opportunity to cure the complaint by amendment, and thus deprived me of due process of law.

In addition, there were dozens of claims in the complaint. It is preposterous on its face that there were no factual claims; if only one claim is true, the case should have gone forward. It is a matter of record, for example, that the Commission on Judicial Conduct has already found that Judge [redacted] did violate my constitutional rights, and those of many other people. Therefore, the complaint has at least on factual claim.

In dismissing the complaint the judge cites court cases about judicial immunity over the plain text of the constitution Article 2 Section 9, which declares that no laws can grant immunity. Moreover: 1) 42 USC Section 1983 mentions judges by name and instructs when they may or may not be liable; 2) Judge [redacted] selected court cases in favor of immunity, but did not reckon with contrary court cases in the Ninth Circuit and elsewhere that hold that a judge acting outside of jurisdiction is not immune; 3) absent a clear statute, of which there is none, it is arguably a conflict of interest for a judge to declare that a judge is immune.

The government committed wrongs. Someone is liable or the state is liable when the state and the judges employed by the state violate God-given rights of citizens. The actions and inaction of this judge have compounded the harm and the wrong.

(June 7, 2013

In my estimation, several canons of Arizona Code of Judicial Conduct have been violated: Canon 1, especially 1.1, Canon 2, especially 2.2 (with comment 3), 2.6 and 2.7.

Moreover, I would request the Commission to also consider and evaluate: 1) a judge's oath of office; 2) Oath of Admission to the Bar; 3) A Lawyer's Creed of Professionalism of the State Bar of Arizona; 4) Rule 42 of the Supreme Court. Arizona Rules of Professional Conduct; 5) Rule 41 (b) and (e); 6) Rule 36 (b)(A); and 7) Rule 54 (b).

Nothing is more absolutely required than telling the truth.

Respectfully submitted,

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In this same Article 6 Section 21, the Arizona Constitution provides the sole remedy in such a case, with no exceptions, that once the sixty-day mandate upon judges is violated, the supreme court shall provide for the speedy disposition of the matter.

Rather than adhere to this provision in the constitution, Judge _____ lied on the record by denying the incontrovertible fact that more than sixty days had elapsed, and that the constitutional mandate was disobeyed.

By so doing, the judge disobeyed the plain stipulations of the Arizona Constitution; he interfered with the constitutionally-directed operation of the courts; he prevented the supreme court from hearing the matter; he deprived me, a born citizen of the United States and citizen of the State of Arizona, from my due process rights guaranteed to me by state and United States constitutions; as presiding judge he unlawfully ordered my civil rights case to proceed without jurisdiction and devoid of moral authority to do so.

This made possible the illegitimate dismissal of my case on June 9, 2010.

This matter is jurisdictional. After sixty days the superior court loses jurisdiction, unless and until the Arizona supreme court decides the matter. But the supreme court never decided the matter because the judge prevented it from doing so, and, upon knowledge and belief, the supreme court was not even informed that a violation had taken place.

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