

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 13-244

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Judge:	No. 1103312140A
Complainant:	No. 1103312140B

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**ORDER**

The complainant alleged a municipal court hearing officer had a conflict of interest and improperly found him guilty of a traffic violation that was not charged on his 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 review, the commission found no evidence of ethical misconduct and concluded that the hearing officer did not violate the Code in this case. The commission does not have jurisdiction to review legal issues. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: October 30, 2013.

FOR THE COMMISSION

/s/ George Riemer

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George A. Riemer  
Executive Director

Copies of this order were mailed to the complainant and the hearing officer on October 30, 2013.

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

September 24, 2013

State of Arizona  
Commission on Judicial Conduct  
1501 W. Washington St, Ste 229  
Phoenix, AZ 85007

### Introduction

much like many of the other has chosen to raise money by robust enforcement of traffic laws. Like a cottage industry, most of its patrol people are focused around rush hour and lunch hour traffic issuing as many tickets possible against unsuspecting motorists.

I was fully aware of this trap and even if not, my iPhone blares a warning when I enter such areas, "Speed Trap!" As such, I was following the speed limits in the area. I was extremely surprised when I was pulled over by a

ssued me a ticket for going 45 mph in a 35 mph zone. During the stop, interrogated me with the following questions:

1. Where are you going?
2. Where are you coming from?
3. What is your physical address?
4. Who are you employed by?
5. What is your phone number?

His request for my phone number was declined which set off to an extreme emotional disturbance, including shaking, trembling and turning extreme red in the face. His reaction was worrisome.

I cannot imagine why [redacted] would want my phone number, other than for nefarious reasons, but suspected that the entire detention was for some other (unlawful) reason and he needed to justify the stop by issuing a citation.

I was driving a bright yellow [redacted] which is part car and part pickup truck. (I also own an [redacted] which is the same sort of vehicle.) I find these vehicles useful in operating a small ranching operation. Unfortunately, this vehicle failed production because it was associated with homosexuals in [redacted] (very much like [redacted] s are now associated with gang bangers).

### Court Hearing

The ‘ \_\_\_\_\_ ’ \_\_\_\_\_ opened<sup>1</sup> the case with the description of the charge against me- **A.R.S. 28-701A (Reasonable and prudent speed)**.

\_\_\_\_\_ testified that he visually<sup>2</sup> observed Defendant’s vehicle coming down a hill on \_\_\_\_\_ He then stated that he turned on his radar on his motor scooter and that detected the vehicle traveling at “49 miles per hour.” He stated that he used his “discretion” to issue a citation for going “45 miles per hour,” a clear falsification of a government document.

**Defendant.** I testified that I was not speeding and that \_\_\_\_\_ use of radar in the particular environment was prone to error. He was at the bottom of a hill, shooting his radar across a divided highway, across a median strip that was highly vegetated. I stated that under those non-ideal conditions, \_\_\_\_\_ could have been picking up a bird flying by or opposite direction traffic.

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The above photo was shown to \_\_\_\_\_ and the patrolperson as an aid in the hearing. As clearly shown by the photo, there were great distances involved and significant obstacles to obtaining a valid reading of the radar.

I testified that I had over 30 years of experience, as a military and civilian instructor pilot. I used tracking, targeting and acquisition sensors and that this kind of situation would not warrant a valid "shoot." My attorney requested that my testimony be considered from an "expert witness." Instead of granting or denying the request, \_\_\_\_\_ simply said, "**Huh.**" It was quite obvious that she was ignorant of the proper court room procedures.

After a lengthy deliberation, \_\_\_\_\_ returned to the court room for a verdict. She stated that she was **amending** the complaint to indicate the charge was for a Town Code 10.10.160 and that I was found to have violated that code.

Amending the complaint AFTER a hearing was extremely improper. However, the difference in money was **NONE**, it was the same fine, just that no report would be made to the Motor Vehicle Division. It was quite obvious that the evidence did not sustain the original charge but \_\_\_\_\_ had to get their **MONEY**.

The town code violation was significantly different from the original charge A.R.S. charge. The defense of that charge would also have been significantly different and much more time consuming. However, the main issue on this is **that you cannot be charged with a violation, have no opportunity for**

**defense of such violation and the charge occurring AFTER the hearing was held.** It was improper and quite ludicrous.

I timely appealed [redacted] corrupt ruling and proceeded with the certain appeal of the case. I contacted the clerk's office to inquire into the fees for having the record transmitted to the Superior Court. As soon as I identified myself, the clerk hung up on me. A second call resulted in the same thing, except immediately after the clerk recognized my voice.

Shortly thereafter, I received a notice that my appeal was determined to be "abandoned" and the case was closed.

### **Conflict of Interest**

A town that issues that many tickets would certainly have their **profits** affected by hiring qualified and properly educated [redacted] to handle traffic cases. For [redacted] they [redacted] occasions without any additional outlay of funds. They are cheap proxies. The problem with that is a significant conflict of interest in using such unqualified and poorly educated people to hear cases.

A clerk handles the money (fines) that goes through the court system. They manage the records and, as seen in this case, can take an active role in interfering or preventing the appeals process. They can throw away records or mishandle such records, intentionally to interfere with the administration of justice.

A clerk's job is directly related to the amount of money taken in from the cases. A clerk that "plays" judge would have a direct interest in having defendants found responsible for actions. It is a form of job security. In this case, [redacted] obviously did not believe that the Patrolperson met the standards for a verdict of "responsible" for violating the charged act and amended the complaint, after the fact, to reflect what she considered a lesser charge.<sup>3</sup> The finding did not assess any points to my MVD record and may not be used to raise insurance rates.

### **Conclusion**

My last traffic conviction was around the late 1970's. This case is not just a matter of ruining an untarnished record. [redacted] patrolperson abusing the system looking for a date and a (maybe) high school

graduate or GED "judge" rendering an improper verdict just to make a few bucks for her employer (and retain her job).

I am requesting the revocation (or such other punitive action) of authorization to conduct hearings AND a finding that the use of clerks to act as Hearing Officers is a direct conflict of interest. There are enough trained and qualified legal personnel that can be used to hear these \_\_\_\_\_ should be considered highly inappropriate. Saving money by using cheap labor is not in the best interests of justice, nor can monetary reasons be used to justify a deprivation of rights under color of law.