

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 13-279

Judge:	No. 1099719220A
Complainant:	No. 1099719220B

ORDER

The commission received information raising allegations of incompetence and court mismanagement by a justice of the peace.

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 review, the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. The commission approved sending the judge a private warning letter regarding courtroom management and clarity of judicial rulings. The complaint is dismissed pursuant to Rules 16(b) and 23(a).

Dated: May 19, 2014

FOR THE COMMISSION

/s/ Louis Frank Dominguez

Louis Frank Dominguez
Commission Chair

Copies of this order were mailed to the complainant and the judge on May 19, 2014

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

George Riemer, Executive Director
Arizona Commission on Judicial Conduct
1501 West Washington Street, Suite 229
Phoenix, AZ 85007

Re: Potential Complaint; Justice of the Peace
County

Dear Mr. Riemer:

We need to bring to your attention some issues concerning Judge . They may or may not rise to the level of a complaint. Some of the issues more closely resemble a than what would normally be considered judicial misconduct. Even so, our attempts to resolve perceived problems through additional training have been unsuccessful, in part because Judge did not seek the assistance of either of the two judges that were offered to . I, along with the Judge request an appointment to meet with you and/or the Commission's disciplinary counsel to discuss these issues, after you have had an opportunity to review this material.

Our concerns are difficult to categorize. performance improvement plan and response to it are attached to this letter. The overarching concern is that is not performing judicial duties competently and diligently in accordance with the requirements of Rules 1.2 and 2.5(A) for the Arizona Code of Judicial Conduct. For example, a primary purpose of an initial appearance and/or arraignment is to inform the defendant of the nature of the charges and to make sure that the defendant knows the next step in the process. Many of the statements and explanations given by Judge likely leave defendants hopelessly confused.

Additional recent allegations, that we have not yet attempted to investigate, include the following: First, is allegedly unable to do a complete arraignment calendar. For example, allegedly brought in a pro tem judge, called it a "double calendar," and then had the substitute judge hear all but ten of the arraignments that were regularly scheduled for that day. allegedly heard these ten cases in a nearby hearing room. Second, staff routinely must ask other judges in the building to cover in-custody video arraignments. Third, is allegedly so lenient toward

underage drinking that it is becoming an issue for officials at [redacted]. Fourth, [redacted] allegedly “gave credit for time served” because defendants had a significant wait time in courtroom.

These additional allegations are also problematic because they are subjective. Issues concerning [redacted] may rise to the level of a [redacted] under Rule 2.14. [redacted] alleged conduct suggesting a perhaps well intentioned but consistent bias in favor of underage drinkers and minor DUI offenders may raise issues about possible violations Rule 2.2 and Rule 2.3. If [redacted] staff has to seek out other judges to see in-custody defendants, then [redacted] is also failing to cooperate in the administration of court business under Rule 2.5(B). Some of the other allegations might raise a concern over the Rule 2.5 mandate to act “competently, diligently, and promptly” or the Rule 2.6 requirement that everyone has a right to be heard. In addition, [redacted] excessive absences from [redacted] court remain a troublesome issue.

Perhaps this case should proceed with a view toward some type of recommended [redacted] under Article 6.1 § 4 of the Arizona Constitution. Clearly, however, all additional decisions in this case need to be made by the staff and members of the Arizona Commission on Judicial Conduct. Our bench cannot take this matter any further. In addition, due to the serious and cumulative nature of allegations, we also respectfully request that an Investigative Panel be appointed and that a decision be made concerning whether Judge [redacted] should be reassigned on an interim basis in accordance with Arizona Commission on Judicial Conduct Rule 31.

We hope you will agree to meet with us.

Very truly yours,

Attachments:

1. Performance Improvement Plan, dated [redacted] (with attachments)
2. Delay Request
3. Response to Performance Improvement Plan

cc: Hon.
Hon.