

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 14-178

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Judge:

Complainant:

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**ORDER**

The complainant alleged a superior court judge had not ruled timely on several motions/petitions he had filed.

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.

The commission does not have jurisdiction to review the legal sufficiency of any of the judge's rulings. In addition, the commission found no evidence of ethical misconduct and concluded the judge did not violate the Code in this case. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: August 28, 2014

FOR THE COMMISSION

/s/ George A. Riemer

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George A. Riemer  
Executive Director

Copies of this order were mailed to the complainant and the judge on August 28, 2014.

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

Commission on Judicial Conduct  
1501 W. Washington Street, Suite 229  
Phoenix, AZ 85007  
Telephone: (602) 452-3200

Commission on Judicial Performance Review  
1501 West Washington, Suite 227  
Phoenix, Arizona 85007-3231  
Telephone: (602) 452-3098

Re: Delay Expunging Judge From NICS and/or Clearance of Records  
County Court

Dear Commission on Judicial Conduct:

was charged without probable cause with a Class One misdemeanor alleging a violation of an injunction against harassment in the Court. The case was dismissed pursuant to Rule 11, Arizona Rules of Criminal Procedure.

On Judge issued an unsigned minute entry which denied a hearing for to approve his NICS expungment motion. It should be noted that A.R.S. § 13-925(A) mandates a hearing prior to a judge denying a NICS expungment. Moreover, Judge erroneously misapplied prior decisions of the Court of which were only applicable to a prior version of A.R.S. § 13-925(A). The prior version of the statute only allowed those who were found to be dangerous to self or others to petition for expungment from NICS whereas the newly revised version of A.R.S. § 13-925 allows those who have Rule 11 findings or any other mental health findings to petition for NICS expungment, as well. On filed a motion for reconsideration and for a final signed appealable order. On

filed a motion for clearance of court records pursuant to A.R.S. § 13-4051 attaching newly discovered evidence proving that the case was filed without probable cause. On re-urged his motion for reconsideration and for Judge to issue a final signed order approving his expungment. On

filed a notice of appeal for his first NICS expungment motion. The Court of ruled on that filed his notice of several days past the day time limit for criminal notwithstanding that a Rule 11 proceeding is civil in nature and that was waiting for a final signed order in order to appeal from the same. On filed a second

NICS expungment motion, a motion in limine to exclude any evidence relating to case and motion for appointment of counsel. On filed a motion for summary judgment in support of his second motion for NICS expungment.

The issue of this complaint is that Judge has been dilatory in approve NICS expungment motion thereby exposing to risk of victimization from the rising tide of violent crime and also in violation of due process by unconstitutionally infringing upon his second amendment rights. The rule on timely judicial processing is that a judge must rule on pending motions within days. Here, Judge has delayed approval of both his entry of clearance of records and his second NICS expungment motion. Accordingly, this commission should require Judge to immediately issue an order expungment from NICS and clearing his records in the above matter.

Very truly yours,