

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 14-347

Judge:

Complainant:

ORDER

The complainant alleged a municipal court judge did not properly consider his evidence and made an improper ruling in a civil traffic proceeding.

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 the judge's rulings. In addition, the commission found no evidence of ethical misconduct and concluded that 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: November 26, 2014

FOR THE COMMISSION

/s/ George A. Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on November 26, 2014.

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

Gentlemen/Ladies:

On [redacted] I received a traffic ticket for an unsafe lane change. I will attempt to lead you through the particulars of the case and explain the way my wife and I saw the events transpire.

I will use the transcript of the trial (Enclosed as Exhibit A) to base my testimony of the case and add my conclusions as well.

The first things that come to my attention is the polygraph tests. My wife wanted to contest the ticket, so we discussed the problems of doing so and I initially was against this action. We knew that the [redacted] had lied about certain supposed occurrences but I didn't feel she understood what would happen if we took this to trial. Cops do not like to be proven wrong and will do whatever necessary to arrive at that end. I told my wife that the only chance that we would have is to take a polygraph test to prove we were there to tell the truth. We chose a man that did tests for our company, a retired [redacted] I call your attention to page 5 of the transcript #'s 11 through 25 wherein the [redacted] essentially stated that the polygraph is in his estimate is not worth much. I would like to see him stand up in a room full of Detectives and make that statement. It is pretty well understood that if you are taken in for anything you will be asked to take a polygraph and if you refuse the conclusion is you are guilty of something. So we paid [redacted] to prove to a judge that we would tell the truth and a [redacted] decided that it wasn't relevant. He never really looked at the polygraphs again. His derision went so far as to ask me if I really wanted them put into evidence. A fact that is conveniently left out of the transcript and I will take a polygraph attesting to this. If he had bothered to read the polygraphs, he would have noted that they really didn't address the case but rather if we would lie about a Police [redacted] I would like to point out that the person giving the test is a [redacted] the line of questioning he pursued was if we would lie in order to get a Police [redacted] in trouble. We passed that without any problem. As I read through the transcript I find many inconsistencies and would end up writing a book, but I will just highlight a couple of them and end with a conclusion.

One of the many things that caught my attention was the officer's approach to the car after he had stopped me. Let me give you a quick lesson in how to take a bad situation and make it immediately worse. He walked up to the car and said, "You have a license and registration in there"? I said, "Why are you stopping me?" He replied, "Because I said so." I repeated, "Why are you stopping me?" He finally stated that I had run the red light at the intersection of [redacted] and the [redacted] At this point it became abundantly clear that I was dealing with a little [redacted] with a badge and gun. Mad with power. Things went downhill from there. I detest [redacted] particularly [redacted] with a badge and gun. Things like this stick indelibly in your mind..

You had to be in my car to understand our mindset. As I approached the

intersection the light changed to yellow. I looked in the rearview mirror and a car was a couple of car lengths back. I couldn't have stopped before the intersection anyway, so I glanced both ways and it was clear so I continued on through. When I cleared the intersection I wanted to move to the outside lane so I looked in the rearview mirror (better than 50 yards up the at this point) and the light was changing to red for my direction. I checked the side mirror, I looked towards the rear of the car to make sure, put on the turn signal and changed lanes. Well clear of the intersection. I continued to accelerate to 50 mph (the speed limit) and set the cruise control, as I have done a couple of hundred times before. At that point there was a couple of cars ahead but none behind. As I topped the hill by the car dealership I noticed a car about a quarter mile behind but paid no more attention. As we passed a gas station on the left the cars in front turned at that road, leaving just my car. The following car was too far behind to notice at that point. It was about at night and very dark on the so I couldn't see well enough to identify the car behind. I did say to my wife that a car had fallen in behind us. It became obvious that he was following and I said to my wife that he should go on and pass, there were no other cars anywhere in sight in either direction. My wife said who do you think it could be. I said some or a drunk. He would come closer and back off and this is not what the tape shows, this puzzles me because both my wife and I observed this. She had started looking back and had commented "Why is he following so close?" Finally I got fed up with this car and moved to the middle lane. He continued for several seconds and I thought he was actually going to pass and mentioned this to my wife. Instead, the vehicle abruptly followed me to the inside lane. At that point I was fed up and made a rapid move back to the outside lane, which is when the lights on came. I was furious with this stupid He had managed to scare the hell out of my wife and alarm me. I don't carry weapons and was wondering how I was going to manage this if it came to a confrontation. I wrote before how he approached the car, enough said. There are many things I could say here but will try to hold my tongue. What would have happened if he hadn't been there? Nothing: I was on cruise control at 50 mph and would have continued to turned off the and returned to my house as I have done many times before.

The crux of the case is not that I made the moves as described (which endangered no one), but why I made them. The did not take an objective look at the reasons for my actions but ruled against me solely to collect a fine. As you know, the is not an and is not accountable to the people. Instead, he is a employee of the and has every incentive to justify his salary by imposing as much in fines as he can.

We told him the case would be under and he told us that the court would supply the paperwork and there was a time line for the process. We followed this religiously, even going to the court office a day early so there would be no doubt about the filing.

Then I started looking for an attorney for the [redacted] We asked a friend to recommend someone and he gave us [redacted] names. I started calling them and no one was interested in handling the case. One attorney that I talked to, after I had advised him that the first trial was over with and I was looking for someone to handle the [redacted] asked me what was your experience and I said simply [redacted] His answer was [redacted] I then knew why I was having difficulty finding an attorney. I finally found one that agreed to take the case and when he went in to pick up the paperwork for the [redacted] he was told they had no record of the filing. Fortunately I kept my copies of everything, which are Exhibit B. The attorney wanted nothing more to do with the case. While I never asked him, I think they had a little chat with him. After talking with a couple of other attorneys, it seems to be a well known fact that it is a [redacted] and is referred to in that way.

I have gotten my fair share of building sidewalks for different towns around the country and I normally don't say anything about them unless they are totally outrageous. What upset me most about this was the [redacted] scared the hell out of my wife by handling the situation as he did. After I asked him why he stopped me and he answered with the [redacted] answer, I asked again and he started with I ran a light at the bridge and I was weaving all over the highway and the illegal lane change. Let me address each of these individually, and add that while the [redacted] doesn't believe in polygraphs, I am not a career criminal and do not know how to beat one. I will be happy to take a polygraph exam about anything written here. First, if I ran the red light and he thought I was drunk, I would think the wise thing to do is get me off the road immediately. Weaving all over the road indicates I was drinking alcohol. Stating that it was very subtle, I can attest that it had to be very subtle because I stopped drinking alcohol over [redacted] ago. Let me be precise, I have a [redacted] at [redacted] with a buddy I was in the [redacted] with [redacted] years ago. I don't do drugs. You can read the answer of the [redacted] "YOUR NOT CHARGED WITH THAT." Then stop indicating that I must be taking something because I was driving so horribly. I hesitate to ask you to look at the tape of the stop because I have found so many errors and omissions in the transcript. If I thought I could get a representative copy I would send it to a lab for examining. I didn't expect so many things to be suspect. The further I got into this situation the more was revealed.

We were trying to follow the proper procedure for [redacted] the case, for some reason they didn't want that to happen. We will await your disposition before considering further action. We feel a gross injustice has been perpetrated: one, by the police [redacted] and two, by the [redacted] whose interests are with his employer, the [redacted] of [redacted].