

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 14-397

Judge:

Complainant:

ORDER

The complainant alleged a superior court judge was biased and prejudiced toward him, failed to issue a timely ruling in his case, and was not prepared before hearings.

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. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: March 23, 2015

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 March 23, 2015.

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

Dear Commission on Judicial Conduct,

Below are the abridged rules on points of violation. The typeset in bold emphasizes the violations specific to myself and my case.

RULE 1.2. Promoting Confidence in the Judiciary

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

Comment

1. Public confidence in the judiciary is eroded by improper conduct and conduct that creates the **appearance of impropriety**....
3. Conduct that compromises or appears to compromise the independence, integrity, and impartiality of a judge **undermines public confidence in the judiciary**. Because it is not practicable to list all such conduct, the rule is necessarily cast in general terms.
4. Judges should participate in activities that... **promote access to justice for all**.
5. Actual improprieties include violations of ...provisions of this code. The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge violated this code or engaged in other conduct that reflects adversely on the judge's honesty, **impartiality, temperament, or fitness to serve as a judge**.

RULE 2.2. Impartiality and Fairness

A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

Comment

1. To ensure impartiality and fairness to all parties, a judge must be objective and open-minded.
2. Although each judge comes to the bench with a unique background and personal philosophy, a judge must interpret and apply the law without regard to whether the judge approves or disapproves of the law in question.
3. ...an **intentional disregard of the law** may constitute misconduct.

RULE 2.3. Bias, Prejudice, and Harassment

(A) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.

(B) A judge **shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice**

Comment

1. A judge who manifests bias or prejudice in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute.
2. Examples of manifestations of bias or prejudice include but are not limited to epithets; slurs; **demeaning nicknames**; negative stereotyping; **attempted humor based upon stereotypes**; threatening, **intimidating**, or hostile acts; suggestions of connections between race, ethnicity, or nationality and crime; and irrelevant references to personal characteristics. **Facial expressions and body language** may convey to parties and lawyers in the proceeding, jurors, the media,

and others an appearance of bias or prejudice. A judge must avoid conduct that may reasonably be perceived as prejudiced or biased.

RULE 2.5. Competence, Diligence, and Cooperation

A judge shall perform judicial and administrative duties **competently**, diligently, and promptly.

Comment

1. Competence in the performance of judicial duties requires the legal knowledge, skill, **thoroughness, and preparation** reasonably necessary to perform a judge's responsibilities of judicial office.
2. A judge should **seek the necessary docket time, court staff, expertise, and resources to discharge all adjudicative and administrative responsibilities.**
3. **Prompt disposition** of the court's business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and **expeditious in determining matters under submission**, and to take reasonable measures to ensure that court officials, litigants, and their lawyers cooperate with the judge to that end.
4. **In disposing of matters promptly and efficiently, a judge must demonstrate due regard for the rights of parties to be heard and to have issues resolved without unnecessary cost or delay. A judge should monitor and supervise cases in ways that reduce or eliminate dilatory practices, avoidable delays, and unnecessary costs.**
5. Article 2, § 11 of the Arizona Constitution requires that **"Justice in all cases shall be administered openly, and without unnecessary delay."** Article 6, Section 21 provides that **"Every matter submitted to a judge of the superior court for his decision shall be decided within sixty days from the submission thereof.** The supreme court shall by rule provide for the speedy disposition of all matters not decided within such period." See Rule 91(e), Rules of the Supreme Court; A.R.S. § 12-128.01. In addition, A.R.S. § 11-424.02(A) prohibits a justice of the peace from **receiving compensation** if a cause "remains pending and undetermined for sixty days after it has been submitted for decision." These and other time requirements are discussed in depth in Arizona Judicial Ethics Advisory Committee, Advisory Opinion 06-02 (April 25, 2006).

PERSONAL COMMENTS ON VIOLATIONS

Judge _____ is guilty of violating several portions of the Arizona code of Judicial Conduct. Attached are my Personal Affidavit filed with the court, and a filing for Notice of Change of Judge for Cause; Supporting Memorandum. These documents provide supporting documentation and a specific outline of Judge _____ violation of the Rules listed below. Also included is a text record between myself and the opposing party that provides evidence that Judge _____ bias is also apparent to the opposing party, with the statement, _____ referring to my legal rights.

Judge _____ Violation Summary:

Rule 1.2 As a result of my experiences with Judge _____, he has taken away confidence in the judiciary. He has not been impartial, by not only showing express favoritism to the opposing party through ignoring complaints against her behavior that have been openly contrary to court orders, and also blatant perjury on her part through filings and a fraudulent application for default, but by outright one-sided hostility and intemperament behavior towards me. I do have something to compare to as Judge _____ was assigned earlier in the case, and Judge _____ did not display the same negative behaviors as Judge _____.

Rule 2.2 Judge _____ has not treated both sides fairly or impartially. My attached filings with the court address this more in depth. An obvious example was his one-sided appalling chastisement in his _____ ruling for my filing temporary orders. He insulted me by comparing me to _____ because I filed, when it was actually Judge _____ who asked the parties to file them. The _____ also filed a number of requests, and there is no mention of her in his minute entry. He criticized the idea of verdict first and trial after, yet Judge _____ is guilty of that very thing by accusing me of a litigious approach to _____. This was extremely offensive and hurtful to me. Are those not verdicts? Were they ever heard or discussed impartially? These were not even accusations of the opposing party. They were toxic statements themselves originating from Judge _____.

I do believe that Judge _____ has intentionally ignored the law. He has chosen multiple times to follow his bias rather than uphold (and I believe even seriously look at) the history in this case and prior judges'

orders, which I worked very hard to get to protect myself and from a very complicated opposing party. He has also not followed the statutes in time frames for response when extremely sensitive issues are at hand, and every day of his procrastination that goes by makes things worse. The attached filings expound upon this and other matters.

Rule 2.3 I believe that since Judge has been assigned to my case, he has handled the majority of it with extreme bias and prejudice against me, favoring the opposing party. He has also demonstrated extreme bias against me and put the "wishes" of above my Rather than objectively look at the dynamics in the case, review prior as requested, and more, he made the determination before our final hearing even that a is what is in the

rather than unbiasedly considering what believes to be in I have lost of time with zero because of Judge failure to uphold current orders in the interim of our hearing and trial set for Judge also chose to ignore Judge order of upholding the left town for and made arrangements for without so much as Instead of even acknowledging Judge erroneously said my request was moot and insulted the fact that I want

criticizing me for not putting more weight on And shouldn't has ignored key elements and has not looked into why certain things would be happening such as the following:

that I work at in (until found out and involved to absolutely no or contact since after the court (also requested by) We asked to review another that would shed light on This same pattern of not enforcing occurred with the I already had an order in place threatening sanctions if which Judge has single handedly disregarded.

My oldest child at years of age has come to me with opened eyes to behavior and the struggles that behavior had created for moved in with me full- time, and Judge did not grant any at all to after reviewing my and the going-on's reported while under None of this and much more, including the information on why has never enforced except under the threat of jail time and fines, has had a chance to be heard. I am convinced because of Judge biased and

prejudiced behavior thus far, he will not hear it when we do try to present it. This is not acceptable judicial conduct. The entire situation at this point has evolved into a travesty, and Judge [redacted] is responsible for that.

Also in the [redacted] hearing, Judge [redacted] engaged in intimation techniques regarding contempt charges. He literally boasted of his over-the-top [redacted] he is currently ordering, which he claimed to be [redacted] Not only are these [redacted] outrageous, shocking, and showing a great lack of judgment on his part, but for him to threaten them in the prideful manner in which he did has no place in a court of law.

I am in the process of obtaining the transcripts and CDS, also at a penalty cost to me, to provide documentation of Judge [redacted] name calling, intimidation techniques, and self-appreciating and disrespectful behavior from the bench.

When Judge [redacted] began making fun from the bench at my expense, I was appalled. He insulted and sarcastically made fun of the case, [redacted] involved, etc. without respect for what I have had to deal with legally and emotionally trying to survive the legal onslaughts of [redacted] years. He referred to me as [redacted] in the court at the beginning of the [redacted] hearing. Those words actually came out of his mouth in front of my [redacted] All that happens in court, [redacted] carries on to the [redacted] and all who else will listen. [redacted] even admitted in court that same day that the [redacted] know everything that goes on in the court when she requested they [redacted] Judge [redacted] errant words run fowl when passed along and carried out of the courtroom. His name calling indicates he came into the court with a prejudice against me that he viewed me as a [redacted] previously.

Judge [redacted] previous orders also indicate a strong prejudice against me. I and [redacted] were coming out of a [redacted], our household qualified for [redacted] and he ordered an unsustainable arrears payment of [redacted] monthly. But here is the sticking point: this order came after I had requested an already stressed amount of no more than [redacted] monthly, but more significantly, the opposing party had [redacted] that at [redacted] monthly. For him to [redacted] and [redacted] was not only evidence of bias, it was cruel and injudicious. My [redacted] and I have a

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TO POST ONLY THE FIRST FIVE
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COMPLAINT ON ITS WEBSITE.**

**FOR ACCESS TO THE
REMAINDER OF THE
COMPLAINT IN THIS MATTER,
PLEASE MAKE YOUR REQUEST
IN WRITING TO THE
COMMISSION ON JUDICIAL
CONDUCT AND REFERENCE
THE COMMISSION CASE
NUMBER IN YOUR REQUEST.**