

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 15-324

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Judge:

Complainant:

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**ORDER**

The complainant alleged a superior court judge improperly failed to grant a preemptory request for change of judge and improperly dismissed his special action.

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: January 13, 2016

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 January 13, 2016.

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

In that we have Judicial made laws by precedent setting decisions; this may be the time and place for such!

The circumstances that have led to this complaint:

- Started in the \_\_\_\_\_ (see attached exhibit relating to the Judgement of \_\_\_\_\_ )
- Moved to the Superior Court (see attached exhibit relating \_\_\_\_\_ )
- These injustices led to the situation described in the Motion to Reinstate filed as a special action with the Court of Appeals (see attached exhibit Motion to Reinstate) regarding the review a Special Action and Motion for an order of re-instatement of the \_\_\_\_\_ wrongly dismissed and handled in a grossly negligent manner.
  - In the \_\_\_\_\_ had the opportunity to rectify the situation and he upheld the opinion and actions of \_\_\_\_\_ thus feeding further abuse by \_\_\_\_\_ .
  - A simple writ of mandamus would have supported Due Process, adherence to the Americans with Disabilities Act and the Equal Access to Justice Act, plus preventing the further abuse of power by \_\_\_\_\_ . These abuses and sufferings fit Rules 2.2 – 2.6; as well as 2.8 – 2.11; and 2.14 and 2.15.
  - \_\_\_\_\_ let the relationship of the \_\_\_\_\_ unjustly affect his decision. THIS is the type of activity and judicial opinions that has been feeding the anger and frustration of “the people” of the United States and resulting in incidents like the recent San Bernardino mass shooting! Even if this is terrorist related, it is the lack of justice that provides terrorists their recruiting base.
  - This office should have authority over ALL individuals who will decide a matter in a judicial manner!

I pray steps will be taken to correct the injustices and set proper precedence, if needed.

Dated: December 2, 2015 /s/ \_\_\_\_\_

## CLERK OF THE COURT

v.

## MINUTE ENTRY

The Court has reviewed and considered the briefing submitted on \_\_\_\_\_ Petition  
For Special Action.

Background. Petitioner has filed a Petition for Special Action in this matter alleging that the trial court abused its discretion in applying A.R.S. § 41-1092.07[a] to his request for change of judge. Contrary to the plain meaning of the applicable statute, Petitioner requests that this Court exercise its special action jurisdiction and provide him with a "preemptory challenge" so that he may disqualify \_\_\_\_\_ However, the statutory language is clear that a "preemptory challenge" is not permitted. This Court, in the exercise of its discretion, declines special action jurisdiction in this matter.

Special Action Jurisdiction. The decision to accept or reject special action jurisdiction is highly discretionary.<sup>1</sup> Special action jurisdiction is reserved for "extraordinary circumstances" and generally accepted only in those cases in which "justice cannot be satisfactorily obtained by

<sup>1</sup> *State ex. Rel. Mc Dougall v. Superior Court*, 172 Ariz. 153 [App. 1992].  
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Petitioner,

**ORDER DENYING REQUEST  
FOR CHANGE OF JUDGE**

vs

Respondent.

The petitioner, \_\_\_\_\_ has notified the \_\_\_\_\_ that he is "a \_\_\_\_\_ Reasonable accommodations, as required by law. will be accorded \_\_\_\_\_ or properly and timely conveyed requests to the \_\_\_\_\_ for accommodations based upon his disability.

\_\_\_\_\_ also requests a change of judge from the \_\_\_\_\_. The basis for \_\_\_\_\_ request is twofold. First, he asserts that he "has heard too much about the attitude and rulings of the hearing officer," but he provides no specifics. Next, he requests that in any event he be granted "an arbitrary change of judge," which is more commonly known as a preemptory challenge. \_\_\_\_\_ must establish that he is entitled to the relief he seeks. Ariz. Admin. Code R4-19-119(B)(3).

The law controlling this motion is set out in A.R.S. § 41-1092.07(A). It states:

A party to a contested case or appealable agency action may file a nonpreemptory motion with the director to disqualify an administrative law judge from conducting a hearing for bias, prejudice, personal interest or lack of technical expertise necessary for a hearing.

Under this statute, a preemptory challenge is not permitted. Furthermore, a change of judge for cause is only appropriate where there has been a demonstration of bias, prejudice, personal interest in the case, or a lack of technical expertise in the subject matter area. Rulings by a judge in earlier proceedings do not amount to the type of bias or prejudice contemplated by this rule unless they show a deep seated favoritism or bias toward one or the other party in a proceeding. *State v. Schackart*. 190 Ariz. 238, 257, 947 P.2d 315, 334 (1997).

1                                    has not set out any particulars as to why                                    should be  
2 removed from this matter for cause. He has not provided any evidence nor suggested  
3 that                                    harbors any personal prejudice or favoritism towards him or any party  
4 in this proceeding.                                    rulings in other cases that have come before her do  
5 not constitute a basis for granting                                    request. Therefore,                                    must  
6 deny                                    request for change of judge.  
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