

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

---

Disposition of Complaint 16-325

---

Judge:

Complainant:

---

**ORDER**

The complainant alleged a justice of the peace (then a judicial candidate) engaged in improper election campaign activity.

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 the judge's campaign signs improperly implied she already held the office of justice of the peace, and that her signs and other campaign material improperly displayed an endorsement from a law enforcement association, thus implying she was pro law enforcement or pro prosecution. While the foregoing conduct was improper under Rules 4.3(D), 4.1(A)(9), and 4.2(A)(1), the Scope Section of the Code of Judicial Conduct provides that it is not intended that every transgression will result in the imposition of discipline. The commission decided, after considering all the facts and circumstances, to dismiss the complaint pursuant to Rules 16(b) and 23(a), but to issue a warning letter to the judge advising that her campaign materials needed to fully comply with all the rules in Canon 4, and that the Judicial Ethics Advisory Committee and commission staff are available to provide ethics guidance.

Commission members Peter J. Eckerstrom and Art Hinshaw did not participate in the consideration of this matter.

Dated: February 7, 2017

FOR THE COMMISSION

/s/ Louis Frank Dominguez  
Hon. Louis Frank Dominguez  
Commission Chair

Copies of this order were distributed to all appropriate persons on February 7, 2017.

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

Comp

2016-325

Commission on Judicial Conduct  
1501 W. Washington Street Suite, 229  
Phoenix, Arizona 85007

To whom it may concern:

Please review and accept this complaint against

## BACKGROUND

\_\_\_\_\_ is a candidate \_\_\_\_\_ As such, the 2016 Code of Judicial Conduct covers said candidate. "...When a person becomes a judicial candidate, Canon 4 becomes applicable to his or her conduct. A successful judicial candidate is subject to discipline under the code for violation of any of the rules set forth in Canon 4, even if the candidate was not a judge during the period of candidacy. An unsuccessful judicial candidate who is a lawyer and violates this code may be subject to discipline under applicable court rules governing lawyers."<sup>1</sup> A judge makes decisions based upon the law and the facts of every case. Therefore, in furtherance of this interest, judges and judicial candidates must, to the greatest extent possible, be free and appear to be free from political influence and political pressure.

## VIOLATIONS

1. \_\_\_\_\_ a candidate \_\_\_\_\_, posted on a Facebook page a letter of endorsement on behalf of \_\_\_\_\_ dated \_\_\_\_\_ (Exhibit A). The body of the letter includes: "

2. \_\_\_\_\_ posted the endorsement letter on \_\_\_\_\_ campaign website (Exhibit B).<sup>2</sup>

---

<sup>1</sup> Applicable Code Sections Arizona Code of Judicial Conduct, Canon 4 (2016)

<sup>2</sup> \_\_\_\_\_ campaign URL:

3. \_\_\_\_\_ has prominently placed the \_\_\_\_\_, along with the caption: “ \_\_\_\_\_, on \_\_\_\_\_ campaign signs (Exhibit C), which are displayed throughout the \_\_\_\_\_.
4. On \_\_\_\_\_ sent an email to \_\_\_\_\_ of the \_\_\_\_\_ (Exhibit D). This email refers to the \_\_\_\_\_ prior to endorsing candidate \_\_\_\_\_ for \_\_\_\_\_ . The context in which the email is written also suggests that \_\_\_\_\_ is seeking the endorsement of \_\_\_\_\_ campaign for \_\_\_\_\_.

## CONCLUSION

Candidate \_\_\_\_\_ solicitation and posting of the \_\_\_\_\_ endorsement is in direct violation of the Arizona Code of Judicial Ethics. Rule 1.2 requires a judge to “act in all times in a manner that promotes public confidence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.” Because the \_\_\_\_\_ regularly participate in matters before most courts, the solicitation and posting of such an endorsement is not only in violation of the rule, it is ethically problematic.

Candidate \_\_\_\_\_ also \_\_\_\_\_ on her Facebook page and website. This, along with the \_\_\_\_\_ endorsement, suggests that the candidate is the handpicked candidate of \_\_\_\_\_ . Any Arizona candidate’s campaign publicity must conform to the general rule stated in Canon 4: “A judge or candidate for judicial office shall not engage in political or campaign activity that is inconsistent with the independence, integrity, or impartiality of the judiciary.”<sup>3</sup> The statement in the \_\_\_\_\_ endorsement letter strongly suggests that the candidate is “ \_\_\_\_\_”, rather than the independent and impartial decision maker required by Canon 1. Under the present circumstances, the \_\_\_\_\_ endorsement is inconsistent with the judicial candidate’s role and cannot be solicited or publicized.<sup>4</sup>

Furthermore, The Arizona Supreme Court issued an advisory opinion stating: “... A judge may obtain public support and publicize endorsements. However, the judge may not utilize endorsements, which cast doubt on his or her independence and impartiality by suggesting that the judge favors the police or the prosecution.”<sup>5</sup>

<sup>3</sup> Applicable Code Sections Arizona Code of Judicial Conduct, Canon 4 (2016)

<sup>4</sup> Applicable Code Sections Arizona Code of Judicial Conduct, Canons 1 and 4 (2016)

<sup>5</sup> Arizona Supreme Court Advisory Opinion 96-12, Summary

The use of the \_\_\_\_\_ endorsement as a campaign tool for \_\_\_\_\_ is a flagrant contravention of ethics and violates the Arizona Code of Judicial Conduct. Public confidence in the independence and impartiality of the judiciary is eroded if judges or judicial candidates are perceived to be subject to political influence.<sup>6</sup>

I am respectfully requesting that the Arizona Commission on Judicial Conduct investigate this matter thoroughly and without delay. The primary election

\_\_\_\_\_ is being held on \_\_\_\_\_. Early voting for the primary election begins on \_\_\_\_\_.

I strongly recommend that the Commission order candidate \_\_\_\_\_ to remove any reference to the \_\_\_\_\_ endorsement from all campaign materials (signs, website, Facebook page) forthwith.

Thank you for your consideration in this matter.

Respectfully,

c.

---

<sup>6</sup> Applicable Code Sections Arizona Code of Judicial Conduct, Canon 4 (2016)