

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 17-061

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Judge:

Complainant:

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**ORDER**

The complainant alleged a superior court judge failed to afford him an opportunity to be heard and conducted an improper independent investigation in a family law 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(a).

Dated: May 9, 2017

FOR THE COMMISSION

/s/ George A. Riemer

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George A. Riemer  
Executive Director

Copies of this order were distributed to all appropriate persons on May 9, 2017.

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

**CONFIDENTIAL**

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

**FOR OFFICE USE ONLY**

2017-061

**COMPLAINT AGAINST A JUDGE**

**Name:**

**Judge's Name:** \_

**Instructions:** Use this form or plain paper of the same size to file a complaint. Describe in your own words what you believe the judge did that constitutes judicial misconduct. Be specific and list all of the names, dates, times, and places that will help the commission understand your concerns. Additional pages may be attached along with copies (not originals) of relevant court documents. Please complete one side of the paper only, and keep a copy of the complaint for your records.

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

RE:

Dear Commission members:

The purpose of this correspondence is to lodge a very serious formal complaint against [redacted] for having violated Rules 1.1, 1.2, 2.3, and 2.6 of the Code of Judicial Conduct, Rules of the Supreme Court.

The underlying facts are indisputable. On [redacted] I was found in civil contempt of court by [redacted] for [redacted]. Unless I could purge myself the civil contempt, he ordered me to spend [redacted] in the [redacted]

[redacted] jail. Unable to purge myself of the civil contempt, I received [redacted] Order for Confinement and work release from [redacted] to begin on [redacted] (See Exhibit A). Upon being presented with the Order as a judicial fait accompli, I was peremptorily ordered into custody and afforded absolutely no opportunity whatsoever for a hearing where I would have had a due process right to argue for less punitive sanctions and inform [redacted] why those hours and days were insufficient for me [redacted] in order to [redacted] and [redacted]. Absolutely no record was made

that would have allowed me to file a special action. Although this is a civil contempt deemed to be remedial rather than punitive, it is indeed punitive because I was denied a minimal due process right to at least a hearing. (If I had been charged with a more serious criminal misdemeanor offense, I would have had a due process right to a sentencing allocution hearing where I could have called witnesses and/or presented affidavits to mitigate the penalty.)

However, because I was completely unfamiliar with work release requirements, I was unaware that I needed a tuberculosis test to be admitted to work release and was denied admission. After an emergency petition, [redacted] continued the self - surrender date until [redacted] in order to allow me to have the test conducted. (See Exhibit B).

In order to obviate the harm caused by [redacted] refusing to allow a hearing, I subsequently filed [redacted] requests to have the hours and days in work release amended. [redacted] summarily denied each request- without a hearing or opportunity to be heard. (See Exhibits C, D, E, and F).

In its most recent order dated [redacted] improperly and extra-judiciously went completely outside the record and claimed to have checked

[redacted] to determine how long [redacted] how long I

[redacted] and that I

[redacted] (See Exhibit F). Further egregiously compounding having gone completely outside the record, [redacted] went on, without any support in the record, and incorrectly inferred that I [redacted] was “

[redacted]” In fact, I was completely unfamiliar with work release. [redacted] Because of the [redacted] particularly in



none of I did not know I needed a tuberculosis test, and I initially presented myself at the wrong jail for self-surrender. Consequently, it was entirely improper for to infer that somehow

What is most troubling is that in the same Order, wrongly claimed that I could have " a different provision for work release. That claim is simply false. How could I have anything when I was peremptorily ordered to work release with no opportunity to be heard? With whom was I to ?

Order then goes on to tacitly admit error for not holding a due process hearing for me by concluding the Order by acknowledging that if a hearing were held, it would be moot because my confinement would

How can a due process hearing - that might have prevented days in jail - ever be moot?

Finally, I know the Commission cannot order recusal. However, after receives notice of this very serious allegation, unless he voluntarily recuses himself from this case - and all future cases involving me -it is my intention to file a public Motion for Recusal with the presiding judge. At that point, I'll have a sufficient record for a special action – if necessary.

RESPECTFULLY

Enclosures: Exhibits A-F