

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 17-292

Judge:

Complainant:

ORDER

The complainant alleged a judge retaliated against her and was biased against her.

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(a).

Commission member Gus Aragón did not participate in the consideration of this matter.

Dated: March 20, 2018

FOR THE COMMISSION

/s/ Margaret H. Downie

Margaret H. Downie

Executive Director

Copies of this order were distributed to all appropriate persons on March 20, 2018.

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

CONFIDENTIAL

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

FOR OFFICE USE ONLY

COMPLAINT AGAINST A JUDGE

Name: _____ Judge's Name: _____

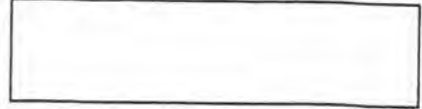
Instructions: Use this form or plain paper of the same size to file a complaint. Describe in your own words what you believe the judge did that constitutes judicial misconduct. Be specific and list all of the names, dates, times, and places that will help the commission understand your concerns. Additional 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.

See Attached

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Lined area for writing the complaint.

received a originating from the Honorable
(Exhibit 1-) A minute entry dated ' was referred to the
resulting in a . (Exhibit 2-) Among other things,
familiarized herself with the disciplinary process before responding.
(Exhibit 3-)
also reached out to the contact person enclosed in the packet. (Exhibit 4-
Additionally, read the several

ethical rules set forth by _____ as well as the one ethical rule that the court specifically states she “ _____ ’. (See Exhibit 2, page 2)

_____ received the minute entry distributed from the court on _____ but electronically filed at _____ (Exhibit 5- Time stamp of minute entry) _____ quickly forwarded the minute entry to _____ at _____ (Exhibit 6- _____)

Additionally, to be proactive _____ contacted the _____ to solicit input on how to prevent future issues of this sort. (Exhibit 7- _____)

_____ should have this call logged in which _____ left a voicemail message. _____ spoke with _____ who returned the call on _____ at approximately _____ , _____ reviewed quotes relevant to the real issue at hand. The quotes reviewed are as follows:

- Culture makes people understand each other better. And if they understand each other better in their soul, it is easier to overcome the economic and political barriers. **By** _____
- Preservation of one’s own culture does not require contempt or disrespect for other cultures. **By** _____
- A multicultural society does not reject the culture of the other but is prepared to listen, to see, to dialogue and, in the final analysis, to possibly accept the other’s culture without compromising its own. **By** _____

•If you are building a culture where honest expectations are communicated and peer accountability is the norm, then the group will address poor performances and attitudes. **By**

ISSUE

Whether knowingly misquoted a judicial officer?

Court's transcribed words:

summation and statement of the court's words:

(Exhibit 8- Pleading filed by

)

APPLICABLE ETHICAL RULES

Cited by the court, Rule 8.2:

ER 8.2 Judicial and Legal Officials

(a) A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer or public legal officer, or of a candidate for election or appointment to judicial or legal office.

Cited by , Rule 8.2, 8.4(d), 1.3 and 3.1:

ER 8.4(d) Misconduct

(d) engage in conduct that is prejudicial to the administration of justice.

ER 1.3 Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

ER 3.1 Meritorious Claims and Contentions

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a good faith basis in law and fact for doing so that is not frivolous, which may include a good faith and nonfrivolous argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.

RESPONSE

denies the [redacted] gave her summation of what the court inquired. The summation does not mischaracterize what the court said. The parapraxis of the complaint is astounding. The court clearly points out what it takes seriously. The minute entry/Complaint states:

“ [redacted]” The court then goes on to state, “ [redacted] ...” Notice no mention of the cultural insensitivity. (Exhibit 2, page 2)

simply provided informational literature to the court to help educate the court. (See Exhibit 8, page 2) Per the court’s minute entry/Complaint, the Court was “ [redacted] ” and “ [redacted] ”. At the time [redacted] filed her pleading, there was no intent to accuse or intimate the court of anything. The court states that [redacted] ; “ [redacted] ” and “ [redacted] ” ; [redacted] ; [redacted] ”. As to the latter,

was not quoting the court but giving her own summation via quoting herself of what she believed the court's inquiry to be. In fact, [redacted]: final pleading was revised from the original draft as the original draft indicated that the court inquired and then quotes. [redacted] revised it to indicate it was her summary/quote of what the court inquired and thus inserted "[redacted]" to purposely show that it was not a direct quote from the court. (Exhibit 9-Original draft) The concern as to reviewing the record is discussed below, primarily referencing [redacted], Rule 6 in conjunction with confirming the court's inquiry with the [redacted] expert that testified.

It is requested that the [redacted] look at the entire transcripts of the hearing specifically but not limited to the actual testimony of the [redacted] expert's testimony. She deviated from the question before her and resorted back to the inquiry of the court and provided an elaborate response to explain [redacted] culture to the Court. It is further requested that the [redacted] view any video available of the proceedings so that the Court's demeanor, tone, voice inflection, gestures and body language when he made the inquiry can be assessed.

The Court goes on to take issue with the "[redacted]" of [redacted] pleading. Precipitous is defined as "[redacted]". (Precipitous[Def. 2a] In Macmillan Dictionary Online, Retrieved [redacted] s)

**THE COMMISSION'S POLICY IS
TO POST ONLY THE FIRST FIVE
PAGES OF ANY DISMISSED
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.**