

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 18-072

Judge:

Complainant:

ORDER

The complainant alleged a justice of the peace violated Rules 1.1, 2.2, 2.6, 2.7, 2.11, 2.12, 2.15, and 2.16 of the Code.

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 violations of Rules 1.1 (Compliance with the Law) and 2.6(A) (Ensuring the Right to Be Heard) where the judge prevented a party from cross-examining witnesses. While this was improper under Rule(s) 1.1 and 2.6(A), 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 regarding a party's right to conduct cross-examination of witnesses.

Commission members George H. Foster, Jr. and Anna Mary Glaab did not participate in the consideration of this matter.

Dated: June 12, 2018

FOR THE COMMISSION

/s/ Louis Frank Dominguez

Hon. Louis Frank Dominguez
Commission Chair

Copies of this order were distributed to all appropriate persons on June 12, 2018.

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

COMPLANT:

Motion to Withdraw Without Consent and Rule 42 professional conduct

On _____, my attorney, _____ filed a Motion to Withdraw as counsel **Without Consent** in Case _____ . Judge _____ granted _____ Motion to Withdraw on _____ without Notice or Scheduling a Hearing for _____ Motion to Withdraw. The Court, issued it's Ruling *via Us Mail* only to _____ without copying the other party, the client. Due to the _____ holiday weekend, _____ office did not receive notice of the Court's ruling until _____ On _____ at the hearing scheduled for the matter in which _____ had received payment for his representation, both _____ and the client discovered the Court's ruling in _____ Motion to Withdraw Without Client consent. I did not receive a copy of her Ruling until _____ staff emailed it on the following day, _____. I never received a copy from the Court. **Judge _____ violated RJC 2.6 my Right to be Heard.**

I stated, on the record in open court, that the Court, pursuant to **RJC 2.15 and RJC 2.16**, was required to address my attorney, _____, apparent _____ (in contravention of Federal Law) coupled with apparent _____, misconduct and his violation of the Rules of Professional Conduct and then take appropriate action. Judge _____ violated **RJC 2.15 and RJC 2.16** .

Note * _____, in his response to _____, stated he was not in possession of “ _____ ” marijuana. The _____ has affirmed, Marijuana is a Federally listed Controlled Substance regardless of state law.

hearing

Judge arbitrarily and capriciously affirmed the Court's ex parte order, by retired Judge , without review of the statutory requirements and definition within A.R.S. § 12-1810(S)(2). No evidence meeting this statutory definition of “ ” was presented to the Court. Judge violated **RJC 1.1 Compliance with the Law and RJC 2.2 Impartiality and Fairness** by failing to take notice of the statutory requirements and definition within A.R.S. § 12-1810(S)(2).

During the hearing on Judge asked me to provide evidence proving that my email communication with was for a legitimate purpose. The Court further limited my ability to present exculpatory evidence including relevant insurance documents and recordings of interactions with regarding my then currently open insurance claim. The Court limited my evidence to . Judge then failed to accept those documents into evidence for the official court record. Judge violated **RJC 1.1 Compliance with the Law and RJC 2.2 Impartiality and Fairness**

Judge accepted hearsay evidence from Who testified regarding opinions and statements made by former employees and/or other alleged employees not present or providing sworn testimony or affidavit. Judge violated **RJC 1.1 Compliance with the Law and RJC 2.2 Impartiality and Fairness**

Appeal and Failure to Supervise Employees/Staff

Court Staff failed to timely provide a CD recording of my actual Hearing from at in Court room . Court staff gave me a CD recording of another person's hearing. Court staff violated **Code of Conduct for Judicial Employees (RJE) Rule 2.5 Competence, Diligence, and Cooperation (D) A judicial employee, when authorized, shall furnish accurate, timely information and shall provide access to public court proceedings and records according to established procedures. Staff violated RJE 2.6 Assistance to**

Litigants. Therefore, I was, and at the time of the filing of this complaint remain, unable to timely file an Appeal of the Ruling by Judge

Judge violated **RJC 2.12** by not instructing staff to provide me with my CD recording of my actual Hearing which was needed in order to Appeal the Court's Ruling.

As of , I still have not received a correct CD recording of my actual Hearing from at in Court room **The Court is withholding evidence that I would need for my Appeal.** This is a violation of **RJE 2.5, RJC 2.6** and **RJC 1.1.** Judge violated **RJC 2.12 Supervisory Duties** by failing to supervise Court staff and have staff timely provide me with correct CD recording of my actual Hearing from at in Court room

Court Staff extended the filing deadline for the Appeal, but failed to inform myself or the Court as to the new deadline. **Staff violated RJE 2.6 Assistance to Litigants: RJE 2.6 (E), Staff provided me with another person's hearing CD. ; RJE 2.6 (I) Staff failed to provide scheduling and other information about the case. ; RJE 2.6(B) Staff failed to answer questions about the new Appeal deadline.**

Judge ruled, on that the . Judge violated **RJC 2.7 Responsibility to Decide and RJC 2.11 Disqualification.** RJC 2.11 (A) (6) (d) A Judge shall disqualify herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following circumstances: The judge previously presided as a judge over the matter in another court.

On I timely attempted to file a response to the . I was told by staff to return on the following due to the On I again attempted to file an Appeal to the as instructed the court staff. I stated that I wished to attach a copy of the CD staff

mailed me, that recording was *NOT a recording of the Hearing from* _____ *at* _____ *in Court room*
Instead it was file " _____ " which is a recording from another
person's Hearing on _____ in room _____. Staff conferred with another member of court staff who refused to
attach the incorrect recording, evincing Staff's failure to provide an accurate copy of the proceeding to be
transcribed for the Appeal of the _____.

Judge _____ violated **RJC 2.12 Supervisory Duties** by failing to supervise Court staff in allowing staff to
extended filing deadlines without proper notice to Defendants, Plaintiffs, and the Court.

On _____, I appealed Judge _____ ruling of _____ of the _____ Appeal. Judge
_____ ruled on the ***Appeal of her own Ruling***. It was not proper for Judge _____ to be the Judge ruling on
an Appeal of her prior Rulings. This was not a Motion for Reconsideration, it was an Appeal.

Judge _____ violated **RJC 2.7 Responsibility to Decide and RJC 2.11 Disqualification**. RJC 2.11 (A) (6)
(d) A Judge shall disqualify herself in any proceeding in which the judge's impartiality might reasonably be
questioned, including but not limited to the following circumstances: The judge previously presided as a judge
over the matter in another court

Judge

TIMELINE:

On _____, Judge _____ granted my attorney, _____ “

On _____ a Hearing in Case _____ was conducted by Judge _____

On _____, I filed for an Appeal of _____. At that time _____ stated that she would mail us a CD recording of the Hearing from _____ at _____ in Court room _____

On _____, we spoke with _____ and asked her once again for the recording of the Hearing from _____ at _____ in Court room _____

On _____ we spoke with _____ and she stated that she just order the CD. _____ stated she was late in mailing the CD and we would receive more time to file the Appeal. _____ stated that we should call *her* and that *she* could grant an extension of time. _____ failed to inform me of how much extra time I had to file the Appeal. I never receive any Notice from the Court informing me on my new deadlines.

On _____, _____ stated that she would be mailing the _____ Hearing CD on _____. We received a CD on _____ failed to inform me of how much extra time I had to file the Appeal. I never receive any Notice from the Court informing me of my new deadlines.

On _____, _____ in his response to _____, stated he was not in possession of “*illegal*” marijuana. The _____ has affirmed, Marijuana is a Federally listed Controlled Substance regardless of state law.

On _____ the _____ finished their investigation of _____. The _____ disposition of the matter was an _____. I was given until _____ to make a written statement to _____.

On _____, I received the _____ Notice that the Court ruled that my _____ Appeal was deemed “_____”. It stated that I had _____ to Appeal the decision of _____.

On _____, I went to _____ to Appeal the _____. _____ stated that we need to file a new Appeal and stated that I needed to come back to _____.

On _____, I filed the court pleading that _____ instructed me to file. I stated that I wished to attach a copy of the CD she mailed me because that recording was NOT a recording of the Hearing from _____ at _____ in Court room _____. Instead it was file " _____ " which is a recording from another person's Hearing on _____ in room _____. _____ spoke with another member of _____.

**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.**