

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 18-104

Judge:

Complainant:

ORDER

The complainant alleged a justice of the peace improperly reversed her ruling in a criminal matter.

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).

Commission member Peter J. Eckerstrom did not participate in the consideration of this matter.

Dated: June 20, 2018

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

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

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

FOR OFFICE USE ONLY

18-104

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.

During a bench trial on _____ Judge _____ in my opinion violated rules 1.2 and 2.5 of the Code of Judicial Conduct. At the conclusion of this trial the judge ruled that the defendant was guilty and imposed a sentence. It should be noted that this case involved a victim. After the judge issues her finding of guilt she, without noted request from either side, began to review the digital record of the case. The Judge then issues a new minute entry stating " _____ ' and " _____ " acquitting the defendant of all charges. At this time I would like to note that I am not asking to look at the legality of the ruling as I am aware that those questions are outside the Commissions purview. I ask that these events be looked at through the lens of the code, and how a lay person may observe what occurred.

These events violate rule 1.2 of the Code of Judicial Conduct because as stated in the code "A Judge shall act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety." As this set of facts shows that neither party requested a review of the ruling, there is no clear reason for this change of heart to review a trial that she presided over the same day and imposed a sentence gives the appearance of impropriety. From an outside perspective this does not promote public confidence in the judiciary as it creates a set of circumstances where the integrity of the judge and the judiciary is called into question. Given these circumstances it would be plausible for a person to believe that some external force caused the judge to review her ruling and to reverse it. I am not alleging any violations of law in this set of circumstances, as I do not possess any direct knowledge if any occurred; I am just giving a possible interpretation of how this change of heart may be seen by the general public. Without any actual impropriety occurring this lowers the confidence in the judiciary because it brings into question the finality of any order issued by the judge. If the mandate of the court is fluid it impinges upon the integrity of the judiciary.

These events violate rule 2.5 of the Code of Judicial Conduct as under section (A) it states, "A judge shall perform judicial and administrative duties competently, diligently, and promptly." Under comment 1 of the same rule it states, "Competence in the performance of judicial duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform a judge's responsibilities of judicial office." Given this standard, the judge made an initial ruling of guilt immediately following the bench trial. Given that she reversed her own ruling upon the unprompted review shows that she was unsure of her initial ruling and instead should have conceivably taken the case under advisement prior to making a finding and imposing a sentence. The initial ruling showed a lack of thoroughness. As she had been presented with all of this information at the bench trial she found guilt beyond a reasonable doubt, yet had enough doubt to review and overturn her own finding this shows a lack of legal knowledge. This change of heart calls into question if the judge was prepared to preside over this case as in her under advisement ruling she gives an explanation on why she was reversing her decision which leads me to believe she reviewed the current Jurisprudence on the case as she was reviewing the digital record of the trial instead of before.

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Attached:

Original minute entry
Nunc pro Tunc minute entry
Supplemental order of the Judge