

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 18-137

Judge:

Complainant:

ORDER

The complainant alleged a justice of the peace violated Rules 1.1, 1.2, 2.2, 2.3, 2.6, 2.8, and 2.9 of the Code of Judicial Conduct.

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 Anna Mary Glaab did not participate in the consideration of this matter.

Dated: July 18, 2018

Copies of this order were distributed to all appropriate persons on July 18, 2018.

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

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State of Arizona
Commission of Judicial Conduct
1501 W. Washington Street, Suite 29
Phoenix, Arizona 85007

2018-137

COMPLAINT AGAINST A JUDGE

Name: _____ Judge: _____

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.

On _____ Judge _____ heard a _____] regarding _____ seizure of my _____ German Shepherd dogs and _____ puppies. My dogs, properly licensed and papered, had returned with me from _____ just _____ before seizure on _____, and again on _____ Judge _____ violated several rules of Judicial Conduct; his actions adversely affected his decision and violated my constitutional and statutory rights, as detailed below. I'll list the rules and then the specifics below.

1. Rule 1.1: Compliance with the Law. The case is an animal seizure, subject to a public hearing as authorized by ARS 11-1006. Subsection C of that section provides that the "...defendant, or his attorney or other designated representative" be allowed to present evidence. In the hearing I requested that my friend _____ be my designated representative which I called an "attorney-in-fact." Judge _____ disregarding the statutes, refused to allow _____ to act as my designated representative. This seriously handicapped my defense, as _____ worked closely with me, helping me prepare my presentation to the court. Second, my complaint about no search warrant being presented at the time of the inspection by _____, was ignored and dismissed. ARS 11-1009, Subsection F states that a kennel with less than 20 dogs "may be subject to an inspection", while any kennel with over 20 dogs "shall be subject to an inspection", but only upon a written complaint by a citizen or law enforcement. ARS 13-3912, Subsection A, Paragraph 5 gives one of the basis for a search warrant as "When a property is to be searched and inspected by an appropriate official in the interest of the public health, safety or welfare as part of an inspection program authorized by law", but only when there's an allegation of violation of ARS 13-2910 and 13-2910.01, regarding animal cruelty. This was clearly the case in this situation, but Judge _____ refused to even allow discussion of no search warrant for the _____ inspection by _____ Interestingly enough, just _____ later _____ obtained a Search Warrant from Judge _____; which was just a week before the hearing.

2. Rule 1.2: Promoting confidence in the Judiciary. Judge [redacted] words, directed at [redacted] brought disrespect upon his position. Several times during the nearly [redacted] hearing, [redacted], would attempt to assist me, whispering some information or recommendation into my ear. Judge [redacted] repeatedly and sarcastically put down [redacted] by telling him that he was *NOT* an attorney. At one point, Judge [redacted] even made sarcastic comments about [redacted], claiming he was an attorney; taking the moment to say he was being sarcastic. Judge [redacted] actions were beneath the conduct of the office he holds.
3. Rule 2.2: Impartiality and Fairness. Immediately after Officer [redacted] appearance on [redacted], I requested from the [redacted] the police report and all photographs, even before the seizure. However, the discovery information was not provided to me before the [redacted] hearing. In fact, the discovery wasn't given to me until [redacted] AFTER the hearing. I pointed out at the hearing that I didn't have the County's information, even asking for a continuance to adequately prepare my defense. Judge [redacted] denied my motion. I had to defend myself without seeing any of the County's evidence against me.
- In fact, the County's attorney presented a photograph of one of my dogs with a very serious injury on her head, claiming that was the condition of [redacted] (my dog) when the dogs were seized. That was a totally false claim, as other photographs in the County's possession show [redacted] in good condition and without any injury. Judge [redacted] ignored my request that the county produce the photographs from the time of the seizure, preferring to accept that [redacted] injury occurred while she was in my care, regardless of my testimony. I told Judge [redacted] that photographs taken by [redacted] control on the day of the seizure exonerated me as they showed no injury. But Judge [redacted] ignored my request for the photographic evidence.
- Finally, Judge [redacted] conduct towards my Designated Representative [redacted] (at least, I intended him to be), indicates a clear bias against [redacted] for some inexplicable reason. [redacted] has always treated Judge [redacted] with the highest of respect in the political circles where they often attended the same political meetings and luncheons. [redacted] is a political activist, but has never spoken ill of, or criticized Judge [redacted] whatsoever. Judge [redacted] apparent attitude towards [redacted] clearly impacted his decision in my case.
4. Rule 2.3: Bias, Prejudice and Harassment. This is associated with the alleged violation of Rule 2.2 above. Judge [redacted] ridiculed my words and presentation. He made fun of my shocked exclamation about [redacted] injury when I practically screamed, "[redacted]?" He even laughed at me once, and at the end, when I pointed out that two of the dogs were my official service dogs, he said, "[redacted]", but still refused to allow me to keep any of my dogs.
- Further, the photographs I submitted contradicted the testimony by [redacted]. They showed water & food dishes in the cages, while [redacted] testified to that there were no water dishes in the cages. Also, the photographs taken by the [redacted], and by me at the same time disprove [redacted] claim there was " [redacted]" in the cages. Judge [redacted] has been working so many years with [redacted] on these Forfeiture cases, that he automatically appears to be prejudiced against defendants.

5. Rule 2.6: Ensuring Right to be heard. This is associated with my complaint in Rules 1.1 and 1.2. By Judge [redacted] refusal to allow [redacted] to be my Designated Representative, and subsequently ridiculing his attempts to help me respond to the County's case, he prevented me from presenting a case and effectively dismissed my testimony and failed to hear my defense.
6. Rule 2.8: Decorum, Demeanor and Communication with Jurors. Judge [redacted] sarcastic comments directed at my friend [redacted] [redacted] was conduct completely unbecoming of the office. At one point, [redacted] even stated, "[redacted]" He was insulting, demeaning and unfair in his attitudes and words. Frankly, I consider his actions disgraceful for a man in his position.
7. Rule 2.9: Ex Parte Communication. Before the hearing, the County's attorney and [redacted] officers met behind closed doors in the courtroom. When the Courtroom doors were opened, and I walked in, I saw [redacted] in the doorway of the courtroom, whereupon he stepped back out of the doorway, into his chambers or attached office. I'm concerned the Judge was in the Courtroom at some time during that [redacted], having ex-parte communications.
 At one point during the hearing, when the issue of a lack of a search warrant was mentioned. Almost in unison, both Judge [redacted] and the County's attorney stated that the issue of no search warrant will be considered in the civil hearing. It was shocking that Judge [redacted] refused to even consider the issue of no search warrant for the seizure since he had signed a search warrant just [redacted] later, after the first, allegedly illegal search and inspection demanded and forced by [redacted]. That search warrant was issued on [redacted] IF that search warrant, signed by Judge [redacted] was required for that day, why wasn't it required for [redacted] It's significant that the Judge refused to even consider the issue of a lack of a search warrant, not even considering whether it was legal. Clearly, there appears that communication occurred between the County's Attorney and Judge [redacted]

SUMMARY: My complaint is very serious, as there is now a criminal case that was filed on the same incident, alleging animal cruelty in the same jurisdiction [redacted]. Individually, just one of these issues might warrant a filing of the complaint and investigation of Judge [redacted] conduct. However, taken in the aggregate they constitute a serious breach of the Code of Judicial Conduct that needs to be addressed. His actions on my case appear to be examples of Judicial misconduct that's totally unbecoming for any officer of the court, much less a Judge. I respectfully request the Commission of Judicial Conduct carefully consider my complaint.