

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 19-182

Judge:

Complainant:

ORDER

November 5, 2019

The complainant alleged a superior court commissioner engaged in improper demeanor in a criminal matter.

The role of the Commission on Judicial Conduct is to impartially determine whether a judicial officer has engaged in conduct that violates the Arizona Code of Judicial Conduct or Article 6.1 of the Arizona Constitution. There must be clear and convincing evidence of such a violation in order for the Commission to take disciplinary action against a judicial officer.

The Commission reviewed all relevant available information and concluded there was not clear and convincing evidence of ethical misconduct in this matter. The complaint is therefore dismissed pursuant to Commission Rules 16(a) and 23(a).

Commission members Denise K. Aguilar, Barbara Brown and George H. Foster, Jr., did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on November 5, 2019.

19-182

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.

On _____, while I was in Superior Court doing my morning calendar cases, I recieved an email from the _____; _____; _____) that one of my clients, to whom I had been previously assigned, had a third case set for an initial appearance that morning. I had not yet been assigned on this one but because I already had his first two cases, this third case would be assigned to me. I wasn't able to appear immediately because obviously I was already booked with other matters but I would get there when those were done. I was able to finish my other matters sooner than expected because my trial was continued (there were no available judges that morning) and when I arrived in _____ court, I checked in with the staff and shortly thereafter my matter, _____, was called.

As you can see from the FTR, _____, for whatever reason, was unbelievably rude and unprofessional. Frankly, she comes off as unstable. When she asked if my client would waive a reading of the complaint, I simply asked to see a copy. I couldn't waive this if I didn't know what we were waiving. Her reaction to my request still has me baffled. She was visibly angered that I would allow the matter to be called, not knowing this. The suggestion was made that I get it off iCis. I don't know how many times the Courts and the State have been told that iCis is not available to private lawyers or OPDS lawyers. That is a creation intended solely for the County and its employees. While private and OPDS lawyers do have access to an Electronic Court Record, that is limited to the cases where they are the attorney of record. Recall, I hadn't even been formally appointed yet so even if I tried to access ECR, the Clerk of the Court wouldn't add this matter to my case list. Moreover, that shouldn't even matter because the Arizona Rules of Criminal Procedure, Rule 4.2, REQUIRE the Court to provide a copy of the complaint, if available. This is not something the State is supposed to have provided me nor is it something I'm supposed to be looking for from the Clerk of the Court electronic record web site. In all candor, I expected that this Initial Appearance would follow the same procedures as a Not Guilty Arraignment wherein the charges are either read or a reading is waived and counsel and the defendant are given a copy of the charging document along with one other information sheet outlining court dates and the Judge to whom the case is assigned. While I tried, very politely, to explain to _____ that perhaps I was unfamiliar with her procedures as I don't appear in an Initial Appearance Court very often, she became even more agitated and told me this conversation was done. In the meantime, she made it very clear, she doesn't do this and she doesn't have time or she would be there all day. Note the email from OPDS indicated that this could IA could take place any time today. My understanding is it is an all day calendar.

I'm troubled that _____ either doesn't know the rule or doesn't believe she has time to follow it. Parenthetically, in speaking with colleagues about this incident, I've been told of other instances where _____ has either lashed out or complained that she doesn't have time to do whatever it is the duties, as promulgated by the Arizona Supreme Court, of this calendar require or that it's an inconvenience to her. The fact that she is complaining that she would be there "all day" speaks volumes. We ALL work all day and many of us take our work home as well.

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After she printed the complaint and handed it to her staff, she ordered them to provide it to HER. Not I, not Counsel, but HER. While her disdain for me or my request was already obvious, clearly she continued to go out of her way to make sure I knew I wasn't even worthy of being addressed. Frankly, I grew up expecting a scolding or worse if I referred to someone as him or her if it was a situation that required me to be respectful. I understand and realize that Judicial Officers and the lawyers who appear in front of them are not equal or on the same footing, but I do believe it reflects poorly on the judiciary and the bench when one of it's judicial officers treats lawyers the way _____ ; treated me that day. It's not about me, it's about her behavior and pettiness in response to the simplest of requests.

When a judicial officer either doesn't know the most basic rules of a calendar to which he or she is assigned or complains that she doesn't have time to follow them because she'll be there all day, not only does that NOT promote confidence in the judiciary, it is extremely disheartening. An initial appearance is the Defendant's first or earliest contact with the Court once a case is filed. Can you imagine how _____ felt? All his lawyer wanted to know was what his charges were and could she get a copy of the charging document. Instead the Judge lashes out has lawyer. Imagine how that looks to the people sitting in the court? The court doesn't have time to do this simplest of tasks, that is, give the Defendant notice?

As I indicated, the FTR is attached and should answer any questions you have. Thank you.

Subject:

Date:

From:

To:

He's in custody so pretty much anytime today... I'll let them know you'll be there when you can.

Thank you,

Please CC

on all requests and responses.

From:
Sent: V
To:
Subjec

Not for a while . No .

On

wrote:

This si a new case for your current client today, will you be able to get there?

set for an IA in

Thank you,

Please

on all requests and responses.