

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 19-214

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Judge:

Complainant:

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**ORDER**

The Complainant alleged a superior court judge engaged in improper demeanor in a criminal case.

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 Commission approved sending the judge an advisory letter reminding him of his obligation under Rule 2.8(B) of the Code to be “patient, dignified, and courteous”. The complaint is therefore dismissed pursuant to Commission Rules 16(a) and 23(a).

Commission members Denise K. Aguilar, Michael J. Brown and Joseph C. Kreamer did not participate in the consideration of this matter.

Dated: May 20, 2020

FOR THE COMMISSION

/s/ Louis Frank Dominguez  
Hon. Louis Frank Dominguez  
Commission Chair

Copies of this order were distributed to all appropriate persons on May 20, 2020.

I currently have a co defendant case (meaning two defendants) assigned to Judge            I have been appointed through the            to represent this client. For purposes of brevity, to say that this client is manipulative and controlling (as much as one can be controlling in a maximum security jail facility) is an understatement. His manners in the courtroom ,however, are nearly perfect. At one point earlier in the pendency of this case he filed a motion requesting a new lawyer. By the time we were next in court he advised the court that he wanted to withdraw that motion.

On            while appearing in Judge            court on this case, I learned for the first time that the Defendant had filed a second motion requesting a new lawyer. I first reviewed that motion in court and it was full of lies, alleging inappropriate and unprofessional behavior on my part. Although this is somewhat common as there have been numerous pro forma motions circulating throughout the jails for decades, I was somewhat taken aback as I thought this client and I were in at least an "okay" place. He was not happy with the reality of what comes with a second armed robbery case shortly after being released from prison on a previous armed robbery case. He was frustrated and while I understood that, his manipulative and abusive behaviors and demeanor seemed to be "on hold" for the time being, until I read that second motion. I denied the allegations and the defendant insisted that they were true. Judge            tried to brush the whole thing off saying different people have different "styles." I wanted there to be no mistake that the allegations on the part of the defendant were not my "style." In fact, the allegations were such that I could reasonably expect to be also accused of violating the Rules of Professional Conduct or a Lawyer's Duty of Professionalism. I advised the Court that while I would be willing to stay on as this defendant's lawyer, I would not continue to be treated badly. I didn't think that was an unreasonable request or expectation. Often times, early in the attorney client relationship, tensions exist when clients facing serious criminal charges realize or learn of their exposure. I can deal with that, rise above it and move on in most cases. Unfortunately, there are times when the tension or pattern of behavior on the part of the defendant creates a conflict under ER 6.2 and it becomes necessary for the client to either have a different lawyer or represent himself. I was reaching that point with this defendant and tried to succinctly convey that to the court. Judge            response was to tell me to pick a new profession if I didn't want to be treated badly. He went on. Next he told me to get a thick skin and finally concluded by calling me a snowflake. And make no mistake, Judge            does NOT have a sense of humor, nor were his comments made in that vein. I found his behavior demoralizing, humiliating and disgustingly inappropriate. I would venture so far to claim it was sexist as well although his intemperate judicial demeanor is well known by just about anyone who's appeared in front of him or heard his name, including court staff. The only thing missing from his commentary was "suck it up buttercup." What was especially troubling was that he just sent a very strong message to a defendant housed in a maximum security jail facility that

it's okay to file those motions about your lawyer or treat her badly, make up lies and baseless accusations and if she doesn't like it, the Judge will just tell her to shut up. This is the kind of thing that is funny to inmates who have very little to do other than to compare stories after court each day. It also makes it extremely difficult to manage client expectations or have credibility with other clients who are housed in that same jail. They all talk about who their lawyer is and whether or not they're perceived to be any good. I left his courtroom feeling physically sick to my stomach and the thought of having to appear there again, as I have, induces a physical reaction.

That a judicial officer with his background and experience would think it's okay to behave the way he does is simply unfathomable to me. That he would suggest I throw away a career because I had reached a point with client where the abusive and manipulative behavior should not be acceptable tells not only me, but everyone in the courtroom that day, exactly how this Judge treats people. I know I'm not the only one nor am I the first he's lashed out at over the years. When he becomes frustrated or doesn't know what to do he becomes mean and then, in turn, blames it on the parties or lawyers in front of him. And God forbid they try to talk. That doesn't go over well either.

After leaving Court or I filed a motion asking that the Court grant the Defendant's motion, although it had previously denied it. The realization that I couldn't continue on this toxic path had set in and this relationship with this client could not be repaired. On I again appeared in front of Judge Things went no better. To put it in the vernacular, he couldn't have been snottier. I arrived in his court at for an setting but because the co defendant's lawyer was not going to be available until at least I advised, informally, that I would go to some of the other divisions that I had matters scheduled in to see if anything could be accomplished before I needed to come back here, to Judge division. He immediately became confrontational saying "

" No, that's not what I said. What I said was

. What's especially telling is how he characterized my leaving his court as " as if these were social calls I was leaving to embark on. Again, I was so disgusted that I said as little as possible because it was painfully obvious that he refuses to understand that I appear in the County Court complex every morning to DO MY JOB, that is appear before anywhere from 2-5 judges a morning, all of whom are no less important than he thinks he is. Rather than have an understanding for that or respect his fellow judicial officer's calendars, he just barked at me from across the room, " . " Again, I'm left wondering, is this sexist on is part as if I were his teenage daughter. ? Yes,

after            of practice at age            absent a court order, I do make my own decisions. Imagine the impression that left on the public seated in the courtroom watching this ridiculous exchange. The lady lawyer just made that judge really mad because he's not ready to call her case but she's not supposed to leave to handle her other cases?

When the co defendant's lawyer did arrive and email me at            I returned at            . Judge            for reasons that are certainly within his discretion and no doubt including the need to call other cases as well, finally called our matter at            . At that point, the next            or so was nothing short of a disorganized, nonsensical banter revealing that he was not only unprepared, he also forgot why were there, by his own admission. He inaccurately recounted the previous proceeding and became irate and combative during the discussion wherein I tried to explain that I needed to withdraw from representing this defendant at this point. I explained that although I believe the defendant was frustrated because I haven't been able to give him an update after            of almost no communication for the assigned deputy county attorney regarding a proposed resolution discussed at a            settlement conference, the attorney client relationship was nonetheless beyond repair and I had reached a saturation point. This was NOT to say I hadn't communicated with the Defendant. After our settlement conference, I took numerous calls and spoke with him and also sent him several letters explaining we were simply waiting to hear back from the County Attorney on whether the proposed offer would be viable. I could just never get the county attorney to answer me with anything other than they were going to staff it or his boss was out of town for a couple of weeks. With no new information, everyone was frustrated. I explained all of this in court. Rather than accept my avowal as an officer of the court, Judge continued to belittle me claiming he's never had a lawyer ask to be "fired" before. Recall, at that point, I was asking him to grant the Defendant's own motion and recognize that I was telling him there's a conflict. He denied the request to have me removed or withdrawn and ordered me to visit the client. Obviously, the ethical rules require me, under ER 6.2 to withdraw if there is a conflict and I advised Judge            that I would not visit this client alone or put myself in a position to have him make allegations of unprofessional conduct without a witness present. You can see his reaction for yourself on the FTR, not once but twice. In keeping with his own general "style" he ultimately accused of me of being unprofessional by trying to "force" him to remove me from the case. I'm shocked that a sitting judge, with            would interpret a lawyer advising him of a conflict as trying to force him to do something? What that tells me is that he just doesn't want the lawyers to talk. That's evident in just about every case I've ever watched him preside over. His disdain for the system is glaringly obvious.

I do not make requests to withdraw from cases very often nor do I make those

requests indiscriminately. That is a last resort . However, Judge                    remarks coupled with the Defendant's allegations were the final straw. I have tried to be mindful of the cost to the county and the toll it takes on it's budget. Indigent defense is underfunded as it is with a fraction of the resources that the prosecution has. The last thing I want to do is needlessly cost their budget the expense of having to fund another lawyer to start all over. However, as I indicated, there are times it becomes impossible to continue. These are often times the clients who file frivolous bar complaints and vexatious law suits. The time and the expense in answering unwarranted bar complaints or lawsuits is not insignificant. The time to answer those allegations is countless hours that a lawyer must devote to those inquiries or lawsuits and it's time away from their work. To hire counsel can be financially devastating at a minimum of                    an hour while, while for court appointed lawyers, the compensation is a flat fee of                    per case or                    an hour. Other cases, contract counsel are required to accept with NO compensation. This is not work one takes on to make a lot of money so the expense in defending against these types of allegations can be financially draining. The answer is not picking a new profession, getting a thick skin or stop being a snow flake. The answer is to try to do the very best we can with each defendant understanding that they are not at their best point in life . It's also imperative to identify when it's time to part ways with certain clients because you can no longer continue on a toxic path or you reasonably anticipate that the cost of defending oneself will be far more than what is paid for the representation to begin with.

I tried, respectfully and patiently, to let the court know that I had reached a point with this defendant where I could no longer continue . Judge                    response, when shared with my colleagues , came as a surprise to no one. I know several lawyers who refuse to appear in his court. One lawyer (with                    of experience) commented, on the promise of anonymity , that she would rather wrap her car around a tree on the way to court in the morning than to have to appear in his courtroom. He's rude, unprepared, surly, can't handle a morning calendar without trying to just kick things down the road and has no respect for the other judges who are also waiting for the lawyers in his courtroom.

I take no joy in filing this and it saddens me that the very people trusted to be the ministers of justice and ensure that our justice system operates as intended have become increasingly ill suited for the role. Unfortunately, there's a trend starting to develop and while it's certainly not always this bad, Judge                    stands out as a prime example of intemperate judicial demeanor and not one who promotes confidence in the judiciary.

Copies of the FTR on the relevant dates are forthcoming.

SUPERIOR COURT OF ARIZONA  
COUNTY

CLERK OF THE COURT

HONORABLE

v.

JUDGE  
JUDGE

TRIAL CONTINUANCE PAST LAST DAY

Courtroom

State's Attorney:

Defendant's Attorney:

Defendant: Present

Court Reporter, is present.

A record of the proceedings is also made digitally.

This matter is heard in conjunction with co-defendant in  
A separate minute entry shall issue as to this cause number.

This is the time set for Final Trial Management Conference.

Discussion is held regarding procedural matters.

**THE COMMISSION'S POLICY IS  
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NUMBER IN YOUR REQUEST.**