

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 19-236

Judge:

Complainant:

ORDER

The Complainant alleged a former superior court judge¹ made untimely rulings, engaged in ex parte communication, failed to appropriately supervise her judicial staff, and lacked professional boundaries.

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.

After review, the Commission found the judge failed to appropriately supervise her staff as they exchanged memes and emails that disparaged attorneys, litigants, jurors, and other staff. The Commission's investigation found no clear and convincing evidence that the judge had initiated any memes, however, she was copied on many emails and occasionally commented on the contents. While this was improper under Rules 1.2, 2.8(B), and 2.12(A) of the Code of Judicial Conduct, the Scope Section of the Code provides that not every transgression will result in the imposition of discipline, and the Commission considered several mitigating factors, including the judge's remorse and her acknowledgment of her failings as a supervisor. The Commission decided, after considering all the facts and circumstances, to dismiss the Complaint pursuant to Commission Rules 16(b) and 23(a), but to issue a warning letter to the judicial officer that should she ever return to the bench in the future, she must appropriately supervise her judicial staff, including an employee's use of electronic communications. While such communications may be considered confidential, they could be sent outside the judicial branch or otherwise become public, which erodes the public confidence in the judiciary.

¹ The judge resigned during the investigation of this matter to pursue other career options.

Commission members Roger D. Barton and Joseph C. Kreamer did not participate in the consideration of this matter.

Dated: March 17, 2021

FOR THE COMMISSION

/s/ Louis Frank Dominguez

Hon. Louis Frank Dominguez
Commission Chair

Copies of this order were distributed to all appropriate persons on March 17, 2021.

CLERK OF THE SUPERIOR COURT
COUNTY

Comp
2019-236

Confidential

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

Submitting Party:
Mailing Address:

Direct Dial:
Judge's Name: The Honorable
Location: Court
Case Names and Number:

Witness: Courtroom Clerk

On or about _____, an employee of the Clerk's Office, _____ who served in the role of courtroom clerk to the Honorable _____ from late _____ until late _____ brought information to the attention of the her supervisor, manager and administrator as well as to the Clerk's Office Human Resources Department concerning alleged behaviors and actions she witnessed while serving as a courtroom clerk for Judge _____. Because of the nature of the conduct in question, the Clerk's Office Human Resources Department provided the information to senior leadership within the Clerk's Office, including myself, the elected Clerk of the _____ Court.

_____ was reluctant in providing information out of a fear of retaliation and no longer is the assigned courtroom clerk for Judge _____ division.

Below are the areas of concern that _____ brought to the attention of the Clerk's Office that may relate to the Arizona Code of Judicial Conduct:

- Canon 1: A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety.
- Canon 2: A judge shall perform the duties of judicial officer impartially, competently and diligently.

The Clerk's Office does not take a position as to the information relayed to her chain of command and our Human Resources Department, and the Clerk's Office did not conduct an investigation into the veracity of the allegations or observations made by . Let me be clear, by no means has the Clerk's Office concluded that Judge violated the Arizona Code of Judicial Conduct or the Canons referenced above. However, I believe it is my ethical obligation as Clerk of the Superior Court, a state Judicial Branch office as identified in the Arizona Constitution, to forward the information provided by to the Arizona Commission on Judicial Conduct as the proper venue and authority for review and next steps, if any.

The following sets forth a summary of statements made to her chain of command and the Clerk's Office Human Resources Department with regard to a number of encounters with Judge and her staff. General Counsel for the Clerk's Office summarized statements and narrative observations, and the following is representative of the information provided by

Judicial Performance Review Documents.

maintains that Judge routinely instructed her bailiff to withhold Judicial Performance Review forms from defendants and their attorneys who may provide an unfavorable rating. is personally aware of one instance in which a Judicial Performance Review form was completed by a defendant, opened by judicial staff, and then thrown away because the rating was not favorable. also maintains that the judicial calendar of Judge was sometimes manipulated so that certain defendants and their attorneys would not appear before her during the Judicial Performance Review rating period.

Ex Parte Conversations with Defendants.

maintains that Judge had *ex parte* communications with defendants appearing before her on a routine, daily basis. maintains that for certain defendants, Judge would ask them to be brought to court early, so she could speak with them informally. indicates that these conversations would occur in the morning before the courtroom officially opened and without counsel present.

Use of Derogatory Names for Defendants, Jurors, Judicial Officers, Attorneys and Staff and Creation of Photo Album.

According to Judge routinely refers to Judge as a character in the to both staff and attorneys who appear before her. states that there is a laminated picture of the character of in a photo album that resides in Judge chambers, which depicts defendants, attorneys, judicial officers and jurors in a derogatory manner.

As relates to the photo of Judge contained within the photo album, contents that Judge bailiff began e-mailing derogatory pictures and memes on a daily basis that would include unflattering or derogatory pictures or caricatures of defendants, attorneys and jurors to Judge courtroom and division staff. At one point, per the request of Judge her bailiff printed out close to of these memes/pictures and hung them on the wall in the division. According to Judge judicial assistant, the assigned court reporter and were " " by these pictures, and would intentionally knock them off the wall so they would fall down. At some point, it was agreed by division staff that they should purchase a photo album to put the pictures/memes into so that they would not be hanging on the wall. The photo album soon became referred to as the " "

- As far as memes and photos in the “ ” it allegedly contains the following:
 - Picture of as representative of Judge
 - Picture of from the as representative of
 - Picture of a long-haired golden retriever that as representative of
 - Picture of as representative of a former defendant who appeared before Judge by the name of
- said if she had the opportunity to look through the “ ” again, she would be able to identify other depictions. states that the “ ’ made her very uncomfortable and that she was afraid to say anything about it.

In addition, according to when Judge s upset with either a court reporter, attorney or courtroom clerk, she will refer to that individual as a “ ” a “ ” or a “ ” found the use of the term “ ” to be demeaning and disrespectful.

v.

According to on , on the date and time set for sentencing in this matter, Judge held a birthday party for the old son of in the courtroom. The party was held at the end of the morning calendar, the FTR was shut off and the other defendants were cleared from the courtroom. Judge had everyone present sing “ ’ to the child. Judge brought in cupcakes for the party, and her bailiff bought the child a gift, a toy gun that shoots bubbles. It appears that the FTR was turned back on around that morning, and Judge can be heard referencing “ ’ during sentencing.

indicates that she did not disclose this incident earlier because she is terrified of Mr. and she feared that if she reported the birthday party, Judge either herself or through her division staff, would inform that complained about Judge favorable treatment of and that he through his connections with the “ ” would retaliate against she and her family.

A review of the docket in this case reveals that Judge conducting the sentencing of in this matter on and sentenced to a minimum term of to begin on with a presentence credit for time served, for Count Two , a Class 4 Felony and a Domestic Violence Offense, to which pled guilty.

v.

as well as Judge judicial assistant, received a text message from Judge bailiff asking if they could hold off on opening the courtroom that morning so that either the bailiff or Judge could visit with prior to formal court proceedings. Both the judicial assistant and ignored the text message and opened the courtroom.

has observed Judge bailiff go into the jury box and physically hug maintains that the bailiff plays music for him, makes videos to share with him and tracks his hearing dates on a post-it note on her desk. According to the bailiff stated she hopes she is able to keep in contact with once he is sentenced.

A review of the docket in this case file reveals that [redacted] was convicted of counts of [redacted] by a jury, in a trial presided over by Judge [redacted] and the [redacted]. Judge [redacted] also presided over the initial penalty phase of sentencing of [redacted] which resulted in a mistrial. On [redacted] due to judicial rotations, this case was reassigned to Judge [redacted] who will conduct the re-trial on sentencing.

v.

[redacted] maintains that Judge [redacted] routinely brings up the name of this defendant to make a point during conversations. [redacted] states that Judge [redacted] routinely uses the phrase " [redacted] when dealing with difficult in-custody defendants, as a means to coerce and intimate them. [redacted] recalls two specific instances in which Judge [redacted] used the phrase in front of [redacted] who was appearing before her. [redacted] specifically recalled one instance involving an in-custody defendant, who upset Judge [redacted] during her morning calendar and who Judge [redacted] told " [redacted] " [redacted] also recalled Judge [redacted] stating the phrase " [redacted] " in relation to her opinion of Judge [redacted] [redacted] could not recall whether Judge [redacted] made the " [redacted] ' reference with regard to Judge [redacted] as a result of her learning she was rotating off of the criminal calendar during the annual judicial rotations or if it related to a prior interaction Judge [redacted] had with Judge [redacted] as relates an incident involving the Adult Probation Department and Judge [redacted]

[redacted] also states that Judge [redacted] has far too of a causal relationship with [redacted] as well as other defendants who appear before her and fails to recognize the potential danger she puts her staff and others in the courtroom with her causal demeanor. [redacted] feels that [redacted] is a very dangerous individual.

A review of the docket in this file reveals that [redacted] is currently on trial before Judge [redacted] after having been indicted on [redacted] count of [redacted], a Dangerous Offense.

Under Advisement Rulings.

[redacted] states that on more than one occasion, Judge [redacted] has sent her an " [redacted] ruling on the day it was due and then had her hold it while Judge [redacted] continued to make revisions. [redacted] said this is a mechanism Judge [redacted] employs when trying to get around the 60-day ruling requirement and avoid appearing on the formal Under Advisement Report. [redacted] recalled one specific ruling that related to [redacted] that was due to be issued on [redacted], but as of [redacted] it was still pending with Judge [redacted] for " [redacted] "

Conclusion.

As indicated above, the Clerk's Office has not conducted any independent investigation into the allegations and statements made by [redacted] I did bring the allegations and statements to the attention of the Honorable [redacted] Court, and I informed Judge [redacted] that I would be submitting the information [redacted] provided to the Commission on Judicial Conduct for its review.

If the Commission should choose to investigate this matter further and needs to interview any Clerk's Office employees, including [redacted] I would sincerely appreciate it if the Commission would

contact our General Counsel, _____ at _____, so that we can ensure proper notice to the employee(s) and coordinate with the scheduling of any interviews with our Human Resources Department.

If you have any questions concerning this submission please do not hesitate to contact me at _____

Respectfully Submitted,

County