

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 19-269

Judge:

Complainant:

ORDER

November 20, 2019

The Complainant alleged a civil traffic hearing officer failed to remain fair and impartial.

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 does not have jurisdiction to overturn, amend, or remand a judicial officer's legal rulings. 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 member 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 20, 2019.

2019-269

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 _____ at _____ I appeared at the _____ Court for a civil traffic case (_____). There were _____ on the docket. My matter was the case heard just before _____.

Officer _____ appeared as a witness for the State of Arizona. I appeared as the defendant. There was no attorney representing the State of Arizona. Officer _____ presented his version of the facts in the case which involved a citation for an _____ alleged to have occurred on _____. As part of Officer _____ testimony he read the definition of the statute for an unsafe lane change from ARS 28-729.1 and then proceeded to testify as to how the statute was violated.

One of my first questions to Officer _____ was what his definition of the word " _____ " in the statute means to him. In other words how does he subjectively determine if a vehicle movement is unsafe. _____ immediately objected on behalf of the State of Arizona and told Officer _____ not to answer the question. Several follow-up questions returned the same objection from the Court.

I questioned Officer _____ as to the alleged facts he stated to the Court. For example, speed was a relevant issue in the matter. The citation states that my speed was _____ and the posted speed was _____ mph. The facts are that the posted speed is _____ presented by photographic exhibits by defendant. Officer _____ continued to state under oath that the posted speed through _____ was _____ which is false. (Speed was relevant as I was travelling _____ zone with my turn signal on for over _____). Officer _____ agreed that he saw my turn sign on. When I questioned Officer _____ about the posted speed limit, _____ objected on behalf of the State of Arizona and informed Officer _____ that he did not have to answer the question.

I asked Officer _____ how many calls he had responded to between the _____ citation and the day of the hearing - _____. He stated he was not sure. I asked if it was _____ about _____. He stated yes. I asked if he had personal recollection of this citation. He stated yes. I asked if he remembered stating to me that: " _____ ". To that question, Officer _____ stated: " _____ ". When I asked a follow-up question, _____

objected on behalf of the State of Arizona and told Officer _____ he did not have to answer. After I asked _____ a few questions, he became visibly upset, got quite red in the face, significantly raised his voice and nearly stood up from his chair. And again he told Officer _____ that he did not have to answer.

I quickly realized that this was a " _____ ", defined in Blacks Law Dictionary as a Court that blatantly disregards recognized standards of law and justice. That is exactly how _____ conducts his traffic court hearings.

Specifically, _____ held himself out as counsel for the State of Arizona. He objected to questions from the defendant, even though Officer _____ appearing as a witness for the State of Arizona, was ready and willing to answer defendants questions.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

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The State of Arizona did not have counsel appear on behalf of the State. So, _____ acted as counsel for the State, objecting on several occasions to defendant's questions, and instructing Police Officer _____ not to answer.

_____ was the presiding Judicial Officer. As such he is ethically and legally bound to be an impartial trier of fact. His actions of objecting to defendant's questions and ordering the State of Arizona, through Police Officer _____, a witness, not to respond is unethical, bias and impartial. By continually objecting to questions posed by defendant, _____ takes on the role of counsel for the State of Arizona. By doing such he is no longer a fair and impartial trier of fact.

_____ conduct shows a complete disregard for the standards of law, civil procedure, rules of evidence (even when relaxed) and any sense of justice and fairness. He should not be allowed to be a _____ His conduct brings discredit upon the Court and more specifically the _____ Court and Judge _____

cc:

ARIZONA TRAFFIC TICKET AND COMPLAINT

Report number	
<input type="checkbox"/> COLLISION	<input type="checkbox"/> COMMERCIAL
<input type="checkbox"/> FATALITY	<input type="checkbox"/> HAZ MAT
<input type="checkbox"/> SERIOUS INJURY	<input type="checkbox"/> 10 PASSENGER

Complainant		Interpreter Required? <input type="checkbox"/> Spanish <input type="checkbox"/> Other		Language	
Driver's License Number		State	Class	Military <input type="checkbox"/> Yes <input type="checkbox"/> No	Endorsements
Restrictions		Name: First		Middle	Last
Residential Address			City	State	Zip Code
Telephone (Cell Phone)			Gender		
Eyes	Hair	Height	Weight	Origin	DOB
Email Address			Business Address		
City		State	Zip Code	Business Phone	
Year	Color	Make	Model	Style	License Plate
State	Expir. Date	Vehicle Identification Number (VIN)			
Registered Owner		Address		City	State Zip Code

THE UNDERSIGNED CERTIFIES THAT:

Date	Time	SPEED	Approx	Posted	R&P	Speed Measurement Device	Equipment Number	Direction Of Travel
On-Highway	Highway	Milepost	Location			Precinct	County	STATE OF ARIZONA

THE DEFENDANT COMMITTED THE FOLLOWING:

A	Section	Statute	Violation	<input type="checkbox"/> Domestic Violence Case
	Offense Classification	<input checked="" type="checkbox"/> Civil Traffic	<input type="checkbox"/> Criminal Traffic	<input type="checkbox"/> Criminal <input type="checkbox"/> Petty Offense
B	Section	Statute	Violation	<input type="checkbox"/> Domestic Violence Case
	Offense Classification	<input type="checkbox"/> Civil Traffic	<input type="checkbox"/> Criminal Traffic	<input type="checkbox"/> Criminal <input type="checkbox"/> Petty Offense
C	Section	Statute	Violation	<input type="checkbox"/> Domestic Violence Case
	Offense Classification	<input type="checkbox"/> Civil Traffic	<input type="checkbox"/> Criminal Traffic	<input type="checkbox"/> Criminal <input type="checkbox"/> Petty Offense
D	Section	Statute	Violation	<input type="checkbox"/> Domestic Violence Case
	Offense Classification	<input type="checkbox"/> Civil Traffic	<input type="checkbox"/> Criminal Traffic	<input type="checkbox"/> Criminal <input type="checkbox"/> Petty Offense
E	Section	Statute	Violation	<input type="checkbox"/> Domestic Violence Case
	Offense Classification	<input type="checkbox"/> Civil Traffic	<input type="checkbox"/> Criminal Traffic	<input type="checkbox"/> Criminal <input type="checkbox"/> Petty Offense

You Must Appear At:	Court	Court No.	AT OR BEFORE THE DATE AND TIME INDICATED:		Date	Time
	Court Phone No	Business Address		City, State, Zip Code		

CRIMINAL:	<input type="checkbox"/> Without admitting guilt, I plead guilty to the offense(s) listed.	<input type="checkbox"/> VICTIM?	<input type="checkbox"/> VICTIM NOTIFIED?	<input type="checkbox"/> FINGERPRINTED?
	CIVIL: <input checked="" type="checkbox"/> Without admitting responsibility, I acknowledge receipt of this complaint.	I certify, upon reasonable grounds, I believe the person named above committed the acts described and I have served a copy of this complaint upon the defendant.		
COMPLAINANT		BADGE NO.	LOCATION CODE	

IMPORTANT NOTICE TO DEFENDANT

This is a true copy of the offense described in the complaint that will be filed in the designated court or hearing office. The offense for which you have been cited is a Civil Traffic violation, a Criminal offense, a Criminal Traffic offense, or a Petty offense. To determine which notice(s) applies to you, look at the box(es) checked under "The defendant committed the following".

If you are required to pay fines, penalties, fees or other financial obligations as a result of this citation and you are unable to pay, bring this to the attention of court staff or the judge as payment over time or other alternatives may be available. Do not ignore the citation and the responsibility to pay as this may result in additional penalties and costs to you. For more information contact the court or an attorney, or visit the following website (add the appropriate website).

By providing your cell phone number you are granting permission to receive texts and other communication regarding court dates, pending payments and other relevant information about your case. Normal text and SMS rates may apply. Please contact the court in which your case is filed should you desire to opt out of this service.

CIVIL TRAFFIC: If the Civil Traffic box is checked, notice is hereby given that if you fail to appear as directed in this complaint, a default judgment will be entered against you, a civil sanction will be imposed, and your driver license or nonresident operating privilege will be suspended. Your driver license or nonresident operating privilege will remain suspended until the civil sanction is paid and you satisfy Motor Vehicle Division requirements (A.R.S. 28-1557(B)(2)).

CRIMINAL OR PETTY OFFENSE: If the Criminal or Petty Offense box is checked, notice is hereby given that if you fail to appear in court as directed in this complaint, a warrant will be issued for your arrest (A.R.S. 13-3903 F).

CRIMINAL TRAFFIC: If the Criminal Traffic box is checked, notice is hereby given that if you fail to appear as directed in this complaint on a criminal charge, a warrant will be issued for your arrest and your driver license or nonresident operating privilege will be suspended (A.R.S. 28-1557(B)(1)).

The court law enforcement agency (CLUE) body responsible for issuing the Arizona Traffic Ticket and Complaint may include any additional information considered necessary to the defendant regarding appearances, pleas, trial preparation and trial outcomes.

