

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 19-336

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Judge:

Complainant:

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**ORDER**

January 15, 2020

The Complainant alleged a pro tem municipal court judge did not afford him the opportunity to be heard.

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 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 January 15, 2020.

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

**FOR OFFICE USE ONLY**

2019-336

**COMPLAINT AGAINST A JUDGE**

1

Name: \_\_\_\_\_

Judge's Name: \_\_\_\_\_

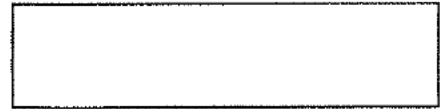
**Instructions:** Use this form or plain paper of the same size to file a complaint. Describe in your own words what you believe the judge did that constitutes judicial misconduct. Be specific and list all of the names, dates, times, and places that will help the commission understand your concerns. 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.

I was cited for a violation for blocking a  
 Judge while my car was parked (Sec. 24-62(4)).  
 the case in \_\_\_\_\_ was originally going to preside over \_\_\_\_\_ in Court  
 at \_\_\_\_\_, but Judge \_\_\_\_\_ recused herself  
 from the case since she is a board member  
 at \_\_\_\_\_ when the school  
 I attend where the alleged violation occurred  
 on the side street. Judge \_\_\_\_\_, therefore,  
 presided over the case. The person ~~representing~~  
 representing the State of AZ (Volunteer office  
 \_\_\_\_\_) did not indicate the correct  
 date of the violation. He kept indicating  
 when the violation occurred on \_\_\_\_\_. As a result,  
 Judge \_\_\_\_\_ dismissed the case before I  
 could be heard. Immediately, Judge \_\_\_\_\_ did,  
 "upon the \_\_\_\_\_ Despite  
 winning the case, I wanted to be heard by  
 Judge \_\_\_\_\_ because I documented with the city

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**COMPLAINT AGAINST A JUDGE**

2

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.

that the color is faded and obstructed from view. In the report to City (attached), I indicated, "

"I attached pictures. In response, Supervisor of Services - Distribution services put,

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(3)

**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.

the case was summarily dismissed because the volunteer office reported the Judge did not give me the provide me with the right to be heard (violation of Rule 2.6 (A) -- paper attached). I tried to tell Judge about my communication with the to let the judge know that the is ticketing people despite having ~~it~~ obstructed; However, he ~~repeat~~ said "obviously, that's not what I wanted to say, I obviously parked there but was going to inform him of the unjust circumstances for all citizens and the action taken by me to remedy the problem. Ultimately, he violated rule 2.6 Censuring the right to be heard as stated above and discourteously had me leave his court. This is clear misconduct.

(B) A judge shall reasonably cooperate with other judges and court officials in the administration of court business.

(C) A judge shall participate actively in judicial education programs and shall complete mandatory judicial education requirements.

**Comment**

1. Competence in the performance of judicial duties requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform a judge's responsibilities of judicial office.

2. A judge should seek the necessary docket time, court staff, expertise, and resources to discharge all adjudicative and administrative responsibilities.

3. Prompt disposition of the court's business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission, and to take reasonable measures to ensure that court officials, litigants, and their lawyers cooperate with the judge to that end.

4. In disposing of matters promptly and efficiently, a judge must demonstrate due regard for the rights of parties to be heard and to have issues resolved without unnecessary cost or delay. A judge should monitor and supervise cases in ways that reduce or eliminate dilatory practices, avoidable delays, and unnecessary costs.

5. Article 2, § 11 of the Arizona Constitution requires that "Justice in all cases shall be administered openly, and without unnecessary delay." Article 6, Section 21 provides that "Every matter submitted to a judge of the superior court for his decision shall be decided within sixty days from the submission thereof. The supreme court shall by rule provide for the speedy disposition of all matters not decided within such period." See Rule 91(e), Rules of the Supreme Court; A.R.S. § 12-128.01. In addition, A.R.S. § 11-424.02(A) prohibits a justice of the peace from receiving compensation if a cause "remains pending and undetermined for sixty days after it has been submitted for decision." These and other time requirements are discussed in depth in Arizona Judicial Ethics Advisory Committee, Advisory Opinion 06-02 (April 25, 2006).

**RULE 2.6. Ensuring the Right to Be Heard** *Violated*

(A) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.

(B) A judge may encourage parties to a proceeding and their lawyers to settle matters in dispute, but shall not coerce any party into settlement.

**Comment**

1. The right to be heard is an essential component of a fair and impartial system of justice. Substantive rights of litigants can be protected only if procedures protecting the right to be heard are observed.

2. The judge plays an important role in overseeing the settlement of disputes, but should be careful that efforts to further settlement do not undermine any party's right to be heard according to law. The judge should keep in mind the effect that the judge's participation in settlement discussions may have, not only on the judge's own views of the case, but also on the perceptions of the lawyers and the parties if the case remains with the judge after settlement efforts are unsuccessful. Among the factors that a judge should consider when deciding upon an appropriate settlement practice for a case are (1) whether the parties have requested or voluntarily consented to a certain level of participation by the judge in settlement discussions, (2) whether the parties and their counsel are relatively sophisticated in legal matters, (3) whether the case will be tried by the judge or a jury, or is on appellate review, (4) whether the parties participate with their counsel in settlement discussions, (5) whether any parties are unrepresented by counsel, (6) whether the matter is civil or criminal, and (7) whether the judge involved in the settlement discussions will also be involved in the decision on the merits.

3. Judges must be mindful of the effect settlement discussions can have, not only on their objectivity and impartiality, but also on the appearance of their objectivity and impartiality. Despite a judge's best efforts, there may be instances when information obtained during settlement discussions could influence a judge's decision-making during trial or on appeal and, in such instances, the judge should consider whether disqualification may be appropriate. See Rule 2.11(A)(1).

#### **RULE 2.7. Responsibility to Decide**

A judge shall hear and decide matters assigned to the judge, except when disqualification is required by Rule 2.11 or other law.

#### **Comment**

1. Although there are times when disqualification is necessary to protect the rights of litigants and preserve public confidence in the independence, integrity, and impartiality of the judiciary, judges must be available to decide matters that come before the courts. Unwarranted disqualification may bring public disfavor to the court and to the judge personally. The dignity of the court, the judge's respect for fulfillment of judicial duties, and a proper concern for the burdens that may be imposed upon the judge's colleagues require that a judge not use disqualification to avoid cases that present difficult, controversial, or unpopular issues.

2. A judge is not ethically obligated to automatically recuse himself or herself from a case in which one of the litigants has filed a complaint against the judge with the Commission on Judicial Conduct. See Advisory Opinion 98-02.

#### **RULE 2.8. Decorum, Demeanor, and Communication with Jurors**

(A) A judge shall require order and decorum in proceedings before the court.

(B) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge's direction and control.

**THE COMMISSION'S POLICY IS  
TO POST ONLY THE FIRST FIVE  
PAGES OF ANY DISMISSED  
COMPLAINT ON ITS WEBSITE.**

**FOR ACCESS TO THE  
REMAINDER OF THE  
COMPLAINT IN THIS MATTER,  
PLEASE MAKE YOUR REQUEST  
IN WRITING TO THE  
COMMISSION ON JUDICIAL  
CONDUCT AND REFERENCE  
THE COMMISSION CASE  
NUMBER IN YOUR REQUEST.**