

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 19-395

Judge:

Complainant:

ORDER

The Complainant alleged a superior court judge engaged in improper demeanor, improperly held him in contempt, and improperly refused to recuse herself 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.

After review, the Commission found the judge engaged in improper demeanor and improperly failed to recuse herself from the underlying case. While this was improper under Rules 2.8(B) and 2.11 of the Code of Judicial Conduct, the Scope Section of the Code provides that not every transgression will result in the imposition of discipline. 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 reminding her of the obligation to be “patient, dignified, and courteous” in proceedings and to recuse in matters when her impartiality might reasonably be questioned.

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

Dated: May 19, 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 19, 2020.

Comp

2019-395

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

Re: The Honorable

Dear Sirs and Mesdames:

The purpose of this letter is to register a complaint with the Commission on Judicial Conduct regarding the Honorable _____ of the _____ Superior Court in _____

I represent _____ on behalf of the _____ was the assigned prosecutor for the State. The case is _____
The case is still pending. My client is facing first degree murder charges.

Judge _____ has violated several rules governing judicial behavior. Judge _____ has exhibited intemperate and injudicious behavior in court. She has disparaged me, and my work on behalf of my client, insulted me in court filings, and on the record.

Enclosed, please find a motion I filed on _____ which sets forth the specific instances of misconduct that Judge _____ has committed, although it is not exhaustive. I have also enclosed the minute entries, a video disc of For The Record recordings, and a Memorandum of Law that I had to file, showing *why* the Judge was wrong (and had no authority) to order me to disclose an expert witness, or worse, set an Order to Show Cause hearing after she forced me not to comply with an illegitimate order. Throughout all of this, and continuing, she has refused to recuse herself, or even acknowledge there is an appearance of impropriety for her to continue as judge in this case. The Judge has caused an inordinate expenditure of time within my office and among my supervisors because of her actions and the impact on this case.

In _____ case, Judge _____ used *ex parte* information against me; made false characterizations of alleged misconduct by me without giving me an opportunity to respond; abused her powers as a judge; accused the prosecutor of misconduct (again without an opportunity to address the accusation and which, in my view has impacted how the State is now handling the case); held me in contempt unjustifiably; ordered me without legal authority to make untimely and premature disclosures in my client's case; poisoned my ability to be an effective advocate for my client; caused additional resources to be expended within my office and damaged my reputation as a lawyer.

Worse, Judge _____ has intruded numerous times into the attorney-client relationship, creating a divisive wedge with her derisive and unnecessary comments. In nearly _____ of practice in multiple jurisdictions, I have not seen this type of consistent ill-mannered display by a Judge on the bench, or worse, the abject unawareness of what that misconduct can and has been doing to the case for a party, in this instance, my client, a defendant facing life in prison. I am seriously considering withdrawing from further representation of him, impacting his right to an attorney, because the Judge has made it impossible for me to continue.

I have affixed a notary stamp to this letter: everything asserted herein is the truth to the best of my knowledge. As an admitted attorney, my signature on the enclosed motion seeking the Judge's recusal indicates that my filing of that motion is also done as if under oath. AZ R. Civ. P. 11(b).

If there are any questions or information the Commission may need, please do not hesitate to contact me at _____

Enclosures

SUPERIOR COURT OF ARIZONA
COUNTY

CLERK OF THE COURT

v.

JUDGE
JUDGE

TRIAL CONTINUANCE PAST LAST DAY

This is the time set for Final Trial Management Conference.

Courtroom

State's Attorney:

Defendant's Attorney:

Defendant: Present

Court Reporter, is present.

A record of the proceedings is also made digitally.

Defense counsel advises the Court with respect to efforts he has made to reach

Discussion is held regarding Defense counsel's oral motion to continue.

SUPERIOR COURT OF ARIZONA
COUNTY

The Court takes Defense counsel's oral motion to continue as a re-urging of a former written Motion to Continue Trial.

Having considered the motion to continue by counsel for the Defense, the Court finds,

1. The nonmoving party or parties: Does Not Object.
2. The Arraignment date was: No Information Provided.
3. The Original last day was: No Information Provided.
4. The existing date of the trial when the motion was filed:
5. The number of continuances granted before this continuance was: No Information Provided.
6. The motion was: Not in writing.
7. The motion was filed at least 5 days before trial: Does Not Apply.
8. If filed untimely, the motion sets forth with specificity the reasons for its untimeliness: Does Not Apply.

The Court finds that delay is indispensable to the interests of justice and that extraordinary circumstances exist warranting the continuance.

The Defendant waived applicable time limits: Yes.

IT IS ORDERED vacating the current trial setting of _____ and resetting same to _____ before the Master Calendar Assignment Judge in Courtroom _____ in the _____. All subpoenaed witnesses are to report to Courtroom _____ in the _____ for trial and will be directed to the trial court from there.

IT IS ORDERED resetting the Final Trial Management Conference (FTMC) to _____ before Judge _____.

The Court understands that _____ is not a realistic trial date. The Defense shall either have formally secured the participation of _____ or, if those efforts are unsuccessful, have a plan in place for a new defense expert and a timeline in which that expert will complete his/her work.

SUPERIOR COURT OF ARIZONA
COUNTY

IT IS FURTHER ORDERED excluding all time from through
NEW LAST DAY:

IT IS FURTHER ORDERED affirming prior custody orders.

Matter concludes.

**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.**