

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 20-026

Judge:

Complainant:

ORDER

A complainant alleged that a pro tem justice of the peace made erroneous evidentiary rulings and improperly accused her of racial bias.

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 that certain statements made by the pro tem judge when issuing his ruling could have been reasonably interpreted by the complainant as accusing her of racism, although that was not the judge's intent. While this was improper under Rule(s) 1.2 and 2.3 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 to avoid similar statements in the future.

Commission member Louis Frank Dominguez did not participate in the consideration of this matter.

Dated: June 10, 2020

FOR THE COMMISSION

/s/ Christopher P. Staring

Hon. Christopher P. Staring
Commission Vice-chair

Copies of this order were distributed to all appropriate persons on June 10, 2020.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

20-026

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.

See attached letter

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See attached letter

RE: Judicial Complaint against Pro Tem Judge

To Whom It May Concern:

On _____, I, _____ appeared as Plaintiff for
 Case # _____ This was an Immediate Eviction action against a tenant,
 _____, in unit _____ located at _____
 _____ are attorneys for our company. Judge _____ heard
 cases on behalf of Judge _____ this day.

Attorney _____ and _____ were called before Judge _____ At this time _____ was
 prepared to surrender keys to her unit. She mentioned having a video she would like to share to prove
 her innocence. The Judge explained we would need to go the trial and the trial began immediately.

During the trial, my attorney offered the following evidence to support my request for an Immediate
 Eviction.

A summary of events that occurred on _____ is as follows:

- At approximately _____ while trying to access _____ apartment to complete repairs
 requested only minutes before, she denied us access, then yelled out from her door the following
 unprovoked comment: “
 _____”.
- _____ sent me an email midday and mentioned her attorney. I replied that I had shared her
 email with my attorney and would be in contact once I had heard back.
- At approximately _____ came into our leasing office and became very aggressive
 and was yelling at our staff because I had not responded to her email.
- I told her that I would respond once I had clarification from my attorney. She insisted that I provide
 her with my boss’ name, the name of our management company, and their phone number. I
 could see that she was recording me – which she denied – so I stated my boss’ name and phone
 number in the direction of the camera. She provided an altered version of this recording as
 evidence.
- In the course of giving her my management company phone number, she stated twice “
 _____”. I told her that she needed to refrain from using such foul language
 or leave and put all correspondence in writing. I was very concerned because I had an office filled
 with multi-racial guests and residents, and I believed that her comments were hurtful to everyone
 and created a hostile environment.
- Still behaving in an aggressive manner, we insisted she change her behavior or leave but she
 refused. I told her that I would call the police if she did not leave. She became more hostile and

said " " in a threatening manner. I believe that these comments were a provocation to have a physical altercation with her outside of my office.

- Because we were in fear for our safety, based upon her continued aggressive and threatening actions, we called 911 and asked the police to come to remove her.
- eventually left the office but stood outside for over an hour, from approximately to She stood where she could watch the office and appeared to be ready to confront anyone who left the office, especially given her attempts to provoke a physical altercation outside of the office. At one point I thought she was finally leaving but she had called someone to pull a car in front of the office (at approximately) and she sat in the car with the headlights shining into our office as if she was going to run us down with her car if we left our office. She remained in this position with the lights shining into our office and the engine running until the police arrived around
- I contacted my supervisor and attorney and asked what I should do as we did not feel safe walking back to our cars and homes. In fact, I had my attorney on the phone repeatedly even though it was after hours as we waited for the arrival of the police department because we were afraid to leave the office. Both my attorney and supervisor insisted I continue to call police and for our staff to not to leave the office or walk back to their cars even though our office had been closed while we waited for the police to arrive. so we were told that if we had to leave, we needed someone from maintenance return to the office to walk with us. We all agreed to wait as a police escort was preferred so as not to endanger any staff member.
- When hours had passed since her aggressive actions began without any police intervention and because my staff all needed to get home to their families safely, we contacted the police for a time and explained that we were in critical need of their services. The police arrived at approximately
- When the police arrived, they spoke with me and my staff, and also with and they trespassed her from the office and walked the staff back to our vehicles and
- final statement to a member of my staff, while the police were present, was "

In summary: After the police were called stood outside from to approximately in a soldier like stance. When the light faded, she had someone bring up a vehicle, parked it directly in front of our office with the lights shining brightly into our office space, until the police arrived at and trespassed her. From while she waited directly outside of our office, I was fearful to leave and so were other office employees. The police escorted us to our vehicles, and the The police told to return home, but she waited out of sight as we departed and yelled to the Assistant Manager, in the presence of police, "

During the course of cross examination, she asked me if I felt threatened or intimidated by her because she was Attorney objected, Judge overruled and required me to answer the question. I attested that I only felt threatened and intimidated because of her behaviors throughout the day, and especially her actions at the end of the evening, which resulted in the police being called and her being trespassed from the office. I also testified that I have worked in this field since and as Over the years I have grown accustomed to working with

frustrated people and even angry people, but that most of the time, I am not afraid like I was on the night of

As we were nearing the end of trial, [redacted] indicated she would like to share her video to prove that her behavior was not threatening or intimidating. Judge [redacted] asked how she would submit her evidence, she replied that she had the video saved on her phone. Attorney [redacted] objected as her cell phone could not be submitted into evidence. Judge [redacted] admitted he was aware that the phone could not be surrendered into evidence but in the interest of [redacted] he wanted to see the video anyway. Attorney [redacted] objected again stating that if there was an appeal the Plaintiff would not have the evidence available. Judge [redacted] only noted the objection and in an effort to view the video, asked the Clerk how he could demonstrate the video in the courtroom. The Clerk offered a device that would allow to cast her phone video onto the court room TV.

Although I recognized that my attorney was concerned about evidence rules, I wanted the Judge to see the video because I knew that her video would support my testimony and that of my team. We watched her video, which to my dismay, had been altered to edit out the most incriminating parts of her behavior in the office that evening. I attested to this point as rebuttal witness. Due to the very choppy and disorganized nature of the video the points edited out will be hard to notice without a careful examination. The following parts of the video had been deleted:

- the removal of one of two statements where Mrs. Lesure states to "[redacted]"
- a bold and aggressive step toward the Assistant Manager, [redacted], as she states (to the best of my recollection) "[redacted]"
- where she threatens to fight me by saying "[redacted]"

Judge [redacted] dismissed the case, stating that he believed "[redacted]". He further remarked he believed I did feel threatened and intimidated, because of my "[redacted]". Judge [redacted] referred to his time as [redacted] as his basis for expertise on [redacted] despite the fact that there was not any evidence presented by either party that the terrified people in the office were guilty of "[redacted]"

I have since investigated the phrase that the judge repeated several times and what I discovered is that I had not misunderstood what his ruling was.

This man doesn't know me, where I come from, who I am married to, the races of my children, including my [redacted] my personal beliefs nor that of my [redacted] staff. I was shocked that I and my entire staff were treated so unfairly and that any judge could sit on a bench is supposed to be completely irrelevant and make a ruling based upon his own personal beliefs and biases regardless of the actual testimony.

Instead of reviewing the actual testimony, this judge inserted his own privately held beliefs and essentially stated that [redacted]

This was not only inaccurate but by imposing his own personal beliefs regarding society as a whole, he failed to even take into account that facts that only the Defendant used racial slurs: calling me a "[redacted]" and referred to herself as a "[redacted]" times. The evidence was overwhelming, as evidenced by the fact that other attorneys in the room spoke to us after court and

**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.**