

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 20-046

Judge: Stephen K. Hopkins

Complainants: James J. Haas
Barbara Marshall

ORDER

The complainants alleged a superior court judge had engaged in improper demeanor and unprofessional conduct.

Complainant Haas, the Maricopa County Public Defender, alleged Judge Hopkins “has demonstrated a pattern of unprofessional conduct through his discourteous and impatient treatment of defendants, their attorneys, and prosecutors.” He provided six examples which included the audio/video recordings of the incidents. Complainant Marshall, an attorney with the Maricopa County Attorney’s Office and Chair of its Ethics Committee, joined in Complainant Haas’s complaint, and stated the Maricopa County Attorney’s Office shared “the concerns . . . about the lack of respect shown to litigants by Judge Hopkins.”

The six incidents, all from separate cases, spanned from May 2019 to January 2020, with multiple incidents of improper demeanor and a denial of the right to be heard:

- *State v. Rogers, CR2018-147928-002*: Judge Hopkins stood on the bench and addressed the prosecutor in a loud, angry tone about the remaining length of time of his cross-examination of the defendant. Judge Hopkins later allowed the prosecutor to make a record on the limitation of his cross-examination, however, Judge Hopkins interrupted the prosecutor in an angry tone. He also accused the prosecutor of being dishonest, because the prosecutor could not tell him how long his cross-examination would last. Judge Hopkins stated, “so if you tell me that you don’t know, you’re lying to me counsel, and I don’t appreciate being lied to.”

- *State v. Melendez, CR2019-104831-001*: The defendant’s attorney was late for the start of a jury trial. When defense counsel arrived, she apologized for her tardiness. Judge Hopkins told defense counsel that he usually brings the jury in when people are late and has the jury sit there to wait for the late party, and he threatened her that if it happened again, that is what he would do. Judge Hopkins

did not actually bring in the jury to wait for defense counsel, and he acknowledged in his response that he would not have actually done so. Judge Hopkins also acknowledged he should not have threatened such action.

- *State v. Vaughn, CR2019-143230-002*: Judge Hopkins spoke in a loud, angry, and harsh tone to the defense attorney over a disagreement on the law governing release conditions.

- *State v. Esters, CR2019-105213-001*: During a sentencing hearing, Judge Hopkins took issue with the content of the defendant's sentencing memorandum, believing the defendant and his attorney were attempting to minimize the defendant's conduct. Judge Hopkins cut off the defendant during his allocution, became easily angered at the defense attorney and yelled at him. He also threatened to hold the defense attorney in contempt of court and called the sentencing memorandum "ridiculous." This outburst appeared to have a chilling effect on the defendant's right of allocution.

- *State v. Salazar, CR2016-149931-001*: At a status conference, the newly assigned attorneys to defendant's case requested the court reconsider the length of the continuance of the trial date. Judge Hopkins raised his voice and acted in a hostile manner toward the attorneys while denying their request.

- *State v. Valenzuela, CR2018-154364-001*: During a settlement conference, the defendant was overcome with emotion over the prospect of a lengthy prison sentence. Judge Hopkins became angry and hostile toward the defendant, and then loudly stated, "we're done here."

In his response, Judge Hopkins only minimally accepted responsibility for his own conduct, claiming it was sometimes justified by the rude behavior of either the attorney or the litigant. The Commission did not find any of the conduct to be justified, and the obligations placed on a judge by the Code are not dependent upon how a judge is treated by those who appear before them. The Commission was also concerned that Judge Hopkins accused two attorneys of lying when there appeared to be no evidence to support these statements.

Judge Hopkins' conduct in the aforementioned matters violated the following provisions of the Code:

- Rule 1.2: A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

- Rule 2.6(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.

- Rule 2.8(B): A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, and others with whom the judge deals in an official capacity . . .

Accordingly, Judge Stephen K. Hopkins is hereby publicly reprimanded for his conduct as described above and pursuant to Commission Rule 17(a). The Commission also orders that Judge Hopkins complete a training on demeanor within one year from the date of this order. Said training must be pre-approved by the Commission's Executive Director, and Judge Hopkins shall furnish the Commission with proof of completion of the course.

The record in this case, consisting of the complaints, the judicial officer's response, and this order shall be made public as required by Commission Rule 9(a).

Commission members Louis Frank Dominguez and Joseph C. Kreamer 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.

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

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2020-046

COMPLAINT AGAINST A JUDGE

Name: James J Haas Judge's Name: Hon. Stephen Hopkins

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

OFFICE OF THE PUBLIC DEFENDER
MARICOPA COUNTY

2020-046

JAMES J. HAAS
Public Defender

February 7, 2020

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

RE: Complaint against Maricopa County Superior Court Judge Stephen Hopkins

Dear Members of the Commission on Judicial Conduct:

As required by Rule 8.3(b) of the Arizona Rules of Professional Conduct, The Maricopa County Public Defender's Office submits the following complaint regarding Judge Stephen Hopkins of the Maricopa County Superior Court. Judge Hopkins has demonstrated a pattern of unprofessional conduct through his discourteous and impatient treatment of defendants, their attorneys, and prosecutors. The enclosed video clips show Judge Hopkins lose his temper, yell at parties in the courtroom, and behave in a manner that is undignified. In examples 1-6, Judge Hopkins violated Rule 2.8(B) of the Arizona Code of Judicial Conduct. In examples 1, 4 and 6 Judge Hopkins also violated Rule 2.6 of the Arizona Code of Judicial Conduct. While each of these violations, standing alone, may appear deminimis, Judge Hopkins' volatility while on the bench, which results in unpredictable episodes of perceived hostility towards the parties, undermines confidence in the judiciary and impairs the administration of justice.

1. January 9, 2020, 2:07:00-2:57:00 (Jan9_2020_clip1).
State v. Rogers CR2018-147928-002
Defendant's Attorney: Milo Iniguez
State's Attorney: Ramsey Bronyah

The Court was in trial. A Deputy County Attorney was cross examining the defendant; no objections were made by the defense attorney. Judge Hopkins suddenly cleared out the jury and asked the DCA how much longer his cross examination was going to take. His manner was hostile. The DCA answered that he had completed two out of his six pages of cross examination notes. The judge yelled at the attorney, stating: "That's not going to work! We're getting this case done today! You need to move your case along, counsel, to something that matters!" When the DCA asked if the Judge was limiting his cross examination, Judge Hopkins answered in a hostile tone: "I am! Because we're finishing this case today!" "Move it along!" The Judge then asked the lawyer a question about the lawyer's line of cross examination but, when the lawyer began to respond, Judge Hopkins interrupted him to, again, yell, "move it along!" Later in the proceedings (at Jan9_2020_clip2 approx. 32:40), Judge Hopkins allowed the DCA to make a record regarding the earlier incident. The DCA stated, "I've been doing this job for about 11 years and I've never been talked to by a judicial officer like that." The prosecutor then attempted

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to make a record as to his cross examination that had been impeded by the judge. Judge Hopkins interrupted the prosecutor, again adopted an angry demeanor and asserted he never said to wrap up the cross examination (at clip_2 approx.34:20). Judge Hopkins continued to berate the lawyer, including an accusation that the lawyer was being dishonest by stating that, when a lawyer cannot tell a court exactly how long witness questioning will take then the lawyer “is lying, and I don’t appreciate it!”

2. December 9, 2019, 10:54:30 – 10:56:00 (Dec9_2019).
State v. Melendez CR2019-104831-001
Defendant’s Attorney: Tamika Wooten
State’s Attorney: Adriana Genco, Maryann McKessy

The Court was in trial, which usually begins at 10:30. Defense counsel was late. Judge Hopkins advised the parties that what he “usually” does when an attorney is late is to bring the jury in to the courtroom to wait for the late party’s arrival. Such an action would obviously be prejudicial to a defendant if it is his lawyer who arrives late. While the judge did not bring the jury in to the courtroom to wait for the attorney in this matter, he stated he would do so if it happened again.

3. December 4, 2019, 8:49:00-8:55:00 (Dec4_2019).
State v. Vaughn CR2019-143230-002
Defendant’s Attorney: Brian Borrelli
State’s Attorney: Loren Hubbell

Judge Hopkins appeared visibly irritated with an attorney appearing before him and spoke harshly, in an angry manner, while expressing disagreement about the law.

4. October 30, 2019, 9:30:00-9:42:56 (Oct30_2019).
State v. Esters CR2019-105213-001
Defendant’s Attorney: Daniel Kaffana
State’s Attorney: Gregory May

October 30, 2019, During a sentencing hearing, Judge Hopkins appeared to become enraged at the defendant and his attorney. Judge Hopkins interrupted the defendant’s allocution with an aggressive challenge to the defendant’s statement. The defendant’s attorney then interrupted the judge, trying to explain that he believed there was a misunderstanding. Judge Hopkins raised his voice at the attorney, threatened to hold him in contempt of court, called his sentencing memoranda “ridiculous” and continued to angrily interject his disapproval as the attorney attempted to speak on his client’s behalf (at approx. 9:33:25).

5. June 5, 2019, 8:53:00-9:00:40 (Jun5_2019).
State v. Salazar CR2016-149931-001
Defendant’s Attorney: Michelle Young, Kevin Brady, Shifa Alkhatib
State’s Attorney: Thomas Grant

The defendant’s newly assigned attorney requested a continuance of the defendant’s trial date because previously assigned counsel was leaving the Public Defender’s Office. The State did not object to the defense’s request. Judge Hopkins became visibly angry towards

February 7, 2020

the attorney (**at approx. 07:10**) as he raised his voice in a hostile manner while denying the defense's request to reconsider the length of the continuance.

6. May 28, 2019, (May28_2019).
State v. Valenzuela CR2018-154364-001
Defendant's Attorney: Brandon Cote
State's Attorney: Rebecca Mascot

During a settlement conference, the defendant became emotional and distraught (**at approx. 04:50**). Judge Hopkins did not try to defuse the situation and instead shouted at the defendant, angrily proclaimed "we're done here!" and exited the courtroom.

Judge Hopkins' violations of the Arizona Code of Judicial Conduct, as seen in the enclosed video clips, raise a substantial question as to Judge Hopkins' fitness for office and we request the Commission take appropriate action.

Sincerely,

James J. Haas
Maricopa County Public Defender

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

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2020-046

COMPLAINT AGAINST A JUDGE

Name: Barbara Marshall **Judge's Name:** Stephen Hopkins

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.

We are aware of a complaint filed on February 7, 2020 by James Haas on behalf of the Office of Public Defense Services in Maricopa County. The Maricopa County Attorney's Office shares the concerns raised by Mr. Haas about the lack of respect shown to litigants by Judge Hopkins.

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

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COMPLAINT AGAINST A JUDGE

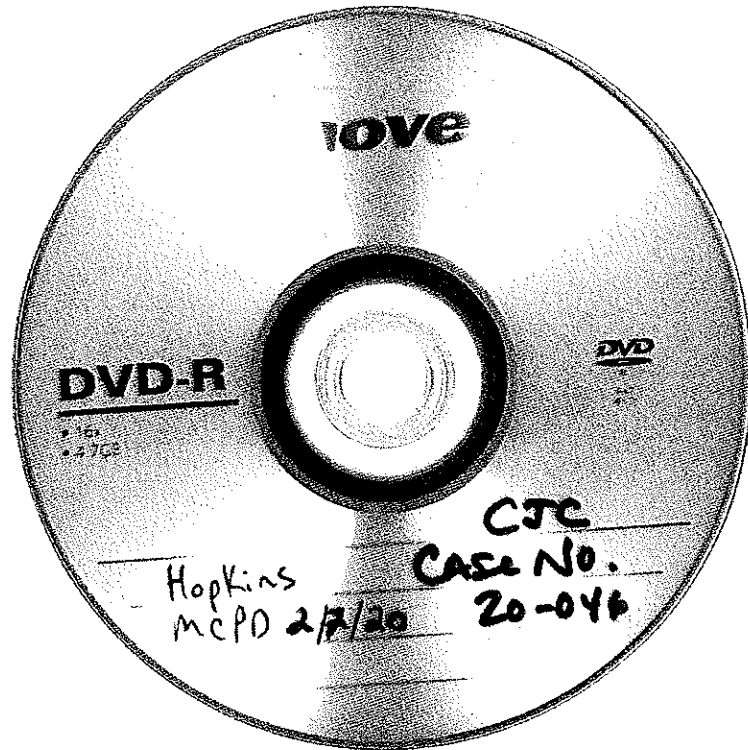
Name: Barbara Marshall **Judge's Name:** Stephen Hopkins

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.

2020-046

Comp Attach 1 - Hang.
Recordings

FEB 11 2020





SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

From the Chambers of
Stephen Hopkins
Judge of the Superior Court

175 W. Madison St.
Phoenix, Arizona 85003

May 14, 2020

Via E-mail (cjc@courts.az.gov)

Commission on Judicial Conduct
1501 West Washington Street, Suite 229
Phoenix, Arizona 85007
Attn: April Elliott, Esq.

Re: Notice of Complaint and Opportunity to Respond (Case 20-046)

Dear Ms. Elliott:

This is to provide my response to the Complaint filed on February 11, 2020, and received by me on April 29, 2020. I appreciate the opportunity to respond.

Before I proceed to discuss the various cases one by one I would note that before becoming a judge I was in civil trial practice for thirty years, handling a wide variety of matters. As a lawyer at Snell & Wilmer I was responsible for numerous cases in other jurisdictions. As such I have had experience with what is expected of judges both here and across the country. I believe that overall my judicial temperament is consistent or above the norm for judges before whom I practiced. I am also very familiar with the conduct of my fellow judges in the criminal department by virtue of watching other FTR proceedings of other criminal judges.

In this regard, the Complaint relates to judicial temperament and alleges a "pattern" of inappropriate behavior. As a criminal judge I am responsible for almost three hundred cases, and in my almost two years on a criminal assignment I have presided over dozens of trials and conducted over a thousand hearings. Those matters, which I will address below, seem to have been carefully selected for inclusion in the Complaint but are not a pattern nor are they indicative of my judicial demeanor generally.

State v. Rogers, CR2018-147928-002; January 9, 2020. The Complaint relates to exchanges that occurred during trial for sale and transportation of dangerous drugs. During the trial I had preliminarily ruled that the Defendant's previous conviction could be used for impeachment if the Defendant elected to testify based upon the State's representation that the conviction was less than ten years old. During trial the Defendant's lawyer was able to demonstrate the conviction was more than ten years old and I therefore ruled the conviction would be inadmissible for impeachment.

Given that ruling the Defendant elected to testify. This should not have been but obviously was a surprise to the State's attorney, who was wholly unprepared to cross-examine the Defendant. And in fairness to counsel he was hearing Defendant's story of what occurred for the first time. The first part of the cross-examination was extremely repetitive and slow moving. This was potentially an issue since, despite counsels' repeated assurances that we would finish the case on time, it appeared quite likely the case would not finish on time and given jurors' schedules we might need to declare a mistrial.

Accordingly, after about an hour of cross-examination I excused the jury and asked what I believed to be a very innocuous question: how much longer did the State's counsel expect that his cross-examination would take. In my experience, this question is routinely asked in almost every trial so that a judge can avoid any scheduling problems. Requiring attorneys to estimate the length of their direct or cross examinations is fairly typically a part of pre-trial orders. In this case, I asked the State's counsel for an estimate of how much longer his cross-examination would be. I did this to determine whether we might need to adjust the ending or starting times of court sessions, or perhaps to question the jury about their scheduling conflicts to avoid a mistrial. Counsel's response was "I don't know judge." Not only was this conveyed in what I believed to be an insolent and disrespectful manner, it was also false.

Having tried cases for thirty years and having presided over innumerable trials I know that attorneys have at least a rough estimate of how long their questioning will take. And I could see that counsel was using notes, and I could plainly see that he was roughly half way through his notes or questions. He had to have had an estimate, yet he simply failed to respond to my direct question apparently in the belief that not having the Defendant know how much longer cross-examination would last would provide some strategic advantage. Both his manner and his response were wholly unacceptable, and I let him know that in no uncertain terms.

I admit that I raised the decibel level of my voice during a part of this exchange. In reviewing the FTR my voice was raised more than it seemed at the time. But in this case as well as the selected cases that are referenced in the Complaint I did not use derogatory or profane language. A review of the entire FTR proceeding indicates that the entire exchange was outside the presence of the jury, and that the fairness of the trial was unaffected. Other than this incident there were no other issues involving either lawyer during the course of the trial. In this case as in the other cases there is no allegation that I lacked fairness, competence, diligence, or was biased or prejudiced against any party.

Also, the court reporter who was covering our calendar that day made a point of coming back to my robing room on an unsolicited basis and said “bravo, Judge” for “calling out” the lawyer. I told her that I regretted raising my voice, to which she said that I should have done so earlier given the lawyer’s rude behavior toward me and my staff throughout the day. My Mother also happened to be present in court that day, and remarked to our assigned detention officer that she had never in her entire life heard me raise my voice and was quite surprised. Our detention officer’s response was “he deserved it.” My bailiff had also reported to me that the assigned County Attorney had been discourteous to him during the course of the trial. While the exchange I had with this lawyer is clearly not my proudest moment on the bench it was not without some basis and I was not intending to be abusive for its own sake.

State v. Melendez, CR2019-104831-001; December 9, 2019. This was a trial that I presided over. Defendant was charged with, and later convicted, of aggravated assault and multiple counts of endangerment involving a firearm. As is typically the case, before the jury was empaneled I informed the lawyers that I did not wish to keep the jury waiting and they should plan on the fact that we would start court promptly.

The first day of trial I was informed by my bailiff that defense counsel called and indicated she would be late to court since she forgot her shoes. That seemed odd to me. She apparently informed my bailiff she would be about ten minutes late. In fact, she was twenty-five minutes late. As documented in the FTR, I stated a so-called usual practice of seating a jury without the lawyers present. I have never done that, and would never do that for the reasons set forth in the Complaint. Thankfully this was the first time a lawyer was that tardy for a jury trial. I have heard of other judges threatening to do exactly what I did as a means of ensuring timeliness; it was

not my own invention. But upon reflection I agree that there are better ways to deal with the situation rather than implying an action one will never take.

State v. Vaughn, CR2019-143230-002; December 4, 2019. This matter was an oral argument on a motion to modify release conditions. Defendant's counsel has since been in our Division on a number of different matters. My interactions with him have been quite positive, and my sense is he has no issues with the way I have conducted myself. Although the decibel level of my voice does appear elevated on one part of the FTR recording, the Defendant's attorney did not seem to be adversely affected in making his arguments. Admittedly I questioned him pointedly regarding what I perceived to be an indefensible legal position. He was permitted to and did respond regarding his disagreement. He did not seem cowed or intimidated. I disagree that my tone was unduly harsh or angry. And following the hearing, after I considered all arguments by both parties, I made what I believed and believe to be the correct legal ruling in a dispassionate manner. It was not based upon improper considerations or any animus toward either lawyer.

State v. Esters, CR2019-105213-001; October 30, 2019. This was a sentencing in which the Defendant was charged with misconduct involving weapons and assault against his seven-year-old child.

The Pre-Sentence Report ("PSR") for the case indicated that the child victim disclosed via forensic interview severe and repeated beatings at the hands of the Defendant. Defendant had in fact plead guilty to that charge, and a factual basis for the guilty plea had already been provided.

But Defendant's sentencing memoranda attempted to cast doubt on whether Defendant had actually committed those acts. He and his attorney attacked the statements made by his own son as the alleged product of inappropriate actions by the Department of Child Safety. He also attempted to blame the child's mother, claiming that some of the allegations were invented by the mother. Rather than acknowledge responsibility it appeared to me that he was providing a false narrative in the hope of strengthening his position in the Juvenile Court proceeding.

In that regard, the most troubling aspect of the case was the assertion by the Defendant and his attorney that the Defendant was purportedly unaware that he could request that a Juvenile Court judge address his parenting time while his criminal case was pending. To the extent a no contact with a victim order is made as a condition of release it is subject to modification. Defendants request modifications of release conditions with

great frequency. One of the matters referenced in the Complaint is in fact a modification of release conditions request. Defendant never requested modification of his release conditions. Every criminal defense lawyer knows or should know this was an option.

Additionally, I had reviewed the Juvenile Court records before the hearing. I am not enclosing these records given the sensitive and protected nature of the records. But it suffices to say that I knew Defendant had received among other things the form Notice to Parent in Dependency Action form advising him of his rights. I knew he had counsel appointed, and I knew who that counsel was. I knew there had already been a Foster Care Review Board hearing and what the results and findings of that hearing were. I knew there was absolutely nothing in the Juvenile Court record to even imply that a criminal judge would decide dependency or parenting time orders; it was absolutely clear from the record that Defendant knew or should have known his parenting rights were being adjudicated not in Criminal Court but in Juvenile Court.

When I discussed these matters with Defendant's counsel he continually and repeatedly interrupted me. I therefore indicated he would be held in contempt if he continued to do so. But he was able to express his viewpoint. He was not held in contempt.

I would also note that my sentencing orders were unaffected by this exchange. While I was troubled by the case and had the option of providing a sentence of incarceration in jail I did not do so. But at the same time I took great exception to what I believed were the false or misleading representations by Defendant and his lawyer.

And I had expected going into the hearing to be quite stern with the Defendant. In my experience the majority of criminal cases involve basically good people who have lost their way, typically due to the use of drugs or alcohol. I am therefore typically empathetic, understanding, and encouraging during sentencing hearings. But my perception here was that the Defendant was attempting to portray himself as the victim. He did not appear to me to understand the extreme wrongfulness or gravity of his conduct. Not only are acknowledgement of responsibility and remorse important considerations for the sentence to be imposed, they are also predictors of future offenses. My sense was that the Defendant thought that this was essentially "no big deal," which was quite concerning to me as it relates to the prospect that the Defendant would again abuse his child.

Admittedly my comments and demeanor were more pointed than in any other sentencing I can recall, but this was so for a reason.

State v. Salazar, CR2016-149931-001; June 5, 2019. This case is one in which the Defendant was charged with kidnapping and sexual assault. The case had been pending for an extended period of time, with the Defendant remaining in custody. This case was in fact one of my very oldest cases per the calendar activity report I receive regularly. It was not a highly complicated matter, yet at the time of the Pre-Trial Conference the Defendant had been in custody for approximately two and a half years. Multiple continuances had already been afforded. It was unclear to me from a review of the entire Court record why this case was inordinately delayed or what had been done by the Public Defender's Office to move the case forward. The Arizona Supreme Court Case Processing Guidelines provide that ninety-six percent of criminal cases should be resolved within a year. This was simply not a "four percent" case.

The attorney assigned by the Public Defender was leaving the office, which presumably was something that would have been foreseen for some time. Yet the Public Defender's Office waited until a week before the trial was scheduled to start to notify me of that fact, and requested yet another continuance. New counsel was not prepared to even state what specifically needed to be done or what a realistic trial date would be. I dispute that I acted in a "hostile manner" while denying the request to reconsider the length of the continuance. I was firm, as I intended to convey that Defendant's counsel needed to actually prepare for trial and that the trial setting should indeed be considered a firm trial setting. My belief, which proved to be correct, was that however much additional time was afforded the Defendant's lawyer would still be unprepared.

Associate Criminal Presiding Judge Fisk granted a further request for continuance in October of 2019 when the parties appeared at the Master Calendar but denied any further requests for continuance. The case was ultimately tried before Judge Granville beginning in November of 2019.

I understand from our assigned detention officer that the Defendant expressed to her that "he really likes that Judge Hopkins," and was apparently quite pleased that there was a judicial officer who was making sure he had his day in court given his lengthy pre-trial incarceration.

State v. Valenzuela, CR2018-154364-001; May 28, 2019. This is a case in which I was assigned to conduct a settlement conference. The Defendant was charged with burglary. I met with the attorneys before the

settlement conference, and was led to believe that the matter would likely not settle as Ms. Valenzuela would be unwilling to accept any plea that involved incarceration in the Arizona Department of Corrections. I also understood that Ms. Valenzuela was simply unwilling to acknowledge or express understanding of the sentencing guidelines or how her prior felony convictions would enhance sentencing. My plan going into the settlement conference was to be very direct in attempting to explain these issues to her, consistent with her attorney's request off the record.

It became evident that the Defendant's lawyer had no control over his client, and his client almost immediately began to "act out" during the settlement conference. The FTR record shows that from inception the Defendant was crying. The Defendant became highly agitated and distraught in a very short period of time, raising her voice, such that it was evident any further discussion would be fruitless. When discussing the issue of a previous felony conviction she simply appeared to have lost the capacity for rational thought. I therefore terminated the settlement conference abruptly when it was evident she was unwilling to listen, and was actually already moving to exit the courtroom when this occurred.

The allegation that I did not try to defuse the situation is simply incorrect. The FTR record also largely shows only me since the camera is focused on the person speaking. Accordingly, the FTR recording does not show Defendant's gestures and facial expressions directed toward me during my conversations with her. I did not "angrily shout" at the Defendant. Rather, I terminated the proceeding precipitously to avoid saying something inappropriate after the Defendant repeatedly interrupted me and made inappropriate gesticulations. The FTR recording was turned off by our bailiff and does not show Defendant walking back toward the front of the courtroom and shouting at me, and insulting me, to which I simply did not respond in any fashion.

Also of note, I understand from my Bailiff that the Defendant's lawyer apologized to me, through my Bailiff, for his client's conduct. Defendant's counsel in that matter has been in our division since on a number of matters, including settlement conferences he requested be conducted in our Division. As with the other matters, if he has any misgivings or concerns about being in our courtroom he has kept them well hidden.

I reviewed the FTR recording for the entire afternoon session, which I believe demonstrates more than adequate judicial demeanor and indicates that the incident in the Complaint is made to appear worse than it was.

I admittedly lost my temper on a few of the cases referenced above. But those cases do not represent a pattern of misconduct, and in my opinion do not represent a violation of the Arizona Code of Judicial Conduct that affects my fitness for office. I could have handled each of those matters differently than I did, but any perceived or real lack of my composure in those isolated cases is not a pervasive problem. I disagree that I am either unpredictable, or volatile. Parties in our courtroom are able to be heard without restriction.

Although I acknowledge that some of my comments in these few cases were quite candid, they were not profane, condescending, sarcastic, or intended to embarrass anyone. They were in direct response to what I perceived were instances in which the lawyers or parties made gross misrepresentations to the court, or were otherwise an affront to our system of justice. I was a member of the State Bar's Rules of Professional Conduct Committee for six years, and have been Voluntary Bar Counsel in disciplinary proceedings, as well as a member of the State Bar's Conflict Case Committee. I concede that I have strong feelings about lawyers who I believe have acted unethically by misrepresenting facts or law to the Court, or making arguments not supported by facts or law. But I still endeavor to be patient, dignified, and courteous in all matters.

I also note that Barbara Marshall of the Maricopa County Attorney's Office indicated that Office "shares the concerns raised by Mr. Haas." To my knowledge Ms. Marshall has never appeared in our courtroom. Her Complaint references no particular case, and no specific lawyer in her office who shares those concerns. Other than a couple of instances (one of which is addressed above) I believe my interactions with lawyers from the Maricopa County Attorney's Office to have been extremely positive. I am actually stunned that the position of "the Office" is that the lawyers within the County Attorney's Office share the concerns set forth in the Complaint. Accordingly, I am not really in a position to respond to that Complaint other than to say I do and will continue to do my best to treat everyone who comes to court with the utmost courtesy, respect, and dignity.

Nonetheless, I plan to once again participate in the judicial observation program, through which a neutral observer watches several different court hearings and makes suggestions to ensure that a judge's perception of how he or she comes across is consistent with what other people perceive. I did that when I was new to the bench five years ago. Although I try every day to improve my performance of my job duties, these few selected cases do not represent any pattern of misconduct as alleged, nor do they make me unfit for office.

During the last Judicial Performance Review ("JPR") ninety-seven percent of attorneys rated me as satisfactory, very good, or superior with respect to judicial temperament. Ninety-six percent of litigants rated me as satisfactory, very good, or superior with respect to judicial temperament. These results are available at the JPR website, and are obviously inconsistent with the allegations in the Complaint. I have also received additional JPR evaluations since having a criminal assignment. These are not posted on the public website, since I was not up for retention election this JPR cycle. The evaluations are generally consistent with those I received on the Family Court bench relating to judicial temperament, although the sample size is much smaller.

Presiding Criminal Judge Starr meets with the so-called stakeholders in the criminal justice system frequently, including various lawyers from both the County Attorney and Public Defender offices. To my knowledge no one has expressed concerns to her, although that would be a forum to do so. No one from either the County Attorney or the Public Defender offices has ever sought to discuss any of these concerns with me informally.

I know there are several judges currently on the criminal calendar in Maricopa County who have routinely been the subject of a Notice of Change of Judge, pursuant to which attorneys may request that another judge be assigned. In two years as a criminal judge only one occasion to my knowledge has a lawyer filed a Notice of Change of Judge seeking to have me removed from a case.

And Associate Criminal Presiding Judge Ronda Fisk has previously informed me that both parties have always agreed to have trials assigned to our courtroom. In other words, she has never had difficulty "placing" a criminal trial in our division, which I understand is also unusual. Lawyers have often requested that I be assigned as their trial judge in several difficult and high profile cases.

I would be happy to answer any questions the Commission may have regarding my conduct, either via further correspondence or via appearance before the Commission. Thank you.

Very Truly Yours,

/s/ Stephen M. Hopkins

Hon. Stephen M. Hopkins

Judge MR
20-046
6/23/20



SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

From the Chambers of
Stephen Hopkins
Judge of the Superior Court

175 W. Madison St
Phoenix, Arizona 85003

June 23, 2020

Via E-mail (cjc@courts.az.gov)

Commission on Judicial Conduct
1501 West Washington Street, Suite 229
Phoenix, Arizona 85007
Attn: The Hon. Christopher P. Staring

Re: Motion for Reconsideration -- Case 20-046

Dear Judge Staring:

Please consider this a Motion for Reconsideration of the Order in this matter.

The Order indicates that I have only minimally accepted responsibility for my own conduct. I assure the Commission that is not the case. I thought in my Response I had clearly indicated I freely acknowledge that in the six cases referenced I could have handled all of them much better than I did. My discussion of those cases from my perspective was provided as explanation or mitigation, and not as justification. I thought it appropriate to make clear I was not acting intentionally to be belligerent for its own sake.

In that regard, merely going back to watch the FTR recordings was extremely beneficial. For example, in the Salazar matter I had no hostility toward the defense lawyers, both of whom have appeared in my court on numerous occasions and for whom I have the highest respect. Likewise, in the Vaughn and Valenzuela matters I was not acting out of anger, i.e., I did not feel angry when speaking, although a replay of the FTR clearly indicates I was curt and that my voice was loud. My perception of the decibel level of my voice and whether my tone was unfriendly, and not merely firm, was

much different that the FTR record indicates. Watching these recordings has been extremely valuable for me to realize that my perception of how I am coming across to others may be quite different than the reality.

I welcome the opportunity to complete additional training to improve my demeanor, and I am thankful that these matters have been brought to my attention. I regret how the FTR recordings appear in the cases that are the subject of the Complaint. But I question the necessity to be reprimanded given an otherwise spotless record. I have been a judge for approximately five years. Throughout that time, I have consistently received positive feedback regarding my judicial demeanor. I will earnestly address the Commission's comments and conclusions, and have in fact already done so. I have taken this matter very seriously and will improve my patience while on the bench. That will happen without the embarrassment and humiliation associated with a reprimand. I believe that a dismissal with comments under Rules 16 (b) and 17 (b) of the Rules of the Commission on Judicial Conduct is appropriate to adequately protect the public and ensure similar conduct will not repeat itself in the future.

Thank you for your consideration.

Very Truly Yours,

/s/ Stephen M. Hopkins

Hon. Stephen M. Hopkins

Arizona Commission on Judicial Conduct
1501 West Washington Street, Suite 229
Phoenix, Arizona 85007
Telephone: (602) 452-3200

STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning
Judge Stephen M. Hopkins
Maricopa County Superior Court
State of Arizona,

Respondent.

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) Case No.: 20-046
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**ORDER DIRECTING THE FILING
OF A RESPONSE**

Respondent Judge Stephen M. Hopkins filed a Motion for Reconsideration of the public reprimand issued on June 10, 2020.

IT IS ORDERED that Disciplinary Counsel for the Commission shall prepare and file a response to Respondent's motion by July 8, 2020. Disciplinary Counsel shall provide a copy of her Response to Respondent on or before July 8, 2020. Absent a request from the Commission, Respondent may not submit a written reply brief or any additional materials.

Dated this 24th day of June, 2020.

FOR THE COMMISSION

/s/ Louis Frank Dominguez
Hon. Louis Frank Dominguez
Commission Chair

A copy of this Order was delivered on June 24, 2020, via electronic mail, to:

Hon. Stephen M. Hopkins
Maricopa County Superior Court
Steve.Hopkins@JBAZMC.Maricopa.Gov
Respondent

April P. Elliott
aelliott@courts.az.gov
Disciplinary Counsel

By: /s/ Kim Welch
Kim Welch, Commission Clerk

April P. Elliott (Bar #016701)
Disciplinary Counsel
Arizona Commission on Judicial Conduct
1501 West Washington Street, Suite 229
Phoenix, Arizona 85007
Telephone: (602) 452-3200
Email:

STATE OF ARIZONA

COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning)	
)	Case No.: 20-046
Judge Steven M. Hopkins)	
Superior Court)	Response to Motion for
Maricopa County)	Reconsideration
State of Arizona,)	
)	
Respondent.)	

On June 10, 2020, the Commission on Judicial Conduct (Commission) publicly reprimanded Judge Steven M. Hopkins (Respondent), for violations of the Arizona Code of Judicial Conduct (Code). Respondent filed a Motion for Reconsideration on June 23, 2020. Undersigned Disciplinary Counsel submits this response pursuant to Commission Rule 23(b), respectfully requesting that the Commission deny the request to rescind the reprimand and dismiss the matter with comments.

I. Good Cause Exists for the Imposition of the Reprimand

The Commission's reprimand was based on a finding that Respondent violated Rules 1.2, 2.6(A), and 2.8(B) of the Code, as Respondent engaged in improper demeanor and failed to afford all parties the right to be heard, as evidenced in six

separate instances over a period of approximately eight months. The six instances were detailed in the reprimand order and supported by the recordings of the hearings.

II. Factors Supporting a Sanction

The Scope section of the Code sets forth several factors for the commission to consider in determining whether a sanction is appropriate in a particular case. On balance, those factors support the issuance of the reprimand in this case.

A. Seriousness of the Transgressions

Respondent's conduct was not an isolated incident, but rather, six separate incidents spanning an eight-month period of time. Respondent seemed easily angered, and often spoke in a loud, angry, and harsh tone of voice. In a couple of instances, his outbursts affected a party's right to be fully heard. Respondent's actions undermine public confidence in the judiciary.

This factor weighs in favor of a sanction.

B. Facts and Circumstances Existing at the Time of the Transgression

In his Motion for Reconsideration, Respondent disputed that he minimally accepted responsibility for his conduct, stating he offered the explanations not as justification, but rather as mitigation. He also acknowledged that a subsequent review of the FTR recordings showed his perception of how he came across was different than reality. The recordings represent the reality for the litigants and members of the public who witnessed Respondent's conduct in these six examples, and they suffered as a result.

This factor weighs in favor of a sanction.

C. Extent of Any Pattern of Improper Activity or Previous Violations

Respondent has never previously been publicly disciplined by the Commission.

This factor weighs against a sanction.

D. The Effect of the Improper Activity Upon the Judicial System or Others

The success of our judicial system requires that the public have trust in the independence, integrity, and impartiality of the judges who serve on the bench. When a judge fails to afford all interested parties the right to be heard and fails to remain “patient, dignified, and courteous,” such behavior undermines that trust.

This factor weighs in favor of a sanction.

Three of the four factors that the Commission must consider weigh in favor of issuing a sanction (a dismissal with an advisory comment or warning is not a sanction). The imposition of a public reprimand protects the public “by assuring that the judge will refrain from similar acts of misconduct in the future.” Commission Rule 5 (Purpose of Judicial Discipline).

IV. Aggravating and Mitigating Factors

Rule 19 of the Commission Rules sets forth ten aggravating and mitigating factors for the Commission to also consider.

A. Nature, Extent and Frequency of the Misconduct

There were six instances of improper demeanor, failing to afford all parties the opportunity to be heard and failing to promote public confidence in the judiciary. He also accused two attorneys of lying when there appeared to be no evidence to support

these allegations. The complaint was initially made by a representative of the Maricopa County Public Defender's Office. Shortly thereafter, a representative of the Maricopa County Attorney's Office joined in the complaint, noting their office shared the same concerns about Respondent's conduct. When both parties to a criminal matter share collective concerns about a judge's treatment of the attorneys and litigants who appear before him, the allegations are more credible. Further, the recordings substantiated both sides' concerns. This is an aggravating factor.

B. Judge's Experience and Length of Service on the Bench

Respondent has been on the bench for approximately five years, and he has been a practicing attorney for almost thirty-five years. He should be well-versed in his ethical obligations under the Code. Therefore, this is an aggravating factor.

C. Whether the Conduct Occurred in the Judge's Official Capacity or Private Life

The conduct occurred in Respondent's official capacity, and thus, this is an aggravating factor as well.

D. Nature and Extent to Which the Acts of Misconduct Injured Other Persons or Respect for the Judiciary

Respondent's angry demeanor and harsh tone had a chilling effect on a party's right to be heard in the *Rogers* and *Esters* matters. In the *Melendez* matter, Respondent told defense counsel if she was tardy again, his practice was to bring the jury in and have them wait on the tardy individual, which could have negatively impacted the defendant. In his response, Respondent claimed he never would have actually done so and should not have made the threat. Such statements could be

construed as Respondent lying, which is ironic, given Respondent's indignation at the perceived lies of counsel in the *Rogers* and *Esters* matters. Respondent's improper demeanor affected parties and litigants in all matters. All of the conduct, which occurred in a public courtroom setting, impairs the public trust in the judiciary. This is an aggravating factor.

E. Whether and to What Extent the Judge Exploited His or Her Position for Improper Purposes

Disciplinary Counsel does not deem this factor as applicable.

F. Whether the Judge has Recognized and Acknowledged the Wrongful Nature of the Conduct and Manifested an Effort to Change or Reform the Conduct

Respondent acknowledged in his response that he could have handled all of the situations better. However, a reasonable read of his response leaves an impression that he was justifying his conduct by the behavior of either the attorney or the litigant. In the Motion for Reconsideration, Respondent acknowledged that reviewing the recordings have shown him that his perception of his conduct was much different than reality. Disciplinary Counsel deems this as a slightly mitigating factor.

G. Whether There Has Been Prior Disciplinary Action Concerning the Judge, and if so, its Remoteness and Relevance to the Present Proceeding

Respondent has no prior disciplinary history. This is a mitigating factor.

H. Whether the Judge Complied with Prior Discipline or Requested and Complied with a Formal Ethics Advisory Opinion

Disciplinary Counsel does not deem this factor as applicable.

I. Whether the Judge Cooperated Fully and Honestly with the Commission in the Proceeding

Respondent has fully cooperated and has been honest. This is a mitigating factor.

J. Whether the Judge was Suffering from Personal or Emotional Problems, or from Physical or Mental Disability or Impairment at the Time of the Misconduct

This was not raised as a defense by Respondent, and Disciplinary Counsel does not deem this factor applicable to this case.

The aggravating factors outweigh the mitigating factors. Respondent's conduct injured the public perception of the judiciary, and Disciplinary Counsel argues that the overall balance is in favor of upholding the prior sanction.

Additionally, the Commission has recently issued reprimands for similar conduct¹ in the following matters:

Case No. 19-276 (McMurry): Judge McMurry was reprimanded for making several condescending and mocking comments to a litigant in a civil matter.

Case No. 16-160 (Forshey): Pro Tem Judge Forshey was reprimanded for failing to afford one party an opportunity to be heard and for making comments that disparaged an individual with disabilities.

Case No. 16-011 (Forshey): Pro Tem Judge Forshey was reprimanded for failing to afford one party an opportunity to be heard and for speaking to a litigant

¹ Under the Commission's rules, a judge's prior disciplinary history can be confidential. However, the Commission members can take notice that reprimands have been issued in matters in which a judge had no prior discipline.

in a loud and harsh tone, advising them to “shut up,” “knock it off,” and that the litigant could either do what the judge asked or eat green soup later in jail.

Case Nos. 16-036 and 16-004 (Hancock): The Commission issued a consolidated reprimand to Judge Hancock for telling litigants in two separate matters that she “didn’t give a crap” about them.

Case No. 15-192 (Newell): Commissioner Newell was publicly reprimanded after she refused to allow an attorney for the victim to be heard, and when the attorney persisted in requesting to be heard, Commissioner Newell exploded at the attorney and summoned a deputy to the courtroom to have the attorney removed. (Commissioner Newell subsequently resigned and the video from that incident had substantial media coverage.)

Case No. 15-125 (Fletcher): The Commission publicly reprimanded Pro Tem Judge Fletcher for failing to afford the litigants an opportunity to be heard and speaking in a sarcastic manner.

Case No. 15-085 (Williams): Judge Williams was publicly reprimanded for making mocking and demeaning comments to a litigant in a judgment debtor’s exam.

Disciplinary counsel believes the reprimand is appropriate for parity purposes.

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V. Conclusion

Disciplinary Counsel respectfully requests that the Commission deny Respondent's motion and affirm its public reprimand order issued June 10, 2020.

Dated this 30th day of June, 2020.

COMMISSION ON JUDICIAL CONDUCT

April P. Elliott
Disciplinary Counsel

A copy of this document was delivered via email on June 30, 2020, to:

Hon. Stephen M. Hopkins
Maricopa County Superior Court

Respondent

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 20-046

Judge: Stephen M. Hopkins
Complainants: James J. Haas
Barbara Marshall

**ORDER DENYING RESPONDENT JUDGE'S
MOTION FOR RECONSIDERATION**

The respondent judicial officer filed a Motion for Reconsideration of the Commission's reprimand decision as set forth in its previous order. Pursuant to Commission Policy 23, disciplinary counsel was requested to file a response to the motion, and did so.

On August 7, 2020, the Commission denied the Motion for Reconsideration. As provided in Commission Policy 23, the respondent judicial officer's Motion for Reconsideration, disciplinary counsel's Response to Motion for Reconsideration, and this Order Denying Respondent Judge's Motion for Reconsideration shall be made a part of the record that is posted to the Commission's website with the other public documents (the Complaint, the judicial officer's Response and the Reprimand Order).

Commission members Louis Frank Dominguez and Joseph C. Kreamer did not participate in the consideration of this matter.

Dated: August 12, 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 August 12, 2020.