

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 20-054

Judge:

Complainant:

ORDER

May 28, 2020

The Complainant alleged a justice of the peace denied him due process and a fair hearing in a protective order proceeding.

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).

Copies of this order were distributed to all appropriate persons on May 28, 2020.

The purpose of the following narrative is to document violations of law, procedure, and propriety in the execution of judicial duties by judge _____ of the _____ Judge _____ has heard _____ cases in which we have been involved - one on _____ and one on _____. Both these cases resulted in grave miscarriages of justice which have had a devastating impact on my family. I will arrange this narrative around the rules violated as documented in the Arizona Code of Judicial Conduct (ACJC). I have also attached my written appeal regarding the _____ of these cases, which documents several of the procedural, behavioral, and factual problems with judge _____ handling of his duties.

Rule 1.2 - Promoting Confidence in the Judiciary

The ACJC states on page 9 (see point 5): "Actual improprieties include violations of law, court rules...". Judge _____ violated procedures related to the proper service and appeal of injunctions against harassment (IAH). Specifically:

- A hearing was held _____ at which I was not present (nor was I notified of the proceeding) in which the topic was an IAH against me.
- The IAH was not granted at this time
- The IAH was not served to me at any time
- I was notified by phone that a hearing was set for _____
- The court refused to provide any additional information about the nature of the hearing or any alleged complaints or evidence
- Judge _____ presided over this entire travesty

Out of respect for the court (which I no longer have - the essence of eroded confidence in the judiciary), I attended the hearing on _____. While I intend to take steps in life to avoid any circumstance that would lead to any future repetition of this sort of situation, I can definitely tell you I would never, ever repeat the mistake of granting any deference to this or any court on the assumption it would be fair, impartial, or generally acting reasonably and lawfully. During the hearing on _____

- The IAH was granted for the _____ time
- It was still never served by a legitimate authority
- I immediately exercised my right to request a legitimate hearing within _____ days of the IAH actually being granted
- This request for a proper hearing was denied
- Judge _____ presided over this entire travesty

As I state on page _____ and _____ of my appeal of this process:

I had no notice of this IAH being filed and was not aware of its existence, and therefore had no way to request a hearing on _____ I received a phone call (only) from the court telling me I had a hearing scheduled for _____. They did not tell me what the

hearing was about, and in fact refused to share any details about the hearing or the topic of the hearing over the phone. No one, including law enforcement or himself, had previously approached me about the topics addressed within the IAH. Out of respect for the court, I appeared at the hearing completely unprepared to defend myself against the charges against me. In hindsight, I should never have appeared, but I do not have prior experience in these types of situations due to being a law-abiding citizen. The IAH itself was not granted until _____ at which point I exercised my right to request a hearing within _____ days of that date. That hearing request was denied, and consequently I had to appeal the decision. Throughout this situation, I have been denied the due process afforded to others – specifically, official service of the complaint and a fair hearing in which I am fully aware of the complaint and able to respond to it. Once again, this IAH was not granted on _____ I was not served this complaint (ever), and I did not request the hearing on _____.

As previously discussed in the facts section, the procedural handling of this IAH was broken from the start.

ARS 12-1809(J) contains the following rule (emphasis mine):

A copy of the petition and the injunction shall be served on the defendant within one year from the date the injunction is signed. An injunction that is not served on the defendant within one year expires. The injunction is effective on the defendant on service of a copy of the injunction and petition and expires one year after service on the defendant.

As I stated before, I was never served with anything. I had no awareness of the existence of the IAH, or the topics addressed in the petition.

ARS 12-1809(E) contains this clause (emphasis mine):

If the court denies the requested relief, it may schedule a further hearing within _____ days with reasonable notice to the defendant.

I don't know if this clause applies or not since I have no documentation of the process prior to _____. However, a phone call from the court, in which they refuse to provide any information about the complaint whatsoever, cannot be considered to be reasonable notice.

As far as I know, the IAH did not go into effect until _____. ARS 12-1809(H) states the following (emphasis mine):

At any time during the period during which the injunction is in effect, the defendant is entitled to one hearing on written request.

I made my written request for hearing immediately after the injunction went into effect, and that request was denied.

This IAH has been processed from start to finish without following stated procedures, and I have been denied due process of law throughout the entirety of this case.

Rule 2.2 - Impartiality and Fairness

During the course of both trials presided over by Judge _____ the judge utterly failed to promote an environment that was impartial and fair. For example:

- Judge _____ totally ignored my testimony and evidence in the _____ trial. party observers stated it was obvious he had made up his mind before I even spoke a word.
- Judge _____ talked over and literally ignored (meaning that he turned away and spoke to others) both my wife and I during both trials.
- Judge _____ prevented me from presenting evidence and testimony that was vital to case for no purpose other than his own impatience. For example, he literally told me to skip major portions of my prepared remarks and written evidence simply because he did not want to take the time to listen to it all.

I addressed these issues in my appeal of the entire process on pages

Beyond the procedural concerns, I also did not receive a fair hearing in which the judge thoroughly listened to my case. Judge _____ did not even pretend to listen to my presentation and on several occasions while I was presenting literally turned away and spoke to others. _____ examples of this are in the original hearing transcript, but are not obvious due to the nature of the media (listen to the recording and it will be plain). On page _____ of the transcript, you'll see the following exchange:

The current signs replaced --
THE COURT: (Inaudible, speaking simultaneously). Yeah.
Go ahead.
The current signs were placed...

I began speaking, but stopped and waited for several seconds when I saw he was turned away from me and speaking to someone else. Once the judge was finally at least facing my direction, I proceeded.

Another example is on page _____ of the transcript:

THE COURT: 'Kay.
THE CLERK: (Answers a phone, unintelligible).
Now, in addition to that we had our fence vandalized...

Once again, the phone conversation took precedence over my testimony, and I had to wait quite some time to be heard. In addition, as you read through the transcript, you'll see a very large amount of times where _____ interrupted me, cut me off,

refused to allow me to continue speaking, all for no good purpose. It was obvious to all in attendance that he had already made up his mind before I said a single word.

The result of not paying attention is the judge's inexplicable conclusion that I placed signs for the sole purpose of harassment when I clearly presented numerous facts showing this to be false (see previous factual arguments on pages 2-4 of this document). Judge _____ did not listen to a word I said, did not accept the evidence I attempted to submit, and generally did not provide a fair hearing. In addition to the procedural problems identified above, this is another denial of my right to the due process of law.

Meanwhile, he did not treat our opponent with the same level of rudeness and indifference. His mistreatment was focused solely on us for reasons only he can explain.

Rule 2.6 - Ensuring the Right to be Heard

As demonstrated above, Judge _____ denied the right to be heard to both my wife and myself. You can refer back to the previous examples where he refused to hear our testimony or accept our evidence - and in fact did not even pretend to do so.

Rule 2.8 - Decorum, Demeanor, and Communication with Jurors

The ACJC states on page 14: "A judge shall be patient, dignified, and courteous to litigants..."

Judge _____ showed himself to be totally impatient with us - even to the extent of denying our right to be heard and to due process. Furthermore, he did not even show the basic courtesy of listening or being attentive as we spoke and presented. You can see all this demonstrated in the examples above.

Summary

In conclusion, Judge _____ misconduct in the trials over which he presided resulted in grave miscarriages of justice which have had a devastating impact on my family. His behavior has not only eroded, but *completely erased* our confidence in the judiciary. I can only hope that Judge _____ will be held accountable for this misconduct.