

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 20-075

Judge:

Complainant:

ORDER

The Complainant alleged a municipal court judge retaliated against her for reporting improper conduct at the court, made inappropriate gender-based comments to her, and engaged in improper demeanor.

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 the judge improperly allowed a court employee to engage in law enforcement activities, made inappropriate gender-based comments to the Complainant, and engaged in improper demeanor. The Commission did not find clear and convincing evidence that the judge had retaliated against the Complainant, however, his actions gave rise to an appearance of impropriety. While this was improper under Rules 1.1, 1.2, 2.8(B), and 2.16(B) 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 refrain from engaging in the aforementioned conduct.

Dated: August 14, 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 August 14, 2020.

Complaint Against A Judge

Name: _____ Judge: _____

I am the _____ in _____ I am the victim of retaliation and gender based comments by Judge _____ for reporting to the Arizona Supreme incorrect procedures being permitted by the Judge to the AOC.

Background: the court employs a f/t "bailiff". The bailiff's salary is paid in full by the court, yet the bailiff is a _____ and wore, up until _____ . The bailiff would participate with the _____ after working at the court, at various _____ . Including traffic control, working festivals, taking people that the _____ arrested to jail, and working side by side with the _____ to serve warrants, including but not limited to court failure to appear warrants.

Early in _____ I had several discussions with the Judge regarding my perceived appearance of impropriety with the bailiff _____ after additional revisions to the court security administrative order issued by the Supreme Court and nothing having been done in this court, I had multiple discussions with the AOC (court services) regarding the Judge using the court bailiff to perform duties and functions that are solely the responsibility of law enforcement. The Judge permitted and encouraged the bailiff to work with the _____ serving warrants, working " _____ " when not working at the court for the _____ (traffic detail), etc., and basically working as a _____ . The bailiff used a _____ to check in/out of the _____ each day. The bailiff was at all times _____ yet the salary of the bailiff during this entire time was coming out of the Court's budget and he was considered a court employee. Several times I approached the judge regarding this appearance of impropriety yet nothing was done. It was at that time, in _____ that I spoke to the AOC.

In _____ the AOC sent me an email stating the judge's behavior was unethical according to the AOC legal department. The AOC and I discussed how to proceed, and it was decided I should send him an email stating what they determined, which I did on _____ . Following that email, the Judge still permitted the bailiff to work with _____ and his solution was to transfer the supervision of the bailiff from me to himself. As a note - the Judge and the bailiff are friends and have gone outside working hours to dinner and have gone shooting together, even though at several judicial conferences there have been several opportunities to learn shooting from qualified instructors. The bailiff at the time was not _____ . When I asked the judge why we were continuing the bailiff conflict problem, he stated to me " _____ ."

_____ the Judge and I had several email exchanges regarding the bailiff. Later, I sent him an email outlining possible solutions to the bailiff conflict.

I approached Presiding Judge [redacted] and advised him of the ethical problem. He stated he would talk to Judge [redacted]

- I had a conversation with AOC at a meeting in [redacted] They stated to me I have done everything I was required to do within the code of judicial ethics and they would take it from there.

- the AOC is on side through [redacted] for our operational review.

- The Judge made gender based comments regarding my hair. He came into my office and said: " [redacted] " I said " [redacted]

"? he rolled his eyes and left my office. It was [redacted] NOTE: this is a behavior pattern - I have endured many comments regarding my hair in the past. I have also endured comments about what vehicles I drive, what I spend my money on, and why I am marrying my wife [redacted] " FYI, I happen to be gay, and married to a woman.

the AOC operational review team told me they told the bailiff to " [redacted] " until further notice.

- the Bailiff, with Judge [redacted] knowledge and approval, went with the [redacted] on the warrant detail.

- the AOC called me and requested a meeting with Judge [redacted] and [redacted] regarding the bailiff problem. They wanted me to arrange the teleconference. The Judge's initial response was he wasn't going to have a conversation with them, but after I questioned his response, he agreed and spoke with them the same day at [redacted]

- AOC [redacted] called me and she stated she and [redacted] had told the Judge to talk to me and formulate a plan for the bailiff position. I advised her the Judge had not spoken to me and I was being left out of all the decision making. She stated she and [redacted] were very concerned about the intimidation they saw in the courtroom by having a [redacted] the courtroom and how he moved up and stood next to the defendants. She stated as far as they were concerned, the court security should stay outside in the lobby screening people and not be in the interior of the office. She requested I report back to her what I observed next week.

[redacted] at the advice of the then [redacted] and the [redacted] I went into the Judge's office and told the Judge that [redacted] asked me to report what I observed next week. The Judge got very angry and yelled at me. He said " [redacted]

" He then yelled " [redacted] " I responded I work for the Court and do what is ethically required of me to do. I told him according to [redacted] I am required to report what was happening. I also stated that the way he is talking to me is sounding like retaliation. He didn't respond to that, but did say that " [redacted]

He then directed me to leave his office. He was very very angry.

- the bailiff continued to [redacted] but no longer went out [redacted] for warrants.

[redacted] Court received it's draft operational review in which all of the problems with the bailiff [redacted] were laid out in the report. The report is still in draft and this court has until the end of [redacted] to formulate it's response.

The retaliation comes into play because my annual employee review, and subsequent raise, was due [redacted]. The prior HR director gave the Judge permission to give me my review late because the is using a new form. The prior director can verify that Judge [redacted] gave him a draft of my review in [redacted] for comments, and the review was given back to the judge to re-work it. It was, however, done in draft form.

I have asked the [redacted] for help in getting me my annual review. The Judge as of today, at [redacted], still has not given me my annual review and is withholding my salary increase. The [redacted] HR department is unable to force the Judge to complete my review, or to give me my annual increase. My review is now ove [redacted] late with no response to [redacted] verbal and [redacted] written request for my review. AOC is aware but is unsure how to proceed.

I believe my salary increase and review are being withheld in an act of retaliation and no one seems to be able to hold the Judge accountable.

List of people who can verify what is stated in this complaint:

I have copies of all emails sent to me from the Judge regarding this problem. I have copies of conversations I recorded from [redacted] through now regarding this and gender based comments regarding my appearance. I will gladly provide copies as requested.

Thank you for considering my request for help.