

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 20-082

Judge:

Complainant:

ORDER

September 15, 2020

The Complainant alleged a municipal court judge engaged in improper demeanor, did not allow him to be heard, and had failed to send proper notification of her rulings to another governmental agency.

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).

Commission members Gus Aragón and Louis Frank Dominguez did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on September 15, 2020.

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

FOR OFFICE USE ONLY

2020-082

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.

From the date of my initial appearance pre-trial hearing I have had considerable difficulty understanding and dealing with Judge [redacted]. The condescending tone and alienating way she explains court instructions expecting a defendant new to this entire legal mess to fully comprehend what is being explained to them as if they had been a seasoned lawyer. This fact alone is utterly redundant it would be like me explaining a arthroscopy rotator cuff repair with reattachment of the long head bicep to her and then having her attempt the procedure on her own without help and under the added stress of incurring penalties if she failed to complete. But to be more specific I was led to believe that what we discussed during this pre trial plea agreement and subsequently accepted by all parties including prosecuting attorney would in fact be what would follow logically onto the final plea deal. We solely discussed however I would be finalized as [redacted] which can be considerably different and as it was, the difference remains a hurdle I cannot overcome. The Judge upon learning about my request for no Ignition interlock device due to the fact there was zero alcohol involved stated on official record that she would notify MVD of the waiver. To this day this has not been accomplished for over [redacted] now despite multiple motions filed by me and even personal correspondance all of which is included in my court file but none of which resulted in any action being taken on my behalf to correct this now greivous error. As I have since discovered that it does not matter to MVD what a judges ruling requires as they apparently are a legislative body of their own and will override a judges request. This would also have been of considerable importance to learn had the judge explained that to me during the pre trial plea hearing. This just happened to be the negotiating agreement that resulted in my accepting the plea, which had I been made aware of I would not have accepted and would have chosen to go to trial. I have at this time completed all but [redacted] court order and thus is a direct result of having lost my job for failure to appear warrant which having lost all credibility with me or assurance that the broken plea agreement would be remedied I made the decision not to appear. That is on me as I understand. However the facts remain that given multiple reminders and requests my concerns fell time and time again on deaf ears with no hope of correction by Judge [redacted] eventhough she had all the forementioned motions within my court records confirmed [redacted] as I appeared as requested for another sentence review hearing.

During this hearing as I prompted the judge once again in person this time to recognize my concern she produced a document signed on the day of our pretrial hearing which supported my conditions for the plea and stated on paper about the waiver. However this was never sent to MVD as they report no knowledge of receiving or it being included in my MVD file. I continued to explain the tremendous hardship this has caused including the loss of my home, [redacted] jobs, schooling which I was in attendance for [redacted] at the time pursuing my Bachelors in nursing degree from [redacted] and so very much more. But she immediately scourningly casted doubt upon everything I was reporting which was 100% factual and logical had she taken the time to listen as opposed to immediatly interrupting and dismissing my story. Seemingly, the judge was in such a hurry to finalize my case to her satisfaction regardless of the law and of the Judicial code of Ethics Canon 2A, Rule 11, Subdivision D where she failed to inquire whether or not my willingness to accept this plea was based upon previous understanding or promises made by prosecution or judge leading to the acceptance of the plea based solely on those promises. Blacks law defines a broken plea agreement quite simply in a manner that would easily include nearly word for word what has occurred in this case. My goals as I appeared on [redacted] were to inquire again about the possibility of a new judge and or a [redacted]

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the possibility of having a whole new hearing. According to Santobello v. New York, 404 U.S. 257, 261-262, 025. Ct. 495, 30 L. Ede2d427 (1971) a rehearing would be a logical result of having not fulfilled a promise which in fact was the key factor in acceptance of the plea, also noted in subdivisions (d) and (e) which afford the court adequate basis for rejecting an improper plea. Under Judicial consideration of a plea agreement Rule 11(c)(1) The court must advise the defendant that the defendant has no right to withdraw the plea if the court does not follow the recommendation or request. In not fulfilling the stated openly and recorded promise to notify MVD and the failing to explain to me that whether she did or not did not allow for the possibility to withdraw my plea under the belief she had broken a plea agreement. Returning now to _____ and the date of my last encounter with Judge _____. Upon attempting to explain exactly all I have had to endure as a result of this non compliance I was repeatedly interrupted and questioned as if what I was explaining had been untrue in any regard. She taunted me berated me and refused to allow me the courtesy of a full explanation. All of which could be supported had I been given the opportunity. She put me in the corner and had me sift through my records to see if there was anything else she missed. Sarcastically, Literally every single page I sifted through not only was another effort to inform Judge _____ of my difficulty both through motions and personal correspondence but they had been over the course of _____ giving the judge sufficient time to respond and or act on what was promised. Judge _____ has done nothing and when I was asked why I had not completed the interview and treatment as ordered upon attempt to explain I was interrupted again so the judge ordered me into custody when just moments prior had given leeway to another defendant who had absconded and moved out of state failing to complete his assigned treatment after having already given him several chances. But, for some reason when it came to my case she was out of patience and unable to conduct herself as the job requires and the Judicial code of conduct stipulates. Maybe for some people a ticket of this nature is easily moved passed but, for me it occurred at a time when I was investing all I had into school including time, effort, mental ability, and due to a learning and physical disability I was stretched very thin but enough to complete if this had not occurred. The proverbial straw that broke the camels back was in fact this most horrifying introduction to the law in _____. I made a conscious decision early in life to stay out of jail and in doing so I acted in accordance to fulfill this understanding. At age _____ I did a sufficient job only to have some crooked cops hell bent on curing their boredom follow me five miles and then never officially pull me over but pull alongside me at a _____. Then to harass, escalate and incarcerate me based on what I volunteered which was my prescribed _____. I believed I would get a fair hearing but things have only gotten worse. I have read the secret canons for judicial conduct as well as attorney generals and prosecutors office and they make me want to vomit. We no longer have the right to move about freely and without undue harassment and risk of incarceration. And when under the assumption that the laws will be followed and rights upheld are bafflingly shown quite the opposite, as individual rights mean nothing in the court of law. The more one can pay for an attorney such as _____ than I would have not been so much as caused more than a few minutes of grief but since I lost my money on an incompetent attorney such as _____ in regards to this case I remain on the losing end of this most life derailing tragedy with no end or relief from anyone in sight. Please do what you can to at the very minimum show an average citizen that we can fight back and we can get some justice even for a moment before the guillotine comes crashing down upon our heads. The tragedy is having to make someone a criminal that has otherwise been a valued member of their community and has never caused undo harm to anyone for any reason.