

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaints 20-228, 20-307, and 21-303

Judge: Brett Eisele

Complainants: Vanessa Spahan (Case No. 20-228)
 Clerk Doe (Case No. 20-307)
 Commission on Judicial Conduct (Case No. 21-303)

ORDER

A consolidated stipulation accompanying this order resolves these three matters.

Based on Judge Brett Eisele's resignation from office and his agreement with the Commission that he will never again seek or accept a position involving service as a judicial officer in Arizona, the Commission takes no further action on these matters and closes its files. Should Judge Eisele fail to abide by his agreement to never again seek or assume a judicial office in Arizona, the Commission will file formal charges against him and/or seek injunctive relief to enforce the terms of the agreement.

Accordingly, the Commission's files in these matters are closed pursuant to Rule 23. Pursuant to the accompanying stipulation, this order, including identifying information, is considered public information.

Commission members Roger D. Barton, Joseph C. Kreamer, and Delia R. Neal did not participate in the consideration of this matter.

Dated: November 17, 2021

FOR THE COMMISSION

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

Copies of this order were distributed to all appropriate persons on November 17, 2021.

April P. Elliott (Bar # 016701)
Executive Director

Meredith Vivona (Bar # 023515)
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STATE OF ARIZONA
COMMISSION ON JUDICIAL CONDUCT

Inquiry concerning)	
)	Case Nos. 20-228, 20-307 and 21-303
Judge Brett Eisele)	
Central Pinal Justice Court)	STIPULATION
Pinal County (Precinct 3))	
State of Arizona)	
)	
Respondent)	

Judge Brett Eisele, Respondent, through his attorney, J. Scott Rhodes, and April P. Elliott, Executive Director, and Meredith Vivona, Acting Disciplinary Counsel, for the Commission on Judicial Conduct (“Commission”), hereby stipulate as follows:

JURISDICTION

1. The Commission has jurisdiction over this matter pursuant to Article 6.1 of the Arizona Constitution.
2. Respondent was appointed as a justice of the peace for the Coolidge-Florence precinct of the Pinal County Justice Courts in February 2017. In 2018, he was subsequently elected to serve as the justice of the peace for the newly created

Central Pinal Precinct of the Pinal County Justice Courts, and he continues to serve in that capacity.

3. As a justice of the peace when the alleged misconduct occurred, Respondent was and is subject to the Code of Judicial Conduct (“Code”) as set forth in Arizona Supreme Court Rule 81.

Case No. 20-228
Stipulated Facts

4. In December 2019, the following matters were all set for a hearing prior to issuance of a protective order on December 26, 2019 at 3:30 p.m. in the Casa Grande Justice Court: PO2019-000106 (Stauffer), PO2019-000107 (Million), PO2019-000108 (R. Mehringer), PO2019-000109 (C. Mehringer), and PO2019-000110 (A. Mehringer) (collectively, the “PO Cases”). The PO Cases had separate numbers but were all related.

5. The PO Cases were all civil, not criminal matters.

6. On or around December 9, 2020, the PO Cases were transferred from the Casa Grande Justice Court Justice Court to the Central Pinal Justice Court.

7. On December 26, 2019, because Respondent was away, Pro Tem Judge Megan Weagant presided.

8. Although Judge Weagant called case PO2019-000109, because the PO Cases were related, the evidence Petitioner presented was relevant to all of them.

9. The proceeding did not conclude on December 26, 2019. Judge Weagant gave the parties dates and asserted she would return and finish the hearings.

10. The parties and Court agreed to go forward with the PO Cases on January 27, 2020.

11. Upon his return to the court, Respondent decided that he would preside over the continued PO Cases despite knowing Judge Weagant presided over the initial hearing.

12. Judge Weagant was informed she was not needed on January 27, 2020.

13. During the January 27, 2020 hearing, Respondent called the PO Cases together.

14. The total length of the combined hearing was approximately three and one-half minutes.

15. Approximately one minute and thirty seconds into the hearing, Respondent stated to the Petitioner:

I have studied all of your cases, I have studied your past cases, I've studied your activities, the example today is when you came into court, you just tore into my clerk. You were very rude to her and demeaning. You have caused a lot of trouble for a lot of people. And so I have, I noticed, I listened to the previous hearing and the judge was having trouble conducting that hearing due to your continual interruptions, and you were told not to interrupt. So I have a rule. I'm disturbed by that and I see activity on your part that makes me uncomfortable. So as far as these cases are concerned, what I'm calling for is a Rule 11. And a Rule 11 constitutes, I'm putting a stay on all of these hearings. . . .

16. As Respondent continued, the Petitioner attempted to speak.

17. Instead of permitting Petitioner an opportunity to be heard, Respondent asserted, "I've ruled, I am done" and struck his gavel.

18. The hearing ended with Respondent ordering Petitioner to a Rule 11 evaluation and staying the matters.

19. Prior to issuing the Rule 11 in a civil case, Respondent asserted that he read Rule 11, Arizona Rules of Criminal Procedure. Nothing in the text of Rule 11 suggests it is applicable to civil matters.

20. Regarding his justification for the Rule 11 order, Respondent asserted in writing to the Commission that:

A. “I ordered a Rule 11 ... because of her erratic behavior, the episode at the Casa Grande City Council meeting, her actions at the first hearing and her continued ranting and derogatory postings on social media regarding all involved with the case.” *See* Respondent’s February 26, 2021 letter to the Commission.

B. “This was not a case, but four cases. After listening to the hearing with Judge Weagant, comments from Judge Ellsworth and actions taken by Ms. Spahan (listed in the petitions by Ms. Spahan) as to the two Defendants, I felt a Rule 11 was in order **before** proceeding with the hearings.” (Emphasis added). *See* Respondent’s March 22, 2021 letter to the Commission.

C. “I was on the record for three and one-half minutes. The purpose was solely to issue a Rule 11.” *Id.*

D. “Again, the sole purpose of the three and one-half minutes was to issue the Rule 11.” *Id.*

21. Thereafter, in his interview and supplemental response, without withdrawing his previous statements, Respondent asserted that he ordered the Rule 11 in the underlying civil matter because Respondent was worried about “potential safety concerns” because Petitioner was “very loud” and “unstable.” *See* Respondent’s May 25, 2021 letter to the Commission.

22. The audio recording of the hearing does not support a finding that Petitioner was very loud, and Respondent did not ask or instruct Petitioner to be quieter or less disruptive during the brief hearing.

Agreement

23. Respondent agrees that his conduct, as stipulated and described above, violated Rules 1.2, 2.2, 2.6(a) and 2.9(a) and Article 6.1, Section 4, of the Arizona Constitution.

24. The parties agree that resolving this matter by stipulation is in the best interests of the judicial system and the public.

**Case No. 20-307
Stipulated Facts**

25. Clerk Doe¹, at all times relevant, is a clerk in the Central Pinal Justice Court.

26. In October 2020, Clerk Doe submitted a complaint to Pinal County Human Resources alleging improper conduct by Respondent that, as alleged, fell under the umbrella of sexual harassment.

27. Pinal County Human Resources, through an outside attorney and investigator, investigated Clerk Doe's complaint, which included interviews of various court employees and Respondent.

28. At the conclusion of the investigation, Pinal County forwarded Clerk Doe's complaint to the Commission. The County undertook no other action on the complaint.

¹ Clerk Doe's true identity is known to Respondent.

29. Respondent voluntarily completed two trainings on sexual harassment and sensitivity to boundaries.

30. Respondent attempted to engage in a personal or extrajudicial relationship with Clerk Doe through a series of events. Respondent accepts this conclusion and has engaged in self-reflection as to the root of his conduct as noted further in this stipulation. The series of events included, but were not limited to: discussion of personal information about their lives and about their pasts; requesting Clerk Doe stay after work and talk to Respondent, but not making that request of any other employee; befriending Clerk Doe on Facebook, commenting on her personal appearance in photos, and later commenting on Clerk Doe's decision to unfriend him; inviting Clerk Doe and another female clerk to use his home gym, sauna, and shower (when most gyms were closed due to Covid-19); complimenting female clerks including Clerk Doe on their dress and appearance; giving Clerk Doe a kiss/peck; leaving notes on Clerk Doe's vehicle with suggestions of songs to listen to, but not engaging in that conduct with any other employee; and discussing Clerk Doe's attractiveness with the male constable.

31. Respondent was cooperative and candid in all aspects of the investigation, by both the Pinal County Human Resources Department and by the Commission.

32. Respondent denies any sexual motivation in his attempts to pursue a personal relationship with Clerk Doe. Through the additional trainings that he voluntarily undertook, Respondent now recognizes that he led Clerk Doe to believe

his intentions were of a romantic nature. He further recognizes that his upbringing in a prior era and climate was not a model for appropriate workplace behavior.

33. Respondent acknowledges his conduct toward Clerk Doe, as set forth above, had the effect of creating a work environment that made Clerk Doe uncomfortable and that was offensive to her. He recognizes that, as a judicial officer, he held a position of power over Clerk Doe, that it was incumbent upon him to maintain appropriate professional boundaries, and that his duties existed irrespective of his intentions or whether Clerk Doe ever objected to his comments or conduct.

Agreement

34. Respondent agrees that his conduct, as stipulated and described above, constitutes ethical misconduct in violation of Rules 1.2 and 2.3(B) of the Code and Article 6.1, Section 4, of the Arizona Constitution.

35. The parties agree that resolving this matter by stipulation is in the best interests of the judicial system and the public.

CASE NO. 21-303

36. On September 10, 2021, the Commission initiated a new investigation into Respondent known as CJC Case No. 21-303.

37. On September 17, 2021, the Commission provided Respondent a copy of what it deems the complaint in Case No. 21-303; Respondent has been given notice of the allegations in this new matter.

38. In light of the terms of this stipulation, the Commission is not seeking Respondent's response to the complaint in Case No. 21-303.

39. The Commission agrees not to further investigate Case No. 21-303, provided that Respondent abides by the terms of this Stipulation.

40. The Commission further agrees that upon execution of this Stipulation, the complaint in Case No. 21-303 shall be closed in consideration of this Stipulation.

AGREED UPON DISPOSITION

41. Respondent agrees to submit his written resignation as justice of the peace to the Pinal County Board of Supervisors by November 10, 2021. The resignation shall be effective January 22, 2022, or when the Pinal County Board of Supervisors appoints a successor, whichever is earlier. In the interim period between the date of his resignation and its effective date, Respondent shall not preside over any trials.

42. Respondent agrees not to seek or accept a judicial appointment of any type, not to run for an elective judicial office, or serve in any judicial capacity² in the State of Arizona at any time on and after the date he signs this agreement.

43. Respondent specifically acknowledges this stipulated resolution does not include or resolve complaints raising allegations not already a part of an open Commission case or investigation as of the date this stipulation is signed by Respondent.

² The parties agree that not serving in any judicial capacity encompasses the definition of "Judge" in the Code of Judicial Conduct, which states: "Judge" means any person who is authorized to perform judicial functions within the Arizona judiciary, including a justice or judge of a court of record, a justice of the peace, magistrate, court commissioner, special master, hearing officer, referee, or pro tempore judge.

44. The Commission agrees that, upon approval of this agreement by the parties and the Commission, all matters covered by this Stipulation shall be closed. The disposition will be public, and the Commission will post a dispositional order concerning the approval of this stipulation and this stipulation on its website. Formal complaints charging Respondent with the foregoing ethics violations will not be filed or pursued by the Commission unless Respondent breaches the terms and conditions of this agreement as outlined in paragraph 46.

45. The Commission acknowledges Respondent and his counsel's cooperation with the Commission in the negotiation of this stipulated resolution.

OTHER TERMS AND CONDITIONS

46. In the event Respondent fails to comply with the terms and conditions of this agreement by seeking appointment or election to a judicial office or serving as a judge in Arizona, the Commission may pursue these cases and bring formal charges, by giving Respondent written notice of its intention to do so, and the matter will proceed to hearing pursuant to the Commission's rules. Respondent waives any and all claims concerning delay or other irregularities in the Commission so doing.

47. In the event Respondent fails to comply with the terms and conditions of this agreement by seeking appointment or election to a judicial office or serving as a judge in Arizona, the Commission may also seek injunctive relief enjoining Respondent from engaging in conduct in breach of the terms and conditions of this agreement.

48. Both parties will pay their own costs and attorney's fees associated with this matter.

49. Respondent understands the terms and conditions of this agreement, has reviewed them with his legal counsel, and fully agrees to and will abide by them.

50. This agreement constitutes the complete understanding between the parties in the resolution of this matter.

Judge Brett F. Eisele
Respondent

NOV 16 2021
Date Signed

11/17/21

J. Scott Rhodes
Attorney for Respondent

Date Signed

11/17/21

April P. Elliott
Executive Director
Commission on Judicial Conduct

Date Signed

Meredith Vivona
Acting Disciplinary Counsel
Commission on Judicial Conduct

11/17/21
Date Signed