

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 20-243

Judge:

Complainant:

ORDER

January 27, 2021

The Complainant alleged an appellate court judge improperly failed to disqualify himself from a matter in which a close family member acted as an attorney.

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 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 Denise K. Aguilar and Louis Frank Dominguez did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on January 27, 2021.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

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2020-243

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.

In violation of Rule 2.11(A)(2)(b) of the Arizona Code of Judicial Conduct, _____ failed to disqualify himself in a proceeding in which his son also appeared as a lawyer. See attached.

IN THE
OF THE STATE OF ARIZONA

Petitioner,

v.

Respondents.

No.
Filed

The Hon.

AFFIRMED

VACATED

COUNSEL:

Opinion of the Court

_____ authored the opinion of the Court, in which

concurring in part and dissenting in part.

_____, opinion of the Court:

¶1 The _____ (“_____”) has permissive authority under article 15, section 3 of the Arizona Constitution to “_____” []

_____ has recused himself from this case. Pursuant to article 6, section 3 of the Arizona Constitution, _____ was designated to sit in this matter.

Opinion of the Court

of the public at-large. We hold that this authority permits the to appoint an interim manager to operate a public service corporation ("PSC") for the purpose of remedying unsafe and inadequate facilities, services, and equipment posing a health and safety risk to its customers, employees, and the public.

¶2 As the parties conceded at oral argument, the sole issue before this Court is whether the has authority to appoint an interim manager for a PSC. We therefore do not address whether the order appointing an interim manager for was supported by the evidence or was a reasonable remedy in this case. Thus, to the extent has preserved its right to appeal the action under A.R.S. § 40-254, the factual findings and reasonableness of that Order may be subject to review in superior court.

I.

¶3 is an that issued by the In opened an investigation involving after receiving numerous complaints from its customers during a public comment session. The investigation ultimately resulted in a lengthy evidentiary hearing regarding financial management, as well as the safety and adequacy of its services, equipment, and facilities.

¶4 On issued Decision Order No. The Order included findings that had engaged in deficient billing practices and financial mismanagement. However, the primary focus of the findings was that it had failed to provide service, equipment, and facilities that sufficiently protected "the safety, health, comfort, and convenience of its patrons, employees, and the public." In making this finding, the Order documented prior history of alleged health and safety violations, including

¶5 Concluding that it was necessary to protect public health and safety, the Order appointed as an "interim," or temporary, manager to conduct "business and affairs." The Order preserved right of ownership and stated that either could seek to terminate the appointment upon a showing that services "