

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 20-278

Judge:

Complainant:

ORDER

The complainant alleged a pro tem municipal court judge improperly denied her request for a hearing on an injunction against harassment.

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 Commission approved sending the judge an advisory letter reminding her that a judicial officer must exercise independent judgment of what the law may/may not require, rather than relying on court policy. The complaint is therefore dismissed pursuant to Commission Rules 16(a) and 23(a).

Commission member Roger D. Barton did not participate in the consideration of this matter.

Dated: March 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 March 17, 2021.

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

FOR OFFICE USE ONLY

2020-278

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.

I am the defendant in this case, which alleged harrassment against me by my next door neighbor's brother.

In a nutshell - this judicial officer refuses to grant me my written requests (2) for a contested hearing since I was served at home late afternoon on _____ with a copy of the petition and order.

Background:

I received notice of a "pre-issuance" hearing via email on _____. Since it didn't look legitimate I called and learned it was real, and effective despite living in a different jurisdiction (_____). (I received the notice of the hearing in the mail the day after the hearing was held.) Later that day, I requested a copy of the petition, and it was sent to me about _____. I had one day to review, prep a response, and submit all of my evidence and responses to the court clerk who wanted the materials the next day so she could ready them for the hearing the following day. I participated in the "pre-issuance" hearing via televideo from my home on _____ (delayed one day), due to my Covid 19 considerations. At the end of the hearing, this judicial officer granted the plaintiff's petition and signed the order. I was served the petition and order copies a couple of hours later at my home. Sidebars- 1) I do not feel the judicial officer really even looked over my evidence and statements, and I found it difficult to hear/understand the plaintiff and witness and spoke up a couple of times stating such, but after the third time the judge admonished me, saying that (paraphrasing) "_____."

A.R.S. 12-1809 - Injunction against Harassment seems very clear to me: the defendant may request one hearing in writing anytime during that one year period the order is in effect. It specifies the order is effective on the defendant, once served with a copy of the order and petition. A pre-issuance (of the order) hearing does not count as the defendant's contested hearing. I have now requested two different times in writing to have my contested hearing since _____ and, after inquiring about what my next steps were in requesting a reversal of the order via telephone call with _____ - it was determined I was not given the information on appealing the order when served, as is the normal course of business. It was then emailed to me. Furthermore, _____ stated that my only recourse was to appeal - and when I asked about the hearing the order states at the end of the paperwork I can request if I disagree with the injunction - I was told quite firmly that I already had it - it was the pre-issuance hearing.

I then studied up on everything further, and submitted a written request for my permitted hearing. After a few days of not receiving a reply, I called and spoke to someone at the front desk. I was put on hold and then told the judge hadn't made up her mind yet. I stated I understood it was my right to have a hearing - and was put on hold again, and then "_____" who identified herself as the Court Administrator got on the phone and would hardly let me get a word in - and practically yelled at me that no I did not get a hearing - I had the hearing already - and to quit calling about it, over and over. I had only called about the hearing this one time. I found _____ to be quite rude, condescending, and treated me, well, like a low-life criminal. Her behavior was absolutely abhorrent, unprofessional, and uncalled for.

I have now submitted another (second request) hearing request on the appropriate request form as a last resort - but I expect I won't hear anything from the court at all. Thank you.

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***A.R.S. 12-1809 Injunction against Harassment**

H. At any time during the period during which the injunction is in effect, the defendant is to one hearing on written request. No fee may be charged for requesting a hearing. A hearing that is requested by a defendant shall be held within ten days from the date requested unless the court finds compelling reasons to continue the hearing. The hearing shall be held at the earliest possible time.

J. ... 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.

All Courts in Arizona/NCIC#/DPS# Address City, Arizona Zip Code Telephone Number

Plaintiff v. Defendant	Case No.	REQUEST: <input checked="" type="checkbox"/> Hearing <input checked="" type="checkbox"/> Dismiss Order <input type="checkbox"/> Cancel Hearing <input type="checkbox"/> Continue Hearing OP/IAH/AWH Issue Date: ___/___/___
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- Defendant*** requests:
- a hearing. See *Note to Defendant. →
 - that the court cancel the hearing requested by the defendant in this case.
 - that the court continue the scheduled hearing on ___/___/___ (date).

- Plaintiff** requests that:
- the protective order listed above be dismissed.
 - the court cancel the hearing set prior to the issuance of the protective order in this case.
 - the court continue the scheduled hearing on ___/___/___ (date).

***NOTE TO DEFENDANT:**

Certain conditions may cause a defendant to be prohibited from possessing firearms by federal law while an Order of Protection is in effect. The conditions are:

(1) Defendant and Plaintiff are either married (past or present), live together as intimate partners (past or present), or are parents of a child in common, and

(2) the Order of Protection is affirmed or modified at a hearing of which Defendant received actual notice and had an opportunity to participate (even if Defendant fails to appear at the hearing).

If you have questions about hearings and state and federal firearms prohibitions, you should contact an attorney. The court cannot give you legal advice.

List the reasons for your request: Per A.R.S. 12-1809, Injunction Against Harassment, I am entitled to one hearing DURING the one-year period the injunction is in EFFECT. According to the statute, the injunction IS IN EFFECT WHEN the defendant is SERVED A COPY OF THE INJUNCTION AND PETITION.

Date _____

Requesting Person's Signature _____

Please inform court staff if interpreter services are needed for this hearing. Yes, I need interpreter services for _____.

Address and telephone number if Defendant is the requesting party. _____

CERTIFICATE OF TRANSMITTAL

Copy mailed provided personally to Plaintiff on ___/___/___ by _____
 Copy mailed provided personally to Defendant on ___/___/___ by _____