

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 21-081

Judge:

Complainant:

ORDER

September 15, 2021

The Complainant alleged a municipal court judge badgered him, did not afford him an opportunity to be heard, coerced him into entering a plea, and ignored federal precedent on a civil traffic matter.

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 Roger D. Barton, Barbara Brown, Michael J. Brown and Delia R. Neal did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on September 15, 2021.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2021-081

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.

Documents attached
Motion to disqualify attached here has been
mailed, certified mail, to the
court.

Court

)

) MOTION TO DISQUALIFY JUDGE

) Re: Court

) Case No.

)

) Judge:

) Date:

) Time:

)

)

Complainant

v.

Motion to Disqualify

1. COMES NOW, one of the People, by special appearance, *in propria persona*, claiming all of his secured rights, representing no artificial or fictional entity of any kind.
2. does not agree to the court's jurisdiction.
3. "A trial judge, unless he carefully weighs his pretrial comments, may very well leave the impression that he has improperly prejudged the case, a situation which seems to have occurred here. It is important that the litigant not only actually receive justice, but that he believe that he has received justice. A judge, like Caesar's wife, should be above suspicion." -- Pfizer Inc. v. Lord, 456 F. 2d 532 - Court of Appeals, 8th Circuit 1972
4. On Judge stated for the record that rulings of the US Supreme Court did not apply to the court over which she presided, thereby repudiating mandatory vertical stare decisis before courts of superior authority.
5. When asked in open court, before a gallery of people, whether the court had authority to prosecute the exercise of secured rights, Judge answered " ."
6. When asked again, emphasizing the part about " , " Judge repeated, " , " thereby disclaiming the Arizona public officers oath.
7. "The streets belong to the public and are primarily for the use of the public in the ordinary way. Their use for the purposes of gain is

special and extraordinary and, generally at least, may be prohibited or conditioned as the legislature deems proper.

....

Moreover, **a distinction must be observed between the regulation of an activity which may be engaged in as a matter of right and one carried on by government sufferance or permission....**" ----
Packard v. Banton, 264 U.S. 140 (1924) (emphasis added)

8. Judge _____ refused to observe that "distinction."

9. In open court, during the first hearing on _____, Judge _____ actively prevented _____ from articulating that distinction.

10. "The fundamental requisite of due process is the opportunity to be heard, to be aware that a matter is pending, to make an informed choice whether to acquiesce or contest **and to assert before the appropriate decision-making body the reasons for such choice.**"
Mullane v. Central Hanover Bank and Trust Co., 339 U.S. 306, 336, 70 S. Ct. 652, 94 L. Ed. 865 (1950); Grannis v. Ordean, 234 U.S. 385, 394, 34 S. Ct. 779, 58 L. Ed. 1363 (1914)" -- Trinity Episcopal School Corporation v. Romney, 387 F. Supp. 1044 (1974) (emphasis added)

11. Judge _____ asked if _____ was " _____ " on the night of his contact with Complainant.

13. In response, _____ tried to properly characterize his actions in accord with _____

14. Judge _____ interrupted _____ attempt to answer properly, sternly suggesting that _____ was delaying other people's hearings.

15. Judge _____ then repeated her questioning in a stern manner apparently intended to suggest that _____ was arousing the ire of the Judge, with the possibility legal action being taken against _____ therefore.

16. Judge _____ method constituted badgering:

17. Badger. To harass, pester, or bedevil persistently especially in a manner likely or designed to confuse, annoy or wear down. Eaton v. Klopman Mills, Inc., 2 N.C.App. 363, 163 S.E.2d 17, 18. See also Harassment. -- Black's Law, 6th ed.

18. Judge _____ was using intimidation, badgering, and deception to obtain from _____ a single incorrect word, " _____ ."

19. Thus Judge _____ dragged from _____ unaware that he was in effect being asked for a plea, a faulty characterization, which Judge _____ disingenuously interpreted as if it were a plea, which it was not.

20. Judge _____ did the above described despite petitions, on paper and verbal, regarding the issues of pleading and jurisdiction. (See documents filed by _____ and court transcript.)

21. It is apparent in retrospect that Judge _____ was trying to use definitions in a deceptive manner in order to facilitate the recording of a false plea.

22. _____ has as of yet entered no plea. _____ has filed a conditional offer to plead guilty, which has been not been dealt with but, rather, has been ignored by Judge _____ as if it were meaningless.

23. "A petition... ought not to be scrutinized with technical nicety. Even if it is insufficient in substance it may be amended in the interest of justice." -- Holiday v. Johnston, 313 U.S. 342, 350, 351 (1941).

24. "And the guaranty of due process, as has often been held, demands only that the law shall not be unreasonable, arbitrary or capricious, and that the means selected shall have a real and substantial relation to the object sought to be attained." -- Nebbia v. New York, 291 U.S. 502 (1934)

25. Complainant was not present in court.

26. As Complainant was not present in court, there was no sworn testimony before the court to which _____ might have responded by entering a plea. Nor therefore could Complainant have responded to repeated challenges to jurisdiction.

27. _____ asked Judge _____ where Complainant was, to which Judge _____ answered variously that:

- a) there was no complainant
- b) the entire _____ was the complainant
- c) no complainant was needed.

28. Because of _____ documents filed and verbal statements statements in court, and because Complainant was absent, Judge _____ knew that _____ was claiming all of his secured rights and did not plead "responsible."

29. Yet Judge _____ entered a false plea to that effect into the record.

30. "Aside from all else, due process means fundamental fairness." -- Pinkerton v. Farr 220 S.E.2d 682 (1975)

31. Judge purposeful use of verbal misstep as a pretext for entering a plea against thoroughly documented wish constitutes fraud:

32. "FRAUD. Fraud consists or some deceitful practice of willful device, resorted to with intent to deprive another of his right, or in some manner to do him an injury. As distinguished from negligence, it is always positive, intentional." -- Black's Law, 1st ed.

33. "There is no question of the general doctrine that fraud vitiates the most solemn contracts, documents, and even judgments." -- US v. Throckmorton 98 U.S. 61 25 L.Ed. 93 (1878)

34. "It is axiomatic that fraud vitiates everything it touches...." - - Armstrong v. Duffy, 90 Ohio App. 233 - Ohio App (1951)

35. "The maxim that fraud vitiates every transaction into which it enters applies to judgments as well as to contracts and other transactions." -- The People v. Sterling, 192 N.E. 229 (1934); State of Illinois v. Fred E. Sterling, 357 Ill. 354; 192 N.E. 229 (1934); Allen F. Moore v. Stanley F. Sievers, 336 Ill. 316; 168 N.E. 259 (1929); In re Village of Willowbrook, 37 Ill.App.2d 393 (1962).

36. In a second, separate, hearing on the same day Judge verbally denied the applicability to the Court of the US Constitution as interpreted by SCOTUS, thereby again defying vertical *stare decisis*, her oath, and the Rights of the People.

37. "In 1803, Chief Justice Marshall, speaking for a unanimous Court, referring to the Constitution as 'the fundamental and paramount law of the nation,' declared in the notable case of Marbury v. Madison, 1 Cranch 137, 5 U. S. 177, that 'It is emphatically the province and duty of the judicial department to say what the law is.' This decision declared the basic principle that the federal judiciary is supreme in the exposition of the law of the Constitution, and that principle has ever since been respected by this Court and the Country as a permanent and indispensable feature of our constitutional system.... Every state legislator and executive and judicial officer is solemnly committed by oath taken pursuant to Art. VI, cl. 3 'to support this Constitution.' speaking for a unanimous Court in said that this requirement reflected the framers' 'anxiety to preserve it [the Constitution] in full force, in all its powers, and to guard against resistance to or evasion of its authority, on the part of a State....' Ableman v. Booth, 21 How. 506, 62 U. S. 524.

No state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it." -- Cooper v. Aaron, 358 U.S. 1 (1958)

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PAGES OF ANY DISMISSED
COMPLAINT ON ITS WEBSITE.**

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REMAINDER OF THE
COMPLAINT IN THIS MATTER,
PLEASE MAKE YOUR REQUEST
IN WRITING TO THE
COMMISSION ON JUDICIAL
CONDUCT AND REFERENCE
THE COMMISSION CASE
NUMBER IN YOUR REQUEST.**