

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 21-193

Judge: Elaiissia Sears

Complainant: Perry Taylor

ORDER

The Complainant alleged that a justice of the peace incorrectly ruled on a motion to continue.

The Complainant was set for a civil traffic hearing on April 28, 2021. The court file clearly showed the Complainant’s presence was waived as to that hearing. On the morning of April 28, 2021, the Complainant’s attorney experienced COVID-19 symptoms. The attorney and his staff filed an emergency motion to continue the hearing scheduled for later that day. The attorney’s staff also contacted the Court’s staff to apprise them of the situation. Court staff assured the attorney’s staff that the motion to continue would be given to the hearing officer scheduled to preside over the hearing. However, this appeared to have not been done. The motion to continue was later denied by Judge Sears, and a default judgment entered against the Complainant. Judge Sears did not issue a formal denial of the motion to continue, instead such action was only discussed in an email from Court staff to the Complainant’s attorney’s staff. This email was sent several days after the original filing of the motion to continue. Thereafter, the Complainant’s attorney filed a motion to reconsider/set-aside. This was also denied by Judge Sears.

The Commission finds that Judge Sears’ conduct violated the following provisions of the Code:

Rule 1.1, which states, “A judge shall comply with the law, including the Code of Judicial Conduct.”

Rule 1.2, which states, “A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.”

Rule 2.5(A), which states, “A judge shall perform judicial and administrative duties competently, diligently, and promptly.”

Additionally, Judge Sears' conduct also violated AO 2021-52 issued by the Arizona Supreme Court on April 15, 2021. That order states, in part:

Section I(b): "Judicial leadership must require all participants in court proceedings, including attorneys, parties, victims, witnesses, jurors, judicial officers, court employees, and other necessary persons to notify the court prior to appearing at the courthouse of any COVID-19 diagnosis, symptoms, or exposure notification by public health authorities and to make alternative arrangements to participate.

Section I(8): "Judicial officers shall liberally grant continuances and make accommodations, if necessary and possible, for attorneys, parties, victims, witnesses, jurors, and others with business before the courts who are at a high risk of illness from COVID-19 or who report any COVID-19 diagnosis, symptoms, or exposure notification by public health authorities.

Section I(10): "The Administrative Office of the Courts shall provide judicial leadership with a health screening protocol for the public used to detect COVID-19-related symptoms consistent with recommendations by public health officials to prevent the spread of the virus. Judicial leadership shall implement this protocol. Where courthouse entrance security screening is available, the COVID-19 screening protocol may require body temperature screening for the public. Judicial leadership shall require court participants and visitors to wear a mask or other face covering in the courthouse. Courts may provide the required face covering for use by persons who do not have their own. Courts shall exclude persons from the courthouse who refuse to cooperate with or who do not pass established screening protocols or refuse to wear a mask or other face covering. Judicial leadership shall post these requirements at entrances and on their public website."

Judge Sears' failure to liberally grant a continuance or make arrangements to allow the attorney to appear telephonically detrimentally affected the Complainant through the default judgment entered and fine imposed.

Accordingly, Judge Elaissia Sears is hereby publicly reprimanded for the conduct described above and pursuant to Commission Rule 17(a). The record in this case, consisting of the complaint, the judicial officer's response, and this order shall be made public as required by Commission Rule 9(a).

Dated: January 26, 2022

FOR THE COMMISSION

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

Copies of this order were distributed to all appropriate persons on January 26, 2022.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2021-193

COMPLAINT AGAINST A JUDGE

Name: Perry Taylor Judge's Name: Judge Sears

~~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.~~

My lawyer, Chris Corso filed a continuance to appear for a civil traffic ticket due to him being too sick to enter the courthouse. The motion was denied with no reason annotated. I feel that money was stolen from me and I did not get a fair trial. If the police officer were to file a continuance, it would have been granted, no questions asked. I need to be given the opportunity for a fair trial, otherwise, this is blatant stealing under color of public safety.

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1501 W. Washington Street, Suite 229
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2021-193

COMPLAINT AGAINST A JUDGE

Name: Perry Taylor

Judge's Name: Judge Sears

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.

LAW OFFICES
BROENING OBERG WOODS & WILSON
Professional Corporation

Resp (Sears)
21-193
DEC 01 2021

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JESSICA J. KOKAL
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December 1, 2021

Michael G. Devereaux
Arizona Commission of Judicial Conduct
1501 West Washington Street, Suite 229
Phoenix, AZ 85007

Re: Case No.: 21-193

Dear Mr. Devereaux:

This correspondence serves as Judge Sears' response to the Commission's letter dated October 26, 2021 and the attached Complaint of former defendant Perry Taylor ("defendant/Complainant"). Thank you for the professional courtesy in granting us an extension to respond.

To start, Judge Sears addresses your specific inquiries outlined in Paragraph 2 of the Commission's October 26, 2021, letter as follows: Judge Sears ruled on both the Motion to Continue and the Motion for Reconsideration, attached hereto as **Exhibits A** and **B**, respectively. As to the Motion to Continue, Judge Sears did not have an opportunity to rule on this Motion until after the hearing. Although the precise circumstances under which the Motion was provided to Judge Sears are undocumented and, therefore, unknown, what is known is that the staff member to whom defendant/Complainant Perry Taylor's counsel, Chris Corso, spoke that morning,

was a new employee at the time whose role on Judge Sears' staff was short-lived due to performance issues. Whether resultantly or not, the Motion to Continue was not ruled upon until after the hearing, by which time Mr. Corso and his client, defendant/Complainant, had both indisputably failed to appear, despite the hearing not having been continued.

As to the Motion for Reconsideration, good cause for reconsideration of a ruling upon which the Judge has broad discretion was not included in the Motion. Mr. Corso waited until hours before the hearing to argue simply that he would not be able to gain access to the building, not that he was too sick to appear at all. *See Ex. A.* (It remains common practice to have individuals who are denied access for COVID reasons to appear telephonically, even if doing so from the parking lot.) He made no explanation as to why his own client, defendant/Complainant, also ultimately

did not appear at the hearing. *Id.* He then undertook zero effort to appear in any capacity at the hearing despite knowing the Motion had not been granted, as evinced by his follow-ups in the subsequent days; instead, Mr. Corso simply incorrectly alleged in the Motion for Reconsideration that “the above act was all that could be done.” *See Ex. B.* (Notably, Mr. Corso has both presumably appeared telephonically in court on other occasions and requested telephonic appearances in this very courtroom; even if he had not, the availability of information regarding remote appearances in courtrooms both prior and subsequent to the onset of COVID-19 is well-known.) Notwithstanding Mr. Corso’s belated notice of his symptoms and then blatant failure to make any attempt to appear at all, Officer Johnson, the State’s witness, prepared for and timely appeared in Court. While Mr. Corso’s Motion for Reconsideration repeatedly accuses the Court of being both “unreasonable” and “disappointing,” it fails to cite any good cause for Mr. Corso’s decision to simply shirk his legal obligations to appear at the scheduled hearing other than – as his own client, the defendant/Complainant later reiterates in his Complaint – police officers who have made similar requests which were granted (the adult equivalent of “but you said he could have it”). *Id.* Claiming this type of otherwise unsupported “unfairness” is not, on its own, a good faith legal basis for a continuance or reconsideration of a denial of a motion. In fact, Mr. Corso’s Motion for Reconsideration fails to cite a single rule or any legal precedent for his request. *Id.* While Mr. Corso and his client, defendant/Complainant, may not have liked the ruling, they never provided any legal basis for the discretionary ruling to have been any different than what Judge Sears, within her judicial authority, deemed appropriate under the circumstances.

Judge Sears responds to the Complaint as follows:

Defendant/Complainant’s Last-Minute Motion Was Not Ruled upon prior to the Hearing at Which He and His Counsel Simply Failed to Appear in Any Capacity.

When Mr. Corso reported COVID-like symptoms just hours before the hearing, the focus of his Motion was on his inability to gain entrance to the building, not a physical incapacity to appear at all, in any fashion. *See Ex. A.* (It is also worth noting Mr. Corso curiously requested a continuance for at least 30 days, significantly longer than a typical COVID-19 quarantine.¹ *Id.*) The mere filing of that Motion did not excuse Mr. Corso of the duties he owed to his client under the Rules of Professional Conduct or the applicable Rules of Civil or Court Procedure. Mr. Corso was required to appear in some capacity absent a continuance of the hearing. When that continuance was not immediately granted², Mr. Corso made no attempt to call in or otherwise appear for the hearing, even though his subsequent request for telephonic oral argument requested

¹ This is tangentially relevant to one of the factors which would have been considered in reviewing the Motion to Continue, had it been ruled upon prior to the hearing: The extent of the party’s diligence in his efforts to ready his defense prior to the date set for hearing. *See U.S. v. Flynt, infra.*

² While it was asserted in Complainant’s Motion for Reconsideration that Mr. Corso expected the Motion to Continue “to be seen when filed,” it is not the Judge’s obligation under the Code of Judicial Conduct to set aside other matters on the docket or which are set for hearing to devote immediate, isolated attention to defendant/Complainant’s case and last-minute motion, nor does the failure to do so alleviate Mr. Corso’s obligations to adequately represent his client at a scheduled, court-ordered hearing. *See Ex. B.*

in the Motion for Reconsideration makes apparent his knowledge that a telephonic appearance was both possible and permissible. *See, e.g., Ex. B.* And it is unclear why the defendant/Complainant himself did not appear; no explanation for this is offered in either Motion. *See Exhs. A and B.* As such, a default judgment was proper pursuant to Rule 22, AZ ST CIV TRAF.

Judge Sears' Ruling Was Proper Under the Arizona Code of Judicial Conduct and the Broad Discretion Granted to Courts In Reviewing Requests for Continuances.

In addition to being expressly contemplated by the applicable rules, this failure to appear directly impacted judicial resources. Judge Sears knew the testifying officer had been subpoenaed in this matter previously. *See* Email to CourtLiaisonMetro@AZDPS.gov, April 1, 2021, attached as **Exhibit C**. Officer Johnson appeared at the scheduled hearing pursuant to that subpoena. *See* Notice of Civil Traffic Judgment Due, April 28, 2021, attached as **Exhibit D**. If Judge Sears had declined to enter a default judgment following the failure to appear by both defendant/Complainant and his counsel and simply ordered a continuance, Judge Sears would arguably have been unfairly disregarding the time and costs associated with the State both preparing its case and having its witnesses timely appear for the scheduled hearing and potentially violating Canons 1.2 and 2.2, Arizona Code of Judicial Conduct, by acting partially toward defendant/Complainant. Doing so would further have been inconsistent with the law regarding requests for continuances, which requires courts consider, among other elements, the extent to which granting the continuance would have inconvenienced the court and opposing party, including its witnesses. *See U.S. v. Flynt*, 756 F.2d 1352, 1359 (9th Cir. 1985). (This is also the case since it does not appear proper notice was provided to the State. Pursuant to Rule 15, AZ ST CIV TRAF, “no hearing shall be continued by the court without notice to both parties” absent “*extraordinary* circumstances.” (Emphasis added). Considering the common occurrence of COVID and the complications associated with COVID-like symptoms by April 28, 2021, Mr. Corso’s complete failure to appear in Court based on filing a one-page motion indicating he couldn’t pass the health test to access the Court and without receiving an actual ruling arguably does not constitute “*extraordinary* circumstances.”)

If Defendant/Complainant Disagreed with the Ruling, He Had an Opportunity to Appeal It. Instead, He Filed this Complaint.

Respectfully, while this Commission may disagree with Judge Sears’ ultimate rulings, it is not the Commission’s role to oversee the individual rulings of the judiciary. Correspondingly, it is not contemplated by the Rules of the Commission on Judicial Conduct (or productive or efficient from a public policy perspective) to discipline a judge on the basis of such disagreement. *See, e.g.,* Complainant’s Complaint, How to File a Complaint Against a Judge, No. 7, attached to the Commission’s October 26, 2021 correspondence; *see also* Rule 6, Rules of the Commission on Judicial Conduct (“The grounds for judicial discipline include willful misconduct in office, willful and persistent failure to perform judicial duties, habitual intemperance, conduct prejudicial to the administration of justice that brings the judicial office into disrepute, or a violation of the code.”).

The proper procedure to review the ruling of a Justice Court Judge is an appeal to the superior court. Rule 26, AZ ST CIV TRAF. That was not done here. But even if it had been, a trial judge has broad discretion to grant or deny a continuance which will not be disturbed unless

it has been shown to have been so abused as to prejudice defendant. *State v. Williams*, 108 Ariz. 382, 499 P.2d 97 (1972); *see also Flynt, supra*, 756 F.2d at 1359. And absent disagreement with the ruling itself, there was nothing improper about Judge Sears' handling of the subject motions or this case under the applicable Code. Judge Sears diligently, impartially, and competently ruled on both of the motions in a matter of days without bias or prejudice and based on the substance [or lack of legal substance thereof] of the motions.

As such, there is no basis for discipline under Rule 6, Rules of the Commission on Judicial Conduct. There is zero evidence of willful misconduct (or misconduct at all). This isolated incident of denial Motion to Continue Hearing within one week of filing and the subsequent denial of the legally unsupported Motion for Reconsideration one day after it was filed are in no way a willful or persistent failure to perform judicial duties. There is no evidence or allegation of habitual intemperance related to this single occurrence, nor does this event violate the code in any way. And the only conduct which might be prejudicial to the administration of justice or bring the judicial office into disrepute would be disciplining a judge for a discretionary, permissible ruling within the judge's purview, thereby bringing into potential question any such ruling by any judge under the Commission's governance.

Defendant/Complainant Has Not Been Personally Damaged.

While Complainant's Complaint alleges "money was stolen from [him]" because of the denial of the Motion to Continue, it is Judge Sears' understanding the amount of the civil traffic fine, \$117, was actually paid by his counsel, Mr. Corso. As such, there is no harm done or "money stolen" from Complainant. That said, should this Commission find it warranted, Judge Sears is willing to reverse the default judgment and refund the \$117 to the appropriate payee to comply fully with Rule 19(f), Rules of the Commission on Judicial Conduct, and reset the matter to yet another contested hearing at which the officer will be subpoenaed to appear.

Mitigation

In addition to the above, as set forth in Judge Sears' correspondence to the Commission dated July 30, 2021, at the very time these motions were filed, Ms. Sears was experiencing significant stressors, both personally and professionally. Should this Court consider any discipline under the Rules for Judge Sears' ruling on the motions despite the responses as set forth above, Judge Sears incorporates the July 30, 2021, response by reference herein to the extent it outlines both the mitigating factors applicable to the relevant time period pursuant to Rule 19(a), (b), (c), (d), (e), (f), (g), (i), and (j) and evinces the changes Judge Sears has implemented since to improve her performance and that of her entire staff. Judge Sears would further urge the Commission to give additional weight to the mitigating factors set forth in Rule 19(a), (b), (h), and (f) as they specifically pertain to this Complaint, as well.

December 1, 2021

Page 5

Should you need any additional information or wish for Judge Sears to further address any of the issues raised in your October 26, 2021, letter or the attached Complaint, please do not hesitate to contact us.

Very truly yours,

/s/ Jessica J. Kokal

DONALD WILSON, JR.

JESSICA J. KOKAL

For the Firm

DWJ/JJK/gmb

Louis Frank Dominguez
Judicial Member
Chair

Christopher P. Staring
Judicial Member
Vice-chair

Colleen E. Concannon
Public Member
Secretary

Denise K. Aguilar
Attorney Member

Christopher W. Ames
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COMMISSION ON JUDICIAL
CONDUCT

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Phoenix, Arizona 85007

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Attorney Member

April P. Elliott
Executive Director

October 26, 2021

CONFIDENTIAL

Hon. Elaissia Sears
Maricopa County Justice Court
West Mesa Precinct
2050 W. University Dr.
Mesa, AZ 85201

Re: Notice of Complaint and Opportunity to Respond (Case No. 21-193)

Dear Judge Sears:

The enclosed complaint was filed against you by Perry Taylor concerning your conduct in Case CT2021-030213. This case was set for a hearing on April 28, 2021. It appears that Mr. Taylor's attorney, Christopher Corso, Esq., came down with COVID-19 symptoms on the morning of April 28. Mr. Corso contacted your staff and alerted them of the situation. Mr. Corso also filed an emergency motion to continue, stating that he had COVID-19 symptoms. The motion to continue was denied, and a default judgment was entered against Mr. Taylor. Mr. Corso filed a motion to reconsider. The motion to reconsider was denied stating only, "Motion Denied," with no signature attached. The file is unclear if you or another judicial officer denied the motion to continue and/or the motion to reconsider.

First, please explain if you or another judge ruled on these matters. Second, if you ruled on the two motions discussed above, please explain your ruling given COVID-19 protocols and requirements. In many courthouses across the State of Arizona, people with COVID-19 symptoms were discouraged from coming to the courthouse or were not allowed to attend hearings, if they had such symptoms. Further, since Mr. Corso contacted your staff prior to the hearing, it is difficult to discern a rationale behind denying his motion to continue, as well as his subsequent motion to reconsider.

To help us resolve this matter, we invite you to review the allegations and file a written response and explanation of what happened in this case. Your letter should be addressed to the members of the Commission and sent to this office on or before **November 17, 2021**. In preparing your response, keep in mind that the Commission's initial assessment of your conduct will rest primarily on the complaint and your response, which should include all relevant arguments and documentation and a copy of any relevant hearing recordings. You do not need to send multiple copies of your response. Also, please only send your response via

Hon. Elaissia Sears
October 26, 2021
Page 2

one method, i.e., do not send via email and regular mail. Responses sent via email may be sent to cjc@courts.az.gov.

To the extent the Commission determines that judicial misconduct actually occurred, it looks to the factors set forth in the Scope Section of the Arizona Code of Judicial Conduct to decide whether a disciplinary sanction should be imposed:

The black letter of the rules is binding and enforceable. It is not intended, however, that every transgression will result in the imposition of discipline. Whether discipline should be imposed should be determined through a reasonable and reasoned application of the rules and should depend upon factors such as the seriousness of the transgression, the facts and circumstances that existed at the time of the transgression, the extent of any pattern of improper activity, whether there have been previous violations, and the effect of the improper activity upon the judicial system or others.

The Commission also considers the mitigating and aggravating factors set forth in Commission Rule 19 (available at www.azcourts.gov/azcjc).

In responding, you should discuss all of the factors you believe to be applicable.

In order to explain the Commission's decision in this case, we may give all or part of your response to the complainant. Therefore, a list of suggestions for preparing a response is enclosed. Please call me if you have any questions or need more time to respond.

Sincerely,

Michael G. Devereaux

Michael G. Devereaux
Staff Attorney

MGD / kw

Encls. – Response Suggestions / Complaint / Case File & Hrng (4-28-21) on CD

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2021-193

COMPLAINT AGAINST A JUDGE

Name: Perry Taylor Judge's Name: Judge Sears

~~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.~~

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RECEIVED

APR 28 2021

West Mesa
Justice Court

1 **CORSO LAW GROUP**
2 Christopher P. Corso (022398)
3 17470 N. Pacesetter Way
4 Scottsdale, AZ 85255
5 Telephone: (480) 471-4616
6 Fax: (480) 256-0662
7 admin@corsolawgroup.com
8 *Attorneys for Defendant*

9 **IN THE WEST MESA JUSTICE COURT OF THE STATE OF ARIZONA**
10 **IN AND FOR THE COUNTY OF MARICOPA**

11 STATE OF ARIZONA,

12 Plaintiff,

13 vs.

14 PERRY TAYLOR,

15 Defendant.

Case Number: CT2021-030213

**EMERGENCY MOTION TO CONTINUE
CIVIL TRAFFIC HEARING**

16 Now comes the Defendant, PERRY TAYLOR, by and through undersigned Counsel,
17 respectfully requests an emergency motion to continue the Civil Traffic Hearing scheduled April
18 28, 2021.

19 Defense counsel is experiencing COVID symptoms. Due to the unknown of the diagnosis
20 at this time, Defense Counsel cannot enter the courthouse and pass the health check screen. We
21 apologize for any inconvenience this may cause the court and the lateness of filing of this motion,
22 and the defense will waive time. Defense Counsel respectfully requests the Court continue the
23 Pretrial Conference at least 30 days. This motion is made in good faith and not for purposes of
24
25
26

1 delay. We thank you for your time and consideration in this matter and wish you well.
2

3 RESPECTFULLY SUBMITTED this 28th day of April 2021.

4 **CORSO LAW GROUP**

5
6 By: Christopher Corso
7 Christopher Corso (022398)

8 **ORIGINAL** of the foregoing
9 Filed this 28th day
10 Of April 2021 to:

11 CLERK OF THE WEST MESA JUSTICE COURT
12 2050 West University Drive
13 Mesa, AZ 85201

14 By: Megan Hawkins
15 Megan Hawkins

RECEIVED
MAY 06 2021
West Mesa
Justice Court

1 **CORSO LAW GROUP**
2 Christopher P. Corso (022398)
3 17470 N. Pacesetter Way
4 Scottsdale, AZ 85255
5 Telephone: (480) 471-4616
6 Fax: (480) 256-0662
7 admin@corsolawgroup.com
8 *Attorneys for Defendant*

9 **IN THE WEST MESA JUSTICE COURT OF THE STATE OF ARIZONA**
10 **IN AND FOR THE COUNTY OF MARICOPA**

11 STATE OF ARIZONA,

12 Plaintiff,

13 vs.

14 PERRY TAYLOR,

15 Defendant.

Case Number: CT2021-030213

**MOTON TO RECONSIDER / MOTION TO
SET ASIDE DEFAULT JUDGMENT /
MOTION TO RE SET CTH**

**TELEPHONIC ORAL ARGUMENT
REQUESTED**

16 Now comes the Defendant, PERRY TAYLOR, by and through undersigned Counsel,
17 respectfully requests an emergency motion to continue the Civil Traffic Hearing scheduled April
18 28, 2021 @1:30pm.

19 On the morning of April 28, 2021, I, defense counsel, was experiencing COVID symptoms.
20 Fever, coughing, sore throat. Based on the Court Directive for COVID, individuals are instructed
21 not to come in the building if experiencing the above symptoms. Due to the unknown of the
22 diagnosis at that time, there was no possible way I would have been let in the building passing the
23 health screen and was in no position to travel to court. Counsel and staff communicated with court

1 staff first thing in the morning and prior to the hearing time. Specifically, defense spoke with
2 Jalaari with the court and informed of our situation and that a motion was filed. Under the
3 circumstances the above act was all that could be done. We offered our sincere apologies for any
4 inconvenience that may have caused the court and for the lateness of filing of this motion, and we
5 agreed to waive time. Defense Counsel respectfully requested the Court continue the Civil Traffic
6 Hearing. This motion was made in good faith and not for purposes of delay.

7
8 Since, we were told by court staff that the hearing officer never saw the motion as that
9 officer would not be able to rule on such motions, but only the judge. The court is open for business
10 Monday-Friday from 8-5 and it is expected that a motion will be seen when filed, especially if it is
11 an emergency, as this was. The same motion would have been filed had I appeared at the front
12 door of the court and be turned away. That is not the directive from the Court relating to COVID.
13 There is no instruction to come to court, be screened then move to continue if not allowed in. The
14 directive is to not come to court if experiencing COVID like symptoms. If the individual presiding
15 over the hearing is not allowed to rule on motions in matters in which they preside, that must be
16 relayed to the public or defense counsel when contacting the court prior to the hearing. We were
17 told the motion would be given to the hearing clerk and presumably the judge presiding over the
18 case. Where it goes from there is out of our control. It is the expectation that the presiding judge
19 of that court is there and, in a position, to rule on such motions. Or in the alternative a Pro Tem
20 Judge. Otherwise, there should be no instruction by staff to file said motion. There was no default
21 issued at the time the motion was received by the court and therefore not an inappropriate request.

22 Further, in my almost 20 years of practicing in the criminal and civil courts of Maricopa

1 County, I have never encountered such a motion being denied. Not for felony, misdemeanor, or a
2 civil traffic matter. It is disappointing and unreasonable for this court to deny such a motion made
3 in good faith by an officer of this court. I followed the proper procedures in requesting a
4 continuance, followed the proper guidelines set out for COVID restrictions, and was physically not
5 able to attend court. In the past there have been police officers that have made similar requests
6 with the court the day of hearings where they were subpoenaed to appear and, in every occurrence,
7 I have witnessed, the hearing was continued. And rightfully so. I have never objected to a
8 continuance by an officer on the grounds that they were ill. Every party in a case should be given
9 reasonable consideration for such occurrences. In this case, I was not afforded that consideration
10 and it is completely unreasonable and disappointing. In turn, Mr. Taylor was prejudiced for actions
11 not of his own and out of his control. Defense has attached the original motion filed at on 4/28/21
12 @8:21am, confirmation of receipt by the court on 4/28/21 @8:28am, and email response to our
13 request. To note, the hearing was scheduled on 4/28/21 @1:30pm. This represents the first
14 continuance requested by Defense in this matter.
15

16 It is therefore our request that the default judgement be set aside, a civil traffic hearing be
17 re-set, and the fine paid in this case be held as a bond until the conclusion of the hearing.

18 I thank you for your time and consideration in this matter and wish you well.

19
20 RESPECTFULLY SUBMITTED this 6th day of May 2021.

21 **CORSO LAW GROUP**
22

From: Thursday, April 1, 2021 10:02 AM
Sent: CourtLiaisonMetro@AZDPS.GOV
To: Civil Traffic Hearing
Subject:

Hello,

Please see the following Civil Traffic Hearing subpoena:

Case: CT2021 030213
Complaint #-913610821052003
Violation Date: 02/21/21
Trooper: C. JOHNSON
Hearing Date: 4/28/21

Thank you,

*Civil Traffic Clerk
West Mesa Justice Court
2050 W. University Dr.
Mesa, AZ 85201
Ph. 602-506-8100
Fax. 480-969-1098*



Maricopa County Justice Courts, Arizona

West Mesa Justice Court 2050 W. University Dr., Mesa, AZ 85201 480-964-2958

CASE NUMBER: CT2021 030213
Perry Taylor

Defendant(s) Name / Address / Email / Phone

STATE OF ARIZONA vs.

NOTICE OF CIVIL TRAFFIC HEARING AND RIGHT TO COUNSEL

I deny responsibility for the civil traffic violation(s) set forth in the complaint and request a hearing.

A. 28-701A B. _____ C. _____ D. _____ E. _____

YOU ARE HEREBY NOTIFIED TO APPEAR IN THIS COURT Date: 04/29/21 Time: 01:30 pm

Be in court at least 15 minutes before the scheduled hearing.

YOU MUST CHECK IN AT THE FRONT COUNTER BEFORE ENTERING THE COURT ROOM.

(Esté en el tribunal por lo menos 15 minutos antes de la audiencia programada.)

(DEBE REGISTRARSE EN EL MOSTRADOR DELANTERO ANTES DE ENTRAR EN LA SALA DEL TRIBUNAL)

REQUESTS FOR REASONABLE ACCOMMODATIONS FOR PERSONS WITH DISABILITIES SHOULD BE MADE TO THE COURT AS SOON AS POSSIBLE.

(LAS SOLICITUDES PARA ARREGLOS O ADAPTACIONES RAZONABLES PARA PERSONAS CON DISCAPACIDADES SE DEBEN PRESENTAR ANTE EL TRIBUNAL LO MAS ANTES POSIBLE.)

If an interpreter is needed, please contact the court listed above to request an interpreter be provided.

(En caso de necesitarse un intérprete, favor de comunicarse con el Tribunal antes mencionado para solicitar que se brinden los servicios de un intérprete.)

INITIAL

_____ I understand that this is a firm date and that I shall keep this date clear from any conflicts.

_____ I waive the right to attend a Defensive Driving Class.

_____ I understand that if I will be represented by an attorney at my hearing I must notify the court in writing at least ten (10) days prior to my hearing date, or my right to counsel is considered waived (notice to the court is satisfied by a NOTICE OF APPEARANCE filed by your attorney within the prescribed time).

_____ I understand that if I fail to appear for my hearing, on the date and time set, the court will enter judgment for the State, impose a civil sanction and report the judgment to the Department of Transportation. The court will also order immediate suspension of my driver's license.

A deposit in the amount of \$ _____ will insure that your driver's license WILL NOT be suspended should you fail to appear at the hearing.

_____ I understand that if I wish to have additional witnesses subpoenaed I must notify the court at least ten (10) days prior to my hearing date, and furnish the names and addresses of said witnesses to the court.

I will I will not - be requesting witness subpoenas.

If you are required to pay fines, penalties, fees or other financial obligations as a result of a judgment of this court and you are unable to pay, bring this to the attention of court staff or the judge because payments over time or other alternatives may be available.

I acknowledge receipt of this notice.

Date: _____

Defendant

NOTICE TO OFFICER OF SCHEDULED CIVIL TRAFFIC HEARING

YOU ARE HEREBY NOTIFIED TO APPEAR for the scheduled civil traffic hearing to represent the State. If you wish to have additional witnesses subpoenaed you must notify the court at least ten (10) days prior to the hearing.

Officer Name C. Johnson Agency AZDPS Badge Number 10794

Complaint No 91310921052003 Violation Code 28-701A Violation Date 4/21/21

I CERTIFY that I delivered / mailed a copy of this document to:

Defendant at the above address Defendant's attorney Officer

Date: _____ Rv