

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 22-157

Judge: John F. Kelliher, Jr.

Complainant: Deanne Tackett

ORDER

Complainant alleged improper demeanor by a superior court judge hearing a juvenile case.

The Commission determined the judge made a mocking gesture with his hand during an attorney's telephonic appearance for a hearing. The judge mimicked a talking puppet by opening and closing his hand while the attorney addressed the court. The litigant, who was the attorney's client, was present in the courtroom and witnessed the disrespectful treatment of the attorney. The judge also engaged in improper commentary while on the bench. The commentary included monologues about brain function, non-verbal communication, ducks, mercy, and a "yes or no" coin.

The judge's hand gesture while a litigant's lawyer was addressing the court was dismissive and disrespectful. The judge's frequent, off-topic commentaries did not further any court business and unnecessarily prolonged the proceeding. These commentaries were likely deeply irritating to the participants present at the hearing and demeaned the entire proceeding. The judge's conduct was undignified and eroded "public confidence in the independence, integrity, and impartiality" of the court in violation of Rules 1.2 and 2.8(B).

Accordingly, Cochise County Superior Court Judge John F. Kelliher, Jr., 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).

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

Dated: March 30, 2023

FOR THE COMMISSION

/s/ Christopher P. Staring

Hon. Christopher P. Staring
Commission Chair

Copies of this order were distributed to all appropriate persons on March 30, 2023.

CONFIDENTIAL

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

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22-157

COMPLAINT AGAINST A JUDGE

Name: Deanne Tackett Judge's Name: John Kelliher

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.

To the best of my recollection as this was an upsetting day.

On _____ myself (Deanne Tackett), my husband (Daniel Tackett) and my son (_____) attended this court hearing.

As the judge was reading the case notes from my son's (_____) supervised visitation with current case aid (it was brought to our attention the this case aid (_____) had videoed one of his supervised visits without anyone's knowledge) and that these notes caused the judge to pause because how the case aid described the baby's upset crying when dad (_____) was holding her. I (Deanne Tackett) was shaking my head no, as the personal response from the judge took place. (1+1+1=3 and if it walks like a duck and quacks like a duck, it is a duck). At this point the judge says something to the effect of: Your righteous indignation rings hollow to me. You're showing more aggression than your husband or boyfriend or who ever that is. I don't know your marital status, it says step parent/father here.

At this point my husband of 25+years (Daniel Tackett) asked the judge if he was speaking to us, he shook his head affirmative. My husband (Daniel Tackett) said something to the effect of: we are married, this is my wife of 25 year and we are the blood parents to _____. The step parent is here. And points to _____.

I am filing a complaint against this judges personal attack on myself and my husband. I also feel this judge has already (JUDGED MY SON GUILTY) as his words about the duck and then with the fact that we are entitle to our opinion and we have the right to be wrong. (Or something to that effect)

Later when my son's lawyer was talking (he was on the phone on the intercom) the judge rolled his eyes when Brain Salata was speaking. He rocked his chair from side to side and made a jester with his hands like a muppet that was talking too much. It was a childish action unbecoming of a man in his position. This judge did not act this way when any other attorney spoke and I feel that he would not have done this if Mr. Brian Salata would've been physcially in the court room.

I am filing this complaint as his disrespectful actions and childish behaviors were not of an action designated by his position.

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John Kelliher
Judge
Division II



**Superior Court
Cochise County**

Resp (Kelliher)

100 Colonia De Salud, Suite 203
Sierra Vista, Arizona 85635
(520) 803-3300
Fax (520) 803-3308

JAN 20 2023

2022-157

Members of the Commission on Judicial Conduct
1501 W. Washington St., Suite 229
Phoenix, Arizona 85007

Re: Notice of Complaint and Opportunity to Respond (Case No. 22-157)

Dear Members,

I very much appreciate the opportunity to respond to the complaint made by Mrs. Deanne Tackett as to my behavior and actions in the Review Hearing in Dependency Case _____ held on _____

I listened to the audio recording of that hearing and reviewed the paper file before sitting down to write this response. Some background information about this particular case, I believe, would benefit the Commission in considering Mrs. Tackett's complaint and my response.

The Dependency Petition was filed with the Clerk on _____ The petition alleges _____
the minor child, a _____ old at the time of filing,

. The baby was also alleged to be _____ .
Father had entered three (3) No Contest pleas at the end of the Preliminary Protective Hearing held on _____
An Informal Settlement Conference was held for mother on _____ Mother
entered three (3) No Contest pleas.

I wish to acknowledge that I did gesture with my right hand, bent at the wrist and opening and closing my hand while one of the attorneys was addressing the Court. I was wrong. I regret having done that. I regretted doing it after I did it and I will never do such a thing in Court ever again. I can explain



**Superior Court
Cochise County**

why I did that, but it would not change the fact that it was wrong to do. I deny rocking my chair from side to side. My chair does not rock. I am human and I make mistakes.

As to the other matters set forth in Mrs. Tackett's complaint, I am left with the impression, after listening to the audio recording, that Mrs. Tackett's perception of how she was treated by me and how I behaved are quite different than mine. I am ever so grateful that an audio recording is available as it lends more substance to mere words on paper. The specifics of Mrs. Tackett's allegation are not reflected in the recording. I never said her son was guilty. In fact, I did say I had an open mind and would continue to have same until all the available information was out and in everyone's possession. I was not disrespectful to anyone in that hearing. The audio recording reflects quite the contrary. I did not "attack" anyone. I did address them when they were non-verbally disagreeing with what was being said to the entire Court, but it was not an attack, and it was not disrespectful.

The paternal side of the family, to which I addressed them to make certain who they were, were trying to non-verbally communicate with me [as I was the only one who could see their non-verbal communication]. I responded civilly and courteously. The recording bears this out. My reference to "1+1+1 equals three" and "if it walks like a duck..." were my attempts to explain how the facts known at that time pointed to father being responsible for the . You will hear in the recording that the lawyer for the baby and the Assistant Attorney General, as well as mother's counsel I believe, all drew the same inference.

The recording also has me asserting that all the facts ("pieces of the puzzle" as father's attorney argues) are not before the Court and that I was keeping an open mind until they were before the Court.

John Kelliher
Judge
Division II




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Cochise County**

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I would note that since that hearing we have held two (2) more hearings and the

I strongly urge the Commission to listen to the audio recording, which is one (1) hour and sixteen (16) minutes in length. If after reviewing this recording, the Commission believes I did anything else improper or unbecoming a judge in Arizona, I will readily accept the Commission's perspective and go forward accordingly. If requested to provide an additional response after the Commission's review of the audio recording and this response, I will readily comply.

I believe I bring compassion, respect, and patience to the bench. I believe I upheld and enhance the integrity of the bench, except when I misstep. And when I misstep, I acknowledge that.


Respectfully and sincerely,

John F. Kelliher Jr.

