

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 22-495

Judge:

Complainant:

ORDER

December 26, 2023

The Complainant alleged a hearing officer failed to follow procedures and showed bias against law enforcement during a civil traffic hearing.

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).

Copies of this order were distributed to all appropriate persons on December 26, 2023.

CONFIDENTIAL

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

FOR OFFICE USE ONLY**2022 - 495****COMPLAINT AGAINST A JUDGE**

Name: _____ Judge's Name: _____ (Hearing Officer)

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.

On _____ at _____ hours, Sergeant _____ provided testimony in the _____ Justice Court regarding a citation he issued on _____ for a civil traffic violation of ARS 28-701A - Speed not reasonable and prudent. Sergeant _____ believes Hearing Officer _____ conducted the trial outside the scope and not within proper courtroom procedures. Sergeant _____ believes Hearing Officer _____ was communicating improperly with only one side to a proceeding and did not provide Sergeant _____ with the opportunity to ensure his right to be heard in the trial. The defendant in the case provided testimony during the trial and Sergeant _____ was not allowed the opportunity to provide rebuttal testimony in response to the defense testimony which would have supported his testimonial evidence during trial and also defended his character against allegation of possible racial profiling.

The civil traffic trial was conducted telephonically and Sergeant _____ provided testimony regarding the citation issued for speed not reasonable and prudent. Prior to trial, Sergeant _____ read his notes and reviewed body camera footage in preparation. Sergeant _____ provided his testimony which consisted of identifying the defendant, proper court jurisdiction and evidence to support his decision to issue the citation. After Sergeant _____ testimony, the Defendant _____ asked Sergeant _____ questions and provided testimony of his own. _____ made several statements during his testimony regarding how the incident occurred from his perspective and also his belief that Sergeant _____ vehicle could not have paced him for the length he testified to and be up to the speed during the distance of his observation. Sergeant _____ does not remember _____ closing statement verbatim. _____ made a statement regarding being possibly racially profiled in his testimony. Sergeant _____ took several notes during _____ testimony in preparation for a rebuttal testimony.

Hearing Officer _____ did not inquire and afford Sergeant _____ the opportunity to provide rebuttal testimony to the testimony provided by the defendant. Hearing Officer _____ made a statement the defendant, " _____ " then gave a ruling of not responsible. Sergeant _____ had rebuttal testimony which would have supported his position and disprove testimony provided by the defendant. Also Sergeant _____ would have been able to defend his character and respond to the defendant's allegation of possible racial profiling by providing testimony which would discredit the defendant's statement. Sergeant _____ believes his testimony and evidence provided during trial was sufficient for a, " Responsible," ruling.

In closing, Sergeant _____ believes Hearing Officer _____ was communicating improperly with only one side to a proceeding and did not provide Sergeant _____ with the opportunity to ensure his right to be heard in the trial. Prior to the trial, Sergeant _____ had the opportunity to listen telephonically to the prior trial while muted on the phone in preparation for his trial. In the prior case, the defendant also provided testimony, a witness testified on behalf of the defense and the trooper was not afforded the opportunity to provide rebuttal testimony.

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In the interest of law enforcement and justice, Sergeant _____ has inquired from other troopers if they have had any perceived issues while testifying in the _____ Justice Court. Several troopers indicated they had issues in the _____ Justice Court of citations being dismissed, found not responsible where evidence clearly supported a responsible ruling and also not being afforded the opportunity of rebuttal testimony.

Sergeant _____ respectfully request the Commission on Judicial Conduct investigate this incident.

County Justice Courts, Arizona

Justice Court

CASE NUMBER: _____

STATE OF ARIZONA

vs. _____

Defendant(s) Name / Address / Email / Phone _____

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: _____ Time: _____ 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: EMAILED _____

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 _____ Agency _____ Badge Number _____

Complaint No _____ Violation Code 28-701A Violation Date _____


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

☒ Defendant at the above address ☐ Defendant's attorney ☒ Officer

Date: _____ By _____

Clerk

ARIZONA TRAFFIC TICKET AND COMPLAINT

															Report Number																			
															<input type="checkbox"/> COLLISION <input type="checkbox"/> FATALITY <input type="checkbox"/> SERIOUS INJURY					<input type="checkbox"/> COMMERCIAL <input type="checkbox"/> HAZ MAT <input type="checkbox"/> 16 PASSENGER														
Complaint					Driver's License Number					In Possession		State		Class		Military																		
										<input type="checkbox"/> Yes		AZ		D		<input type="checkbox"/> Yes																		
DEFENDANT	Name: First					Middle					Last					Spanish Speaking Only <input type="checkbox"/>																		
	Residential Address										City					State		Zip Code		Phone			Cell											
	SSN		Gender		Eyes		Hair		Height		Weight		Origin		B		Endorsements					Restrictions												
	Business Address										City					State		Zip Code		E-Mail Address														
	Year		Color		Make		Model		Style		License Plate		State		Expire Date		Vehicle Identification Number (VIN)																	
VEHICLE	Registered Owner					Address					City					State		Zip Code																
THE UNDERSIGNED CERTIFIES THAT:																																		
ON AT	Date		Time		SPEED:		Approx		Posted		R&P		Speed Measurement Device			Equipment Number			Direction Of Travel		Lane													
	On-Highway		Highway		Milepost		Location												Precinct		County		STATE OF ARIZONA											
THE DEFENDANT COMMITTED THE FOLLOWING:																																		
A	Section 28-701A					Statute ARS					Violation SPEED					<input type="checkbox"/> Domestic Violence Case																		
	Docket Number					Disposition Codes					Disposition Date					Sanction					Civil Non Traffic					<input type="checkbox"/> Criminal Criminal Traffic					<input checked="" type="checkbox"/> Civil Traffic Petty Offense			
B	Section					Statute					Violation					<input type="checkbox"/> Domestic Violence Case																		
	Docket Number					Disposition Codes					Disposition Date					Sanction					Civil Non Traffic					<input type="checkbox"/> Criminal Criminal Traffic					<input type="checkbox"/> Civil Traffic Petty Offense			
C	Section					Statute					Violation					<input type="checkbox"/> Domestic Violence Case																		
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D	Section					Statute					Violation					<input type="checkbox"/> Domestic Violence Case																		
	Docket Number					Disposition Codes					Disposition Date					Sanction					Civil Non Traffic					<input type="checkbox"/> Criminal Criminal Traffic					<input type="checkbox"/> Civil Traffic Petty Offense			
E	Section					Statute					Violation					<input type="checkbox"/> Domestic Violence Case																		
	Docket Number					Disposition Codes					Disposition Date					Sanction					Civil Non Traffic					<input type="checkbox"/> Criminal Criminal Traffic					<input type="checkbox"/> Civil Traffic Petty Offense			
You Must Appear At:					Court					Court No.					AT THE DATE AND TIME INDICATED:					Date					Time									
					Court Phone No.					Business Address										City, State, Zip Code														
CRIMINAL: <input type="checkbox"/> Without admitting guilt, I promise to appear as directed herein.										<input type="checkbox"/> VICTIM?										<input type="checkbox"/> FINGERPRINTED?														
CIVIL: <input checked="" type="checkbox"/> Without admitting responsibility, I acknowledge receipt of this complaint.										<input type="checkbox"/> VICTIM NOTIFIED?										<input type="checkbox"/> IN CUSTODY														
X 										I certify upon reasonable grounds, I believe the person named above committed the acts described and I have served a copy of this complaint upon the defendant.																								
COMPLAINANT										BADGE NO.										LOCATION CODE														

I hereby certify that the information contained herein is a true and correct abstract of the record in this case.

JUDGE: _____

BY: _____ Clerk of the Court

DATE: _____

Justice Court

Notice Regarding Court Connect- Courtroom

You have been summoned/ordered to appear before this court by video or phone conference through Court Connect. It is preferred that the hearing be conducted by video conference. Please join in 5 minutes before the time indicated on your notice and mute your microphone until your name and case number is called. This is a courtroom setting, please do not interrupt the judge. You may be connected for up to 60 minutes.

Participants: Please follow the steps below to participate in the proceeding.

To access from your phone, computer or tablet, enter

_____ in the web browser and download the Teams Meeting or continue using the web browser. You can also access the meeting by downloading the app from the Apple Store or Google Play Store and then entering the *Tiny URL* link above. To access by dialing- in using your phone. United States: _____ Private Dial-In Information: for privacy purposes, you can block your phone number by dialing *67 +1 _____ ; Dial-in Access Code: _____

1. Enter your full name and role (Plaintiff/Defendant/Witness) in name field when prompted.
2. Wait for the facilitator to admit you to the proceeding.

All proof/evidence must be submitted two business days prior to the scheduled hearing by email at _____ or fax at _____

If you have any questions or concerns regarding this notice, please contact the court at _____

Scan with your phone to appear via video

**THE COMMISSION'S POLICY IS
TO POST ONLY THE FIRST FIVE
PAGES OF ANY DISMISSED
COMPLAINT ON ITS WEBSITE.**

**FOR ACCESS TO THE
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.**