

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 23-010

Judge:

Complainant:

ORDER

February 2, 2024

The Complainant alleged a city court judge improperly dismissed a criminal case, engaged in ex parte communications, and exhibited bias against an attorney appearing in the city court.

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 does not have jurisdiction to overturn, amend, or remand a judicial officer's legal rulings. 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 member Roger D. Barton did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on February 2, 2024.

The following complaint is being filed against Judge _____ magistrate judge for the City of _____. The judge has engaged in conduct that violates several rules under the Arizona Code of Judicial Conduct. There are two specific rules cited below, but there are several others that are violated in the context of these two hearings.

I want to be clear up front— I do not believe that it is a violation of the ethical duties of a judge to not get along with _____. However, I believe that Judge _____ animosity toward me contributed toward several judicial ethical lapses that should be documented.

In _____ I came into Judge _____ Court for the first time after I _____ to _____ I was _____ I have _____

From the beginning, Judge _____ made it clear she was not happy that the _____ had _____ and actively interfered with my _____ with the _____ from the early stages. In the Spring of _____ it became much worse and reached the point where hostility began to affect the judicial process.

The below examples are two incidences from a myriad of off-the-record violations that occurred.

Transcripts relied upon for these violations are included, attached as Attachment A, hereinafter referred to as the “_____”; and Attachment B, hereinafter referred to as the “_____”. In addition, two witnesses will provide additional testimony as needed. I, _____ was the _____ for these cases (hereinafter referred to as “_____” or the “_____”).

1) Violation of Rule 2.9(A): Engaging in Improper Ex Parte Communications

Judge _____ has engaged in ex parte Communications, thereby violating Rule 2.9(A) which prohibits communications outside the presence of the parties or their lawyers unless some specific situation allows it.

As evident in the _____ transcript, Judge _____ engaged in ex parte communications when she communicated with the Defendant on substantive matters—even giving legal advice—without the presence of _____ concerning a pending matter and made rulings that were substantive in nature and impact the rights of the Defendant and the _____ (See _____ transcript). This occurred during an arraignment, and thus I was not present.

Notably, the Judge begins the _____ by asking Defendant “_____” The Judge then read _____ the charges that were brought against him (two counts of misdemeanors) and advised _____ of his rights. Judge _____ then asks Defendant “_____” She goes on, “...”

” (See _____ transcript, p. 2).

The Judge goes on to question _____ about the facts of the case, allowing _____ to explain the violations. Defendant _____ goes on to explain to Judge _____ that the RV at issue in the case belonged to his friend and that there was a tenant living in the RV, whom he attempted to evict—again

without allowing me to provide a response
disparaging remarks about me personally, questioning the credibility of the

The Judge then makes several

The transcript in the is replete with examples that arise when animosity is allowed to filter into judicial judgment.

In addition to Rule 2.9, this conduct also triggers other Rules:

2) Violation of Rule 2.3. Bias, Prejudice, and Harassment.

As illustrated in the Judge makes numerous personal, disparaging, and malicious comments against in open court and in the absence of which can only be considered bias, prejudice, and harassment.

In the Judge violates several rules by dismissing a case against the Defendant without allowing to verify pertinent information regarding an impending case, which involves a restraining order and harassment related to a Domestic Violence charge. It should be noted that this was the first pre-trial for Defendant and the first opportunity for and the Defendant had to discuss the case.

As any criminal litigator will confirm, the facts pertinent to a case are constantly being updated and new information considered. When new information was presented to me that affected the case and required me to verify it, I so that I could seek clarification of the inaccuracies within the police report involving multiple police officers. Judge denied my request stating that it was “ ..” (See p. 5) and dismissed the case. This was done over the objection of the Victim’s advocate who appears in the transcript as “i”.

This case was dismissed by Judge without a Motion to dismiss by Beyond just being improper, it shows how Judge wanted to dictate how cases were handled by instead of allowing to present the cases to her. All though this is just one example, this happened a lot throughout my appearance in this Court. Dismissing a Domestic Violence case, over my objection, and the objection of the Victim’s advocate is the most egregious, but sadly, not only instance.

Conclusion

Personal attacks, such as the ones Judge engages in, should not happen in a professional environment, though a certain amount of abuse can be tolerated so long as the work gets done and the system continues to operate. However, Judge has allowed her personal feelings to affect the Court in the ways demonstrated above, and her actions require further review. Although I have removed myself from the situation, I do believe this is an ongoing issue with Judge I believe her interference with my with and trying to dictate who can and cannot appear in her Court is something that should be addressed. I also believe that this behavior is happening more often, but these two examples highlight the issue.

Exhibit A

1 (The recording begins.)

2

3 THE COURT: And so those are the general
4 things that happened today. If you plead guilty today,
5 we will finish your case today.

6 And so, who got here first, or

7 ?

8 Well, I was sitting out there for
9 15 minutes.

10 THE COURT: Well, let's talk to
11 you since you are right here.

12 All right. So you were charged with exactly
13 what I promised you, two counts, one camping within city
14 limits, and that's for allowing people to stay and you
15 know I know the story, and so that is what that is. And
16 then the second was for not obeying the order to clear
17 the property. And so, those are both Class 1
18 Misdemeanors.

19 If you received the very worst sentence you
20 could ever get, you can get up to six months in jail, up
21 to three years of probation, up to \$2,500 in fines plus
22 a 78 percent surcharge. Obviously, we're not going
23 there and -- as far as maximums. We rarely go there
24 ever in -- at this level of court.

25 But, a decision you really have to make

1 today is do you want to come back, even as early as next
2 Wednesday, and talk to the prosecutor about resolving
3 this case or do you have some questions you want to ask
4 me before you get to that decision?

5 Questions or do you want to set a date with
6 the prosecutor?

7 I -- you could plead guilty to both of these
8 and, yes, I would fine you, but I don't anticipate
9 that's really what you want to do in this case.

10 So where do you want to go? You.

11 Okay. Well, I talked to him.

12 THE COURT: You did?

13 Yeah, a couple times.

14 THE COURT: Okay.

15

16 THE COURT: Yeah. Yeah. Uh-huh.

17 And -- well, first thing I'll
18 state, I -- the big RV that was my friend's, it was gone
19 when it was supposed to be gone. It was very, very
20 difficult for him to find somewhere to go. But he came
21 into the court with me and he understood everything, so
22 he did that.

23 THE COURT: Okay.

24 So I thought, well, gosh, I hope
25 that handles it.

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