

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 23-029

Judge:

Complainant:

ORDER

July 21, 2023

The complainant alleged delayed rulings and biased treatment by a justice of the peace hearing a traffic case.

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).

Copies of this order were distributed to all appropriate persons on July 21, 2023.

2023 - 029

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.

This is about the court clerks, and, or the judge not following civil procedure and violated the defendants rights. This case was dismissed times and reinstated times. The first violation was with defendants motion to dismiss filed, and served on The motion to dismiss was granted on . If you go by calendar days, days for the state's response would be a If you go by business days, days would be a So either way, the states response on is to late. The reason this matters is because the judge signed the dismissal in the morning, and it was sent to defendant at by email. The clerk then received the states response after emailing the dismissal to for the state. When the clerk got the response from the state, she inappropriately went to the judge and got the judge to vacate the dismissal. The clerk then told defendant the excuse that the state had days to respond and that is why the response was allowed. Yet, even if days were added to that would be and it was received on after state received the dismissal. It appears the clerk attempted to change the date to and then in an effort to muddy the situation, but the date it was signed by the judge and emailed to defendant and the state is So, the clerk influenced the judge to vacate the dismissal, and it was vacated based on the state responding timely when it did not. The state then filed a motion to continue on also. And the dismissal was improperly vacated on Defendant filed another motion to dismiss on and there was no response from the state as of email to about it. That's days. Throughout this case, the clerks, mainly would say the state has days to respond to a motion, eventhough the service was always electronic and not USPS mail, but certainly at least days. So, when defendant was served with state's motion to continue on defendant was not given any time to respond. The judge signed it the same day and denied the state's motion. Doesn't the time to respond work both ways? The state then filed another motion to reconsider on , and again, this was ruled on immeidiatly with no chance for defendants response. The state then filed a motion to dismiss on but without prejudice. Defendant wanted to respond to this motion and ask for it to be with prejudice. But defendant was not given the chance. Defendant was in the court at on ready for trial. The court denied defendant the ability to appear, or in the least respond to the motion from the state. Defendant went to the clerk counter and asked for the form to respond to the state's motion. Once filled out and given to the clerk, the clerk said the state has days to respond! What? This is a response to a motion. So the response was filed and never considered. It was just disposed of. Defendant never got a response from the court, the clerk, or anyone about his response to rule on the state's motion with prejudice. The judge signed the state's motion without considering or acknowledging defendants response. The clerk, said in her email that there's no need to address defendants response. But with or without prejudice is very important to defendant. Attached are ARSCP 1.3, 1.7, and 1.9 for motions, service, and time computation.

From:
Subject:
Date:
To:
Cc:

-RULING ON MOTION TO DISMISS



Good afternoon,
Please find the ruling on motion to dismiss, filed by the defendant.

Thank You,

Senior Judicial Clerk
CIVIL & CRIMINAL TRAFFIC

STATE OF ARIZONA	CASE NUMBER. _____
_____	_____
vs.	DOB _____
_____	_____
_____	_____
_____	_____
Deputy County Attorney / Address / Phone / Email	Defendant(s) / Name / Address / Email / Phone
_____	_____
_____	_____
_____	_____
(Type /s/ in front of your name indicating an e-signature)	Attorney for Defendant(s) / Name / Address / Phone / Email
_____	_____

MOTION (Criminal)

Continue
 Dismiss
 Modify Release Conditions
 Other Dismiss with Prejudice

Oral Argument Requested
 By Agreement

I would like the court to grant this motion because:

Prosecutor did not show up for PTC on _____ or _____ Defendant requested discovery in writing on _____ and only received the citation and an incident report on _____ Defendant again requested missing discovery on _____ Per ARCP 15.1(e)(1), the State must make any items submitted in a list no later than _____ days after receiving defendant's written request. The State was more than _____ days past the defendants written request on _____ and on _____ Defendant has not received the Axon video from when Deputy _____ came to defendant's residence to examine his car, or the 911 call when victim was approaching defendant's car. Continued on separate page.

Date: _____

State
 Defendant's Attorney
 Defendant

I have no objection to the above motion
 Time excluded
 I object to the above motion because: _____

Date: _____

RULING ON MOTION

IT IS ORDERED: Granting said motion Denying said motion

This matter is reset for: _____ Date: _____ Time: _____

Time is ordered excluded Time Not Excluded Release Conditions to Remain the Same

Date: _____

Justice of the Peace

I have received a copy of this form. I understand standard conditions and all other conditions of my release, and the consequences of violating this order. I agree to comply fully with each of the conditions imposed on my release and to notify the court promptly in the event I change my place of residence.

Date: _____ (Type *his* in front of your name indicating an e-signature)

Defendant

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 los servicios de un intérprete.)

CERTIFY that a copy of this document has been or will be provided on _____ to:
 The State Defendant at the above address in court Defendant's Attorney at the above address in court

Date: _____

- via email

From:
Subject: Re:
Date:
To:

MOTION TO DISMISS



Maybe you can fix the mistake that was trying to fix a mistake. The clerk today said the State had days plus days to respond to this motion. They responded on late. This motion was served on by email (attached). days would be the to the . Not the which the clerk said today in error. Regardless, the State did not respond in time, and, ARCP Rule 1.3(a)(5) Says *Additional Time After Service*. If a party may or must act within a specified time after service and service is made under a method authorized by Rule 1.7(c)(2)(C), (D), or (E), calendar days are added after the specified time period would otherwise expire under (a)(1)-(4), except as provided in Rule 31.3(d). This provision does not apply to the clerk's distribution of notices, minute entries, or other court-generated documents. So additional days does not apply since the motion to dismiss was served to the State by you on 9/12/22, and by me by electric means on . So the time period starts on the and ends on the 22nd. ARCP 1.7(c)(2)(D)(E) D by me, and E by the Court.

So what you did today was wrong, the motion was not served by mail, ARCP 1.7(c)(2)(C), and you gave the Judge wrong information. You should be good enough to fix your own mistakes proper. If not, then you are admitting your corrupt and unethical. Please don't do that.

Rule 1.3

(a) General Time Computation. When computing any time period more than hours prescribed by these rules, by court order, or by an applicable statute, the following rules apply:

- (1) *Day of the Event.* Exclude the day of the act or event from which the designated time period begins to run.
- (2) *Last Day.* Include the last day of the period, unless it is a Saturday, Sunday or legal holiday, in which case the period ends on the next day that is not a Saturday, Sunday, or legal holiday.
- (3) *Time Period Less Than Days.* If the time period is less than days, exclude intermediate Saturdays, Sundays and legal holidays from the computation.
- (4) *Next Day.* The "next day" is determined by counting forward when the period is measured after an event, and backward when measured before an event.

Rule 1.7

(c) Service of All Documents Required; Manner of Service. Every person filing a document with any court must serve a copy of the document on all other parties as follows:

- (1) *Serving an Attorney.* If a party is represented by an attorney, service under this rule must be made on the attorney unless the court orders service on the party.
- (2) *Service Generally.* A document is served under this rule by any of the following:
 - (A) handing it to the person;
 - (B) leaving it:
 - (i) at the person's office with a clerk or other person in charge or, if no one is in charge, in a conspicuous place in the office; or
 - (ii) if the person has no office or the office is closed, at the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there;
 - (C) mailing it by U.S. mail to the person's last-known address--in which event service is complete upon mailing;
 - (D) delivering it by any other means, including electronic means other than that described in (c)(2)(E), if the recipient consents in writing to that method of service or if the court orders service in that manner--in which event service is complete upon transmission; or
 - (E) transmitting it through an electronic filing service provider approved by the Administrative Office of the Courts, if the recipient is an attorney of record in the action--in which event service is complete upon transmission.
- (3) *Certificate of Service.* The date and manner of service must be noted on the last page of the original of the served document or in a separate certificate, in a form substantially as follows:

A copy has been or will be mailed/mailed/hand-delivered [select one] on [insert date] to:

[Name of opposing party or attorney]

[Address of opposing party or attorney]

If the precise manner in which service has actually been made is not noted, it will be presumed that the document was served by mail. This presumption will only apply if service in some form has actually been made.

Thank you,

On

Court
wrote:

Good afternoon,

Please find the ruling on motion to dismiss, filed by the defendant.

Thank You,

Senior Judicial Clerk

CIVIL & CRIMINAL TRAFFIC

Begin forwarded message:

From:
Subject:
Date:
To:

Maybe you could let this one be approved?



**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.**