

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 23-048

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Judge:

Complainants:

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**ORDER**

September 15, 2023

The complainants alleged improper legal rulings by a municipal court judge hearing a criminal 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).

Commission member Barbara Brown did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on September 15, 2023.

**CONFIDENTIAL**

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

**FOR OFFICE USE ONLY**

2023-048

**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.

Case No.

The strength of our criminal justice system depends on its accuracy "

We have outlined that the information that is 100% inaccurate according to the audio, verbal, and body cam. By defining the error(s), you have to know that the impact of inaccuracy can have a detrimental impact. Unfortunately, there are times when a judge's misunderstanding or misapplication of the law comes into play. That was not the case here. There was consistency on our behalf. The written order is lacking legal fairness. Including some evidence, while excluding other evidence is favoritism in a court. enough " That is when they both got into truck and drove off.

**\*\*SEE ATTACHED DEATAILS\*\***

COURT

STATE OF ARIZONA,

*Plaintiff*

vs.

*Defendant*

Case No:

ORDER  
UNDER ADVISMENT RULING

This matter came before the Court on \_\_\_\_\_ and \_\_\_\_\_ for bench trial on the following charges:

Count I: A.R.S. §§ 13-2904(A)(1), 13-707, and 13-802 – Disorderly Conduct, disturbing the peace and quiet of \_\_\_\_\_ by engaging in fighting, violent or seriously disruptive behavior, a class one misdemeanor alleged to have been committed on \_\_\_\_\_

Count II: A.R.S. §§ 13-1203(A)(3), 13-707, and 13-802 – Assault with intention to injure, insult or provoke \_\_\_\_\_, a class one misdemeanor alleged to have been committed on \_\_\_\_\_

Count III: A.R.S. §§ 13-1203(A)(1), 13-707, and 13-802 – Assault causing any physical injury to \_\_\_\_\_ a class one misdemeanor alleged to have been committed on \_\_\_\_\_

Count IV: A.R.S. §§ 13-2904(A)(1), 13-707, and 13-802 – Disorderly Conduct, disturbing the peace and quiet of \_\_\_\_\_ by engaging in fighting, violent or seriously disruptive behavior, a class one misdemeanor alleged to have been committed on \_\_\_\_\_

Count V: A.R.S. §§ 13-1602(A)(1), 13-707, and 13-802 – Criminal Damage of a rope belonging to \_\_\_\_\_, a class two misdemeanor alleged to have been committed on \_\_\_\_\_

The court has jurisdiction in the matter as the alleged events occurred within the \_\_\_\_\_, Arizona town limits.

\_\_\_\_\_ City Prosecutor for the \_\_\_\_\_ appeared on behalf of the State. The State called the alleged victims, \_\_\_\_\_, his wife \_\_\_\_\_ and \_\_\_\_\_ to testify. The State submitted Exhibit B into evidence which consisted of five photos depicting injuries to \_\_\_\_\_, and \_\_\_\_\_

The Defendant was represented by \_\_\_\_\_ Esq. The defense called the defendant, \_\_\_\_\_ and \_\_\_\_\_ who is \_\_\_\_\_ stepfather and was a passenger in the defendant's vehicle to testify. The defense submitted into evidence the following exhibits: Exhibit 1 consisting of seven photographs depicting injuries to \_\_\_\_\_, and \_\_\_\_\_ Exhibit 2 consisting of two photographs depicting injuries to \_\_\_\_\_ Exhibit 3 consisting of two photographs depicting signage at the scene; and Exhibit 4 a photograph of the entrance to the easement.



The parties presented two vastly different versions of what transpired during the interaction. Both parties testified that on the afternoon of [redacted], within the boundaries of the [redacted] Arizona, the [redacted] were placing a rope and signs across an easement near the entrance to the [redacted] The easement allows access to a pump providing irrigation water to neighboring properties, including the [redacted] property. [redacted] was driving his truck along the road in front of the entrance with [redacted] as his passenger. They observed [redacted] and [redacted] hanging signs on a rope hanging across the easement. [redacted] brought his truck to a stop on the roadway with his side of the truck facing the [redacted] That is where the parties' versions of events diverge.

*sign was already hung*

[redacted] and [redacted] testified that [redacted] calmly asked the [redacted] what they were doing and that the [redacted] immediately became angry and aggressive and gave no intelligible response to their questions. The [redacted] testify that [redacted] was angry and aggressive when he stopped and that they were simply calmly trying to explain to [redacted] that they were putting up foot-traffic only signs at the urging of their property insurance carrier. The [redacted] testified that they were trying to show [redacted] paperwork from the carrier that supported their claim.

*That's why the sign says foot traffic only*

[redacted] and [redacted] testify that [redacted] stated, "[redacted]". The [redacted] deny having [redacted] when [redacted] said as much. [redacted] testified that upon hearing that the [redacted] were blocking access [redacted] became [redacted] upset and exited the truck. [redacted] then walked over to the rope, making no threat towards or making any [redacted] contact with [redacted] and cut it the rope with a folding knife he carried in his pocket. The [redacted] testified that upon exiting the truck [redacted] had an axe/hammer in his right hand and raised above his head in a striking position, before dropping the tool to the ground and pushing past [redacted] to cut the rope.

*he held up sign*

*to fully witness he carried his own*

*when did he become the law*

[redacted] does not deny cutting the rope. [redacted] denies having had an axe/hammer. [redacted] testified that he did not see [redacted] with an axe/hammer during the altercation. No axe/hammer was recovered from the [redacted] truck. *body cam - he threw hammer in back of truck cops never looked*

The [redacted] testified that after cutting the rope, [redacted] grabbed [redacted] by the throat, lifted [redacted] off the ground and then "body slammed" [redacted] onto the ground behind the truck. The [redacted] deny that [redacted] struck [redacted] and [redacted] testified that as [redacted] cut the rope, [redacted] came up behind [redacted] and "blind-sided" [redacted] with a closed fist strike to the side of [redacted] head.

*why did this happen? My car*

[redacted] testified that he first placed [redacted] in what can be described as a submission hold and then took [redacted] to the ground. [redacted] testified he did so in response to and in self-defense of the blow struck by [redacted]. The [redacted] testified that [redacted] struck [redacted] in the head after taking [redacted] to the ground. [redacted] denies striking [redacted] and [redacted] denies seeing [redacted] strike [redacted].

*I have evidence of being struck why wrong?*

The [redacted] testified that while [redacted] was engaged with [redacted] [redacted] was shouting encouragement to [redacted] to give [redacted] and [redacted] testified that [redacted] did not say any words encouraging the fight, but that he did tell all parties " [redacted] ". [redacted] testified that he exited the truck when the fight began between [redacted] and [redacted] walked to the rear of the truck where he stated he observed [redacted] restraining [redacted] on the ground and [redacted] pulling [redacted] head from behind in an attempt to get [redacted] off of [redacted].

The [redacted] do not deny [redacted] trying to get [redacted] off of [redacted]. The [redacted] testified that [redacted] lost consciousness as a result of his being taken to the ground and struck by [redacted]. [redacted] states that when he regained consciousness, he was seated on a wall at the entrance to the Estates. According to both parties' testimony, [redacted] and [redacted] then left the scene, and [redacted] contacted the [redacted] Office.

*Didn't say that don't remember officer didn't say that*

*If he was so upset why didn't he call police*

*Left scene while I was being held up by my wife in middle of street.*



Deputy reported to the scene. She testified that when she arrived, and had departed. Deputy testified that Deputy was on the scene when she arrived. She did see and by the side of the road and visibly upset. Deputy then left the scene to patrol and try and locate truck.

Deputy located and the truck at residence. She questioned with present. Deputy observed to have a bloodied left ear. When asked by Deputy stated that he did not require medical attention. statements to the Deputy were consistent with his testimony at trial. That he had been struck from behind by and restrained in an attempt to defend himself and diffuse the situation. told the Deputy that version of the events was accurate. Deputy searched the truck, with consent, in search of an axe/hammer. None was found. *NOT consistent*

The statements to Deputy were consistent with their testimony. That had cut the rope and then attacked without provocation.

*Body Cam my word means nothing*  
The court was not presented with any evidence calling the credibility of the witnesses into question.

By all witness accounts, made contact with and took him to the ground. was injured as a result. claims that he took to the ground for two reasons, to diffuse the situation and in self-defense.

"A person is justified in threatening or using physical force against another when and to the extent a reasonable person would believe that physical force is immediately necessary to protect himself against the other's use or attempted use of unlawful physical force." A.R.S. § 13-404(A). If a defendant presents evidence of self-defense, the State bears the burden of proving beyond a reasonable doubt that the defendant did not act with justification. See A.R.S. 13-205(A). While A.R.S. § 13-404(A) permits the use physical force to defend oneself, the use of force is limited to the extent that a reasonable person would believe necessary to protect against another's use or attempted use of physical force.

*what evidence His Testimony more important than mine (No Proof)*  
presented evidence of self-defense through testimony that had been struck by The burden is on the State to show beyond a reasonable doubt that did not act with justification. The evidence provided did not convince the court beyond a reasonable doubt that acted without justification. The court is not convinced that use of force was beyond the extent that a reasonable person would believe necessary to protect himself from

*Don't step or get out of Truck!*  
The court does not find beyond a reasonable doubt the disturbed the peace and quiet of and therefore finds NOT GUILTY on Count I.

The court does not find beyond a reasonable doubt that Assaulted with the intent to injure, insult or provoke and therefore finds NOT GUILTY on Count II.

The court does not find beyond a reasonable doubt that Assaulted causing physical injury and therefore finds NOT GUILTY on Count III.

The court does not find beyond a reasonable doubt that disturbed the peace and quiet of and therefore finds NOT GUILTY on Count IV.

The court finds beyond a reasonable doubt that damaged the property of i.e. a rope, and therefore finds GUILTY on Count V.

IT IS ORDERED that  
at

appear in person for sentencing on the \_\_\_\_\_ day of \_\_\_\_\_,

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_  
Presiding Magistrate  
Court

provided to:

- Prosecutor

- Defendant  
via mail

- Victims  
via prosecutor.

**THE COMMISSION'S POLICY IS  
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COMPLAINT ON ITS WEBSITE.**

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COMPLAINT IN THIS MATTER,  
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IN WRITING TO THE  
COMMISSION ON JUDICIAL  
CONDUCT AND REFERENCE  
THE COMMISSION CASE  
NUMBER IN YOUR REQUEST.**