

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 23-213

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Judge:

Complainant:

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**ORDER**

February 2, 2024

The Complainant alleged a city court judge made a racially insensitive remark in chambers during 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 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.

**Via Electronic Mail and Hand Delivery**

Arizona Commission on Judicial Conduct  
1501 W. Washington Street, Suite 229  
Phoenix, AZ 85007  
(602) 452-3200  
cjc@courts.az.gov

**RE: Judicial Conduct Complaint against Judge**

Dear Judicial Conduct Commission,

My name is \_\_\_\_\_ I am an attorney who has practiced law for  
over nine years in the State of Arizona, and just shy of twelve years overall.

practiced as a \_\_\_\_\_ and \_\_\_\_\_ As a \_\_\_\_\_ I have  
in both the City of \_\_\_\_\_ Municipal Court and the  
City of \_\_\_\_\_ Municipal Court.

With my personal experience as a \_\_\_\_\_ growing up in  
Arizona, having attending law school in \_\_\_\_\_ and my professional  
experience as a \_\_\_\_\_ lawyer, I am not quick to be insulted or offended. Out of  
practical necessity, I brush a lot of things off, let a lot of things slide, and simply  
move forward. I have never made a Bar complaint against any attorney, nor have I  
made a previous complaint to the Judicial Conduct Commission.

In this instance, however, I must overcome my natural reluctance and fear of  
retaliation to lodge this complaint against \_\_\_\_\_ Municipal Court  
Judge \_\_\_\_\_ because of his manifest bias against  
specifically against people of \_\_\_\_\_ heritage. I come forward with this because if

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Judge \_\_\_\_\_ displays this bias against a licensed attorney who is simply doing their job, I fear that my clients or self-represented litigants of \_\_\_\_\_ heritage will be treated similarly, or worse.

I have sent a brief letter about this incident to the \_\_\_\_\_ Human Resources (HR) Department because \_\_\_\_\_ has an interest in maintaining a work environment that is free of hostility, bias, and discrimination. But as part of the executive branch of government, the \_\_\_\_\_ HR Department does not have authority over Judge \_\_\_\_\_. Further, \_\_\_\_\_ judicial advisory board has \_\_\_\_\_ so that avenue of review of Judge \_\_\_\_\_ behavior. This leaves the Judicial Conduct Commission as the only entity that has oversight of Judge \_\_\_\_\_.

## Judge \_\_\_\_\_ Conduct

On \_\_\_\_\_ a \_\_\_\_\_ Assistant City Prosecutor and I were in Judge \_\_\_\_\_ chambers discussing a defense motion to vacate a trial and reset to pretrial conference in a jury eligible case ( \_\_\_\_\_ ). Judge \_\_\_\_\_ seemed frustrated, commenting on the age of the case, and indicated that he wanted a quick setting for this case.

On \_\_\_\_\_ had made a new plea offer that I needed to convey to and discuss with my client so that I could provide the effective assistance of counsel that the Constitution requires. When my clients do not have email, I generally provide updates via U.S. Mail. My client in \_\_\_\_\_ did not have email. In discussing new dates, two dates were suggested but they were both too close in time for me to properly notify my client and I told Judge \_\_\_\_\_ as much. Judge \_\_\_\_\_ then suggested another date. In doing so, he looked at me and, with impatience in his voice, asked me “ \_\_\_\_\_ ”.

I was shocked. It was clear from this context and done that Judge \_\_\_\_\_ was making a racially discriminatory comment about my \_\_\_\_\_ heritage. The clear implication of Judge \_\_\_\_\_ words, context, and tone, was that my \_\_\_\_\_ heritage might keep me from fulfilling my duty to my client and the Court. Further, it was clear from the context and tone of that comment that Judge \_\_\_\_\_ was not simply making an incentive joke. It was also clear from the context and tone of that comment that Judge \_\_\_\_\_ was not making a good faith attempt to be culturally sensitive.

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When the in-chambers discussion was over, I discussed what had taken place with [redacted] and later the clerk, [redacted] that I wanted to make a record. In the courtroom, I made a record of Judge [redacted] offensive comment and Judge [redacted] in attempting to explain himself, did not deny making the comment. See attached Exhibit 1, copy of the audio recording in [redacted] from [redacted].

To ensure the accuracy of this complaint, I waited to obtain a copy of the audio recording from the [redacted] proceedings. I made a request to obtain a copy of the [redacted] hearing on [redacted]. See attached Exhibit 2, [redacted] Records Request. On [redacted] I received a copy of the [redacted] proceeding, however the recording did not contain the pertinent portion of my interaction with Judge [redacted]. I finally received a copy of the complete audio recording on [redacted].

### **Code of Judicial Conduct Provisions Implicated:**

The following are some of the Code of Judicial Conduct (CJC) provisions that are implicated by Judge [redacted] conduct, in order they appear in the CJC:

#### **Rule 1.1. Compliance with the Law**

A judge shall comply with the law, including the Code of Judicial Conduct.

#### **Rule 1.2 Promoting Confidence in the Judiciary**

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appear of impropriety.

#### **Rule 2.2. Impartiality and Fairness**

A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

#### **Rule 2.3 Bias, Prejudice, and Harassment**

- (A) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.
- (B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic

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status, or political affiliation, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so.

...

- (D) The restrictions of paragraphs (B) and (C) do not preclude judges or lawyers from making legitimate reference to the listed factors, or similar factors, when they are relevant to an issue in a proceeding.

**Going Forward**

If the Commission sees fit to investigate this complaint, in addition to the percipient witnesses for Judge \_\_\_\_\_ comments, I suggest that the Commission talks to other employees of the \_\_\_\_\_ Municipal Court and the HR Department because those witnesses could provide important context.

**Appropriate Sanction If CJC Violation Found:**

Apart from cooperating fully with the Commission, this ends my involvement in this situation. I will let the process unfold and let the system work. I understand that not every transgression of the CJC will result in discipline. Nor should it. But public faith and confidence in the judicial is essential and any work or deed that brings the judiciary into disrepute erodes that faith and confidence. Because of what is at stake, there is no amount of manifest judicial bias, prejudice, or harassment that can be considered *de minimus*.

Sincerely,

EXHIBIT 1  
AUDIO  
RECORDING

**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.**