

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 10-019

Complainant: No. 1384110112A

Judge: No. 1384110112B

ORDER

The complainant alleged the judge failed to meet with him to resolve his case and failed to properly supervise her court staff. The commission reviewed the complaint and investigated the allegations but found no evidence of ethical misconduct on the part of the judge. The complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: June 15, 2010.

FOR THE COMMISSION

\s\ Keith Stott

Executive Director

Copies of this order were mailed
to the complainant and the judge
on June 15, 2010.

This order may not be used as a basis for disqualification of a judge.

ARIZONA COMMISSION ON JUDICIAL CONDUCT

Claimant, v. The Honorable (In her Official Capacity as Casa Grande Magistrate Court Judge) Defendant	ACJC NO. _____ RE: Casa Grande Magistrate Case No. M-1142-TR- COMPLAINT
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I. INTRODUCTION, JURISDICTION AND VENUE

¶1. undersigned, and referred to hereinafter as ("Claimant") makes the following allegations based on facts, all of which are supported by evidence presented herein, and attached as exhibits hereto in an Appendix to the Complaint ("AC Exhibit"). This matter has been brought before this Commission not for any malicious purpose, nor to harass the Defendant, but solely in the name of Justice.

¶2. The Arizona Commission on Judicial Conduct ("ACJC") is the state agency responsible for investigating complaints against "Judges," as defined by the Arizona Constitution, Article VI.1 § 5, including Municipal Court Judges.

¶3. The Commission has the authority to investigate complaints involving willful and persistent failure to perform duties, violations of the Code of Judicial Conduct, conduct that brings the judiciary into disrepute and permanent disabilities that interfere with judicial duties.

¶4. As the Claimant will show herein, conduct listed in ¶3 above is prevalent in the Casa Grande Municipal Court and the Honorable referred to hereinafter as ("Defendant"), who is the sole Presiding Official responsible for the supervision, direction and oversight of all official

conduct, actions, and court procedures, including but not limited to the docketing of all court documents received and handled by all Casa Grande Municipal Court workers, including its Municipal Court Clerks, to insure that Federal and State laws within its Jurisdiction are properly upheld and enforced in a fair and impartial manner not repugnant to the Constitution of the United States or the principles of the Declaration of Independence, including rights, privileges, and immunities, guaranteed by the Fifth and the Fourteenth Amendments to the Constitution..

II. STATEMENT OF FACTS

¶5. On September 16, 2009, Claimant was issued Citation # 11002008207040, and was cited for (count 1), "SPEED OVER LIMIT," pursuant to A.R.S. § 28-701A 11-15 and (count 2) "NO MANDATORY INSURANCE," pursuant to A.R.S. § 4135A (see AC Exhibit 1).

¶6. As a result of said Citation, the Claimant immediately contacted the Magistrate Court, ("Court") and notified them that the Arizona Department of Transportation ("ADOT") had suspended the registration on the vehicle in error. The Court advised the Claimant, that if he could provide the Court with documentation from ADOT showing the suspension of his registration was done in error that the citation would be dismissed.¹

¶7. On September 22, 2009, the Claimant, as evidenced by (AC Exhibit 2) obtained the required "Clearance" from ADOT. On September 23, 2009, he personally appeared at the Court and presented the original copy of said clearance to Court Clerk, Deborah Jewell, from which she

¹ Pursuant to A.R.S. § 28-4125(D)(1) "... D. A citation issued for violating subsection B or C of this section shall be dismissed if the person to whom the citation was issued produces evidence to the appropriate court officer on or before the date and time specified on the citation for court appearance and in a manner specified by the court, including the certification of evidence by mail, of either of the following:

1. The financial responsibility requirements prescribed in this section were met for the motor vehicle at the date and time the citation was issued.

obtained a copy. Upon examining the document she advised the Claimant that the document he had given her was in fact an ADOT issued "DE-INSURED CERTIFICATE CONFIRMATION," for an unrelated vehicle (AC Exhibit 3). The Claimant, having realized that he had inadvertently handed Ms. Jewell the wrong Certificate from the file folder which he brought with him into the Court, then handed Ms. Jewell the correct ADOT Certificate evidencing that ADOT had openly and justly conceded that its suspension of his registration was done in error. In addition, the Claimant also provided a Temporary Insurance Card issued by the Claimant's Current Insurance Carrier (AC Exhibit 4).² After obtaining photocopies of all of the documents referenced above and attached hereto as (AC Exhibits 2-4), Ms. Jewell, having returned the originals of said documents to the Claimant, assured the Claimant that the Citation was dismissed, all issues were resolved and no further action would be required of the Claimant.³

¶8. The Citation having been properly dismissed, the Claimant, a single father, went about with his primary responsibilities of providing a living for himself and his two children until December 2, 2010, when he was rudely awakened to the fact that the Court had failed to dismiss the September 16, Citation, as the Claimant had been erroneously lead to believe pursuant to the statements made by the Court Clerk named in ¶4 above. Said Clerk's failure to properly docket and process the ADOT clearance referenced in ¶¶3-4 above, and attached hereto as (AC Exhibit 2), resulted in the Claimant being Cited for "Driving With a Suspended Driver License" (see AC Exhibit 5). More shocking is the fact that this charge was willfully utilized as leverage for the Pinal County Sheriff's Office to effectively deprive the Claimant of Civil Rights protected by the Fourth, Fifth and

² The Claimant changed insurance carriers due to the fact that it was the negligence of the previous insurance carrier which resulted in the improper reporting to ADOT.

³ At the time the Claimant thought it peculiar that the Clerk failed to address the alleged speeding violation, but none-the-less, took the Clerk at her word.

Fourteenth Amendments to the Constitution of the United States (see AC Exhibit 6, inclusive) *with emphasis!*

¶9. Pursuant to A.R.S. § 13-2506(A), “...A person commits failure to appear in the second degree if, having been required by law to appear in connection with any misdemeanor or petty offense, such person knowingly fails to appear as required, regardless of the disposition of the charge requiring the appearance...” Therefore it follows that in the context of the Claimant’s efforts as examined in ¶¶2-4 above, it is ludicrous that any reasonable person would conclude that the Claimant would put forth the effort to obtain the Clearance, (see AC Exhibit 2) and not promptly file it with the Court!

¶10. Despite the rights and immunities granted by the Fifth Amendment, which forbids any citizen being subjected to “double jeopardy,” the Claimant was unjustly forced to return to the Court on December 2, 2009, (See AC Exhibit 6, ¶¶ 33-34) and pay fines for the September 16, 2009, Citation for which the Court, on September 23, 2009, had previously dismissed (See AC Exhibits 7-8).

¶11. On December 2, Deborah Jewell, as witnessed by Claimant’s son flatly and openly denied that the Claimant had provided her with (AC Exhibits 2-4) on September 23, 2009. Further, on the morning of December 30, 2009, the Claimant presented himself to exercise his rights pursuant to A.R.S. § 39-121.01(D)(1), and was flatly denied access to the file which contained the documents which were copied, and placed in said Court File on September 23, 2009, (see ¶¶2-4 above), by non-other than Deborah Jewell! The Claimant then requested to schedule a meeting with Judge Ferguson, and was advised by Defendant Jewell, “...that Judge Ferguson wouldn’t be available until later that same afternoon, and that the Court file would be made available for examination by the Claimant at that time...”

¶12. In preparation for the anticipated meeting, the Claimant prepared a letter (See AC Exhibit 9) which, when examined in the context of (AC Exhibits 2-4), would unquestionably explain his position to Judge _____ whom the Claimant believed, given her longstanding tenure as Magistrate Judge, would cause the unjust ruling and subsequent fines, already paid by the Claimant to be refunded and the subsequent charges to be dismissed. To the contrary, when the Claimant presented himself at approximately 3:00 p.m. on the afternoon of December 30, 2009, as previously directed by Defendant Jewell, neither Judge _____ nor the Court file were made available to him, and he was once again “stonewalled,” and denied his rights as secured by A.R.S. § 39-121.01(D)(1), with Defendant Jewell further stating, “...*that she was unable to retrieve the file from storage and that the Court file, and possibly Judge _____ would be available on the Morning of December 31, 2009...*”

¶13. Once again the Claimant presented himself at the Court on the morning of December 31, 2009, and once again Judge Ferguson was “unavailable.” However Deborah Jewell, which she had previously failed to make available for the Claimant. Upon the Claimant’s examination of the file, he discovered that the file copy of (AC Exhibit 2), personally created by Deborah Jewell, on September 23, 2009, had been removed from the file. However copies of (AC Exhibits 3-4), which were also produced by Defendant Jewell on September 23, 2009, were found to still be present in the Court file.^{4 5} After the Claimant’s examination of the file and pursuant to his request, Deborah

⁴ The documents contained in the Court file are in fact the documents from which (Exhibits 3-4) attached hereto were produced.

⁵ The Claimant requests that the Commission note that with the exception of (Exhibit 1) neither (Exhibits 3 or 4) evidence a time/date stamp produced by machine or manually hand written, which implies that the Court Clerks are either slovenly in their docketing of Court Files, or that this a deliberate practice to deceive the public should the Court make a “Clerical Error” when handling documents that support private citizens’ attempts to obtain constitutionally guaranteed Due Process rights within the meaning of the Fifth and Fourteenth Amendments to the U.S. Constitution.

Jewell produced the copies, attached hereto, of (AC Exhibits 3-4). Upon receiving said copies, the Claimant once again requested a meeting with Judge _____ and was once again assured by Deborah Jewell, that Judge _____ would be available at 9:00 a.m. on Monday, January 4, 2010.

¶14. Once again, the Claimant presented himself at the time scheduled by Deborah Jewell, and at 9:00 a.m. on Monday, January 4, 2010, with the elusive Judge _____ actually present in the same room, Deborah Jewell announced to Judge _____ that "... _____ *is here to see you...*" to which the Judge abruptly replied, "...*I don't have time...*" After which the Judge vanished from the room, in a manner which the Claimant can only describe within the meaning of the "***Women's Standing Long Jump***," at the recently televised Beijing Summer Olympics.

¶15. In response to the Defendant's refusal to meet with him, the Claimant wrote a letter attached hereto as (AC Exhibit 10), and sent to the Court ***Certified Mail/Return Receipt requested***, (See AC Exhibit 11) to which he attached all of the exhibits contained in the Appendix attached hereto, with the exception of (AC Exhibits 6 and 11-15).

¶16. In response to the Claimant's January 4, 2010, mailing, a surprisingly prompt response was received on January 6, 2010, in which Senior Court Clerk, Dyani Juarez, concedes, (See AC Exhibit 12, ¶1), "...*You provided proof to the Court that insurance for this vehicle went into effect on September 22, 2009: Six days after the citation was issued to you...*" Defendant Juarez then further asserted, "...*You were given an extension until October 14, 2009 to pay or make arrangements to your fines for both violations...*" Which not only suggests that the Court would and should have mailed out a notice of such an "extension," which would further be evidenced by a copy of said notice being placed in the Court file, which would have been present in the file when the Claimant was finally allowed to view the Court file on December 31, 2009. The Claimant can fervently assure the Commission that no such documentation of an extension is currently in existence except in the

assertions made in Dyani Juarez's January 6, 2010 Memo. However, given this Court's slovenly and reckless docketing practices, they have reserved for themselves the ability to easily create a document and insert it into a file or likewise remove it as may be convenient for their present needs.

¶17. As further evidenced by the assertions made by Dyani Juarez, (See AC Exhibit 12, ¶2) *"...the Court received your letter requesting that your case be reviewed. You provided the same insurance card already presented and a "De-Insured Certificate" for a different vehicle. Acceptable proof of insurance for a dismissal are: 1.) An insurance card for the vehicle involved showing an effective and expiration date covering the date of the citation, or 2.) A "no lapse" letter from your insurance company. You failed to provide proper documentation for a dismissal of the insurance citation.*

Judge has also reviewed your file and will not change the original decision of the Court..."

¶18. As the Claimant has consistently shown in the paragraphs above, no reasonable Judge, Jury, nor average eight-grade civics student can argue that the Claimant is guilty of Failure to Appear, (see ¶6 above). Likewise, an examination of the facts presented herein, when viewed in the light of the simple language of the Arizona State Law cited above in Foot Note 1, also provides incontrovertible evidence that the charge of "NO MANDATORY INSURANCE," must be dismissed as well.

¶19. Any reasonable jury can easily draw the conclusion that the Judge and the Court Clerks named herein, have and continue to go to great lengths to "secret," and ignore the document provided by ADOT and attached hereto as (AC Exhibit 2), which was provided to the Claimant solely as a Court Document to prevent the injustice the Claimant has and continues to be subjected to. As already shown in ¶17 above, this Court continues to willingly ignore and secret this Court

Document, which constitutes a Class 4 Felony within the meaning of *A.R.S. § 38-421(A)*, and subsequently negates any “Absolute Judicial Immunity” Defense which these Court workers, including Judge have arrogantly come to rely upon should the Claimant choose to exercise his rights secured by *42 U.S.C. § 1983*.

¶20. The Claimant’s assertions made in ¶19 above, are incontrovertible evidenced by the fact that on January 20, 2010, after attending a Pre-Trial Conference resulting from the charges of “Driving With a Suspended Driver License” as discussed in ¶8 above, and after presenting exactly the same arguments and evidence as is currently being presented to the ACJC herein, the Office of the Pinal County Attorney, after only ten (10) minutes of discussion, immediately submitted a “Motion to Dismiss” which was subsequently granted by Justice of the Peace, Andrew Ramirez, as evidenced by attached (see AC Exhibit 13).

¶21. The Justice Court’s, January 20, 2010, dismissal of the December 2, 2009 citation (see AC Exhibit 5) previously discussed in ¶8 above, is further made evident by the Justice Court’s proper docketing practices, which are unquestionably illustrated by their prompt updating of the case record as displayed on the “Public Access to Court Information-Case Search,” (see AC Exhibit 14) and printed by the Claimant, just one day after the Justice Court granted the “State’s Motion to Dismiss,” (see AC Exhibit 13) as properly submitted to the Court, by the Assistant Pinal County Attorney.

¶22. Sadly, the Florence-Coolidge Justice Court’s excellent docketing practices, are rudely overshadowed by the unprofessional, “slovenly,” and questionable docketing practices of the Casa Grande Municipal Court, as clearly made evident by the Municipal Court’s case record, also displayed on the “Public Access to Court Information-Case Search,” (see AC Exhibit 15) and printed by the Claimant, on the same day this Complaint was prepared! The Claimant asks the Commission to note that (AC Exhibit 15) shows that the last action docketed by the Casa Grade Municipal Court

was when they unjustly entered Charges of “Failure to Appear” on October 23, 2009. The December 2, 2009, fines paid by the Claimant are not properly reflected as already made evident by (AC Exhibits 7-8), and the record reflected on the Arizona Supreme Court Website, also shows no disposition date (see AC Exhibit 15).

CONCLUSION

¶23. The information contained in the paragraphs above provide a preponderance of evidence that the Casa Grande Municipal Court as Presided over by Defendant _____ has failed to perform its most basic duties, specifically its duty to properly docket and record its own actions in a timely manner. This conduct has unquestionably brought this judiciary into disrepute, which shows a severe indifference in the public trust Courts and has resulted in violations of the Code of Judicial Conduct, specifically in violations of the following Canons:

1. *A judge shall uphold the integrity and independence of the judiciary.*
2. *A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.*
3. *A judge shall perform the duties of judicial office impartially and diligently.*

The Claimant respectfully requests that the Commission promptly and thoroughly investigate the questionable actions of this Judge, the dubious docketing practices of the Casa Grande Municipal Court, and immediately correct any deficiencies its investigation may reveal, by and through any power within its authority. As stated in ¶19 the Claimant will have to rely on Federal Law, as well as both a Federal Judge and Jury to redress the obvious deprivations of his Constitutional Rights as made evident by and through the incontrovertible facts presented in ¶¶ 5-22 above.

¶24. In summary this complaint not only shows a lack of professionalism by this Judge and the Court over which she presides, but it sadly implies a severe lack of oversight by the Arizona Supreme Court, whose reputation by the Arizona Public at Large continues to erode and waste away

into oblivion. As the Arizona, and the American Economy continues down a fast track toward
“Economic Armageddon” its citizens can no longer take Solace that their most basic freedoms,
thought to be guaranteed by the “Supreme Law of the Land,” are still available at all!

Respectfully submitted, this 25 day of January, 2010

By

CERTIFICATE OF MAILING

Copy of the foregoing placed in the United States Mail, Certified Mail, Return receipt requested,
this 25 day of January, 2010 to the following:

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