

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 10-125

Complainant:	No. 1392510872A
Judge:	No. 1392510872B

ORDER

The commission considered the complaint filed in this matter and, after reviewing the recording of the hearing, decided to dismiss the complaint with a private comment to the judge reminding him of his obligation to promote public confidence in the judiciary, to ensure that every litigant has the right to be heard, and to be patient, dignified, and courteous to litigants. The complaint is dismissed pursuant to Rules 16(a) and 23.

Dated August 30, 2010.

FOR THE COMMISSION

J. William Brammer, Jr.
Commission Chair

Copies of this order were mailed
to the complainant and the judge
on August 30, 2010.

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

ATTORNEYS

May 17, 2010

MAY 19 2010

Honorable Antonio F. Riojas, Jr.
 Presiding Judge
 Tucson City Court
 P.O. Box 27210
 Tucson, AZ 85726-7210

Your Honor:

I am writing to complain about an incident that took place in Judge courtroom on Thursday, May 13, 2010, because I don't know what else to do. I had three hearings scheduled for 1:30 p.m. that day before Hon. We showed up precisely at 1:30, but Judge had already dismissed our cases.

My client is Highland Free School, a charter elementary and middle school. The hearings included two contested injunctions against harassment by the ex-husband of a Highland Free School teacher. Since his divorce, Mr. has embarked on a "community justice" movement to force his wife to return to him. To this end, he asked Highland Free School's to intervene and insist that Mr. ex-wife attend marital counseling and mental health counseling as a condition of her employment. When Mr. refused, Mr. began a campaign, including sending letters to the media and the charter school board; defamatory postings on Craig's List, Facebook, and other local websites; and harassing and threatening emails and texts to Highland Free School parents and teachers. These communications include veiled suicide threats and cryptic messages about how the school community will have "blood on their hands" if they don't help him.

When Mr. two Highland Free School teachers, and I showed up to Judge courtroom, there was a man sitting at one of the tables. He and the judge appeared to be speaking. Another attorney, was also there. He is

Hon. Antonio F. Riojas, Jr.
 May 17, 2010
 Page 2

representing Mr. _____ ex-wife. As I was getting my clients settled in, I heard the judge say something to the man about dismissing the cases. I began to approach the court clerk when the judge called Mr. _____ name.

I had not realized the man sitting there was Mr. _____. No one recognized him. I identified our group as the Highland Free School/_____ group and the judge told me he had just dismissed our two hearings regarding Highland Free School and a teacher's injunctions against Mr. _____.

We were shocked. I looked at the clock; it was then about 1:35. I protested that we had been there, were just sitting down. He told us since we weren't there at 1:30 precisely, he dismissed our cases. But we had been there, I said. The teachers started to cry and said that they were there to protect the children at the school, couldn't he do something? The judge said he had nine hearings scheduled. That may have been true, but we were the only ones in the courtroom. The judge said something about it being a rule set down by the City Council and having to do with the furlough and we had to go downstairs and file another injunction.

We proceeded to the hearing on the injunction Mr. _____ had taken against Mr. _____ which Mr. _____ had never contested. Nevertheless, it was set aside.

At the end of the hearing, I was waiting for the papers from the clerk and the judge said something somewhat apologetic to me. I was furious. I said that I did not mean to be disrespectful, but that I was very angry. I repeated that we had been there on time, and he had time allotted for **three** hearings, yet he dismissed our cases while he could have set aside the dismissals. While he may have had nine hearings scheduled, time for three hearings was allocated to us. He should never have dismissed them in the first place. *We were on time.* Attorney _____ was there and can confirm this. Judge _____ apologized and said it was a rule he had to follow and that I should complain to the City Administrator.

It took us over two hours to file our injunctions for the second time. The judge who approved them shook his head and said he always waits at least 15 minutes for a party to show up before dismissing a case. We also noticed that not one single clock in the Tucson City Court is on time. The clock in the waiting room to get our injunctions

Hon. Antonio F. Riojas, Jr.
 May 17, 2010
 Page 3

was ten minutes off. We took our cell phones up to Judge [redacted] courtroom; sure enough, it was off by three minutes. It was outrageous that we filed into the courtroom and Judge [redacted] dismissed our cases without even asking if we were the ones there for the hearing.

It has now been four days since Judge [redacted] dismissed our hearings. We have not been able to serve Mr. [redacted] because he is evading the server. We have had to pay to re-file and hire another process server. I had to wait two hours with my client to re-file the injunctions. The school, which had half of its small full-time staff away from school for this event, lost valuable class time and had to find substitute teachers. And it will have to again, if we are ever able to get Mr. [redacted] served.

People are jaded enough about the legal system without a judge claiming he is sticking to the rules by dismissing their cases right in front of them and then blaming it on the City Council. Hearings may be commonplace for a judge in a city court, but for your average Joe, coming to court, filing an injunction, and attending a hearing is a big deal. It is not done lightly; people do it because they need to be protected. To have a judge dismiss Highland Free School's injunctions because he claims we were late—which we were not—is insulting, infuriating, and depressing.

I would ask you to contact [redacted] for confirmation of the events as I have described them. He can be reached at [redacted]

c: Commission on Judicial Conduct ✓
 1501 W. Washington Street, Suite 229
 Phoenix, AZ 85007