

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 11-023

Complainant: No. 1410710795A

Judge: No. 1410710795B

ORDER

The complainant alleged that a hearing officer ruled in his favor at the conclusion of his small claims hearing but when he received the decision in the mail, the finding was for the plaintiff. He believed the hearing officer changed his ruling after engaging in ex parte communications with the plaintiff following the hearing. The commission listened to the recording of the hearing and found no evidence of ethical misconduct. The hearing officer did not make a ruling at the conclusion of the hearing; rather he took the case under advisement and mailed his decision to the parties. There is no evidence that the hearing officer engaged in ex parte communications. Accordingly, the complaint is dismissed in its entirety pursuant to Rules 16(a) and 23.

Dated: June 3, 2011

FOR THE COMMISSION

/s/ Keith Stott

Executive Director

Copies of this order were mailed to the complainant and the judge on June 3, 2011.

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

January 18, 2011

COMPLAINT AGAINST A JUDGE

Judge's name: Hearing Officer

Case CV09- was heard before Hearing Officer on January 7, 2010 at 2:00 p.m. Present were the Plaintiff, , the Plaintiff's translator, Raymond Beltran, and the Defendant, . The proceedings were recorded electronically.

The issue before the court was whether failed to hold the pledged property for the legal length of time. The testimony and documentation by showed clearly that the law was followed. Accordingly, HO ruled for the Defendant, stating "Plaintiff, you have not proven your case, and I rule for you, . I will take it under review to check for how long you must hold goods past the maturity date." This quote is taken from the audio CD of the recorded testimony.

After the ruling, the Defendant proceeded to exit the courtroom. However, the Plaintiff continued to converse with HO . If there was further presentation of the Plaintiff's case, then the proceedings should not have been closed and the Defendant should have had an opportunity to refute any additional information from the Plaintiff. In addition, this conversation was not recorded.

 received the Judgment dated January 12, 2010, that the Plaintiff was awarded the sum of \$1119.00, a complete reversal of the original ruling. There was no explanation and no citation of the law or statutes to justify the reversal.

On February 1, 2010 and again on July 26, 2010 wrote Motion to Vacate Judgment appeals. Both were denied, again with no justification to what constituted the grounds for the reversal. On July 26, 2010, the Defendant filed a Motion to Clarify the Judgment. The response dated December 7, 2010, gave no justification for the reversal of the ruling. Finally, the Defendant filed a Grievance Against Hearing Officer with the Court Administrator, dated December 7, 2010. Again, nothing happened and there was no clarification for the reversal of the ruling.

In summary, no judge or hearing officer should reverse a ruling without being very clear as to which law or statute constitutes the basis for such an act. Also, it is unethical to continue to hear one party when the other is not present, and specifically, to not record the exchange so there can be no question of impropriety. A copy of the CD is enclosed for verification of the proceedings.

Respectfully Submitted,