

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 11-092

Complainant: No. 1416500214A

Judge: No. 1416500214B

ORDER

The complainant alleged that a justice of the peace was biased, did not allow him to present his evidence, improperly conducted fact-finding, and made incorrect rulings. After considering the allegations, the judge's response, and listening to the recording of the hearing, the commission found no ethical misconduct on the part of the judge. Accordingly, the complaint is dismissed in its entirety pursuant to Rules 16(a) and 23.

Dated: July 20, 2011.

FOR THE COMMISSION

/s/ George Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on July 20, 2011.

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

Name:Judge's Name:

Judge handled this case with bias from the beginning. I did not receive a fair and impartial hearing. I believe evidence was obtained and witnesses were spoken to that were not a part of the courtroom hearing proceedings and this had an influence on the ruling.

Oct 8,2010- Plaintiff filed his case and went before Judge (This was recorded.)

Oct 11,2010- I found Court Summons lying on front porch when I returned home. I came home at 3:00 p.m. (Columbus Day). What would have happened had the wind blown this away, I was out of town or in the hospital? Would it have been considered served? Would a bench warrant have been issued for my arrest for not showing up in court? Seems as though this was a rush to judgment.

Oct 13,2010- I went to court expecting a preliminary hearing. The case would be dismissed, or a temporary injunction issued and case scheduled for a future trial date. I never expected to go to trial with a one-day notice. I did not even have enough time to submit a written response to the allegations. The Guide to Arizona Courts, Judicial Process at Work, civil lawsuit guidelines, sure did not apply in this case.

Judge entered the courtroom and gave me the meanest look. It made me feel guilty just by being there. Judge asked do ya'll want a hearing or mediation? The Plaintiff stated " I want a hearing, I want this over with today". Judge asked if I had any witness's? I motioned towards Ms Judge again got a mean look and just stared at Ms

The judge asked the Plaintiff and he stated two or three but one had not showed up yet. Witnesses were allowed to remain in the court.

Judge proceeded with the hearing.

Plaintiff did not have or produce any documents or proof of any kind to substantiate the allegations he made. Judge asked the Plaintiff several times if he had any documents from the county and why he did not have these documents? Plaintiff replied the County would not let him have them. Plaintiff went on for 30 minutes with hearsay, rumors, lies and allegations

about everything that has happened in the community for the past 10 years that he could blame on me and offered no proof what so ever of anything.

As I was questioning Mr. _____ a witness for the plaintiff, the Judge stopped me and said you are testifying and this is the time for questions. I started with Mr. _____ by saying, "are you telling this court ---?" I thought that was a question.

Mr. _____ (plaintiff) and his witnesses were allowed to testify with hearsay, rumors and lies. No evidence or proof about what was said at all.

As I started to present my case I tried to give Judge _____ the evidence I had. The pictures and county complaint forms. Judge _____ would not accept or even look at the documents. These were the very same documents she had asked the Plaintiff several times if he had them. Mr. _____ has been reported five (5) times to the county, three (3) times by other people and two (2) times by myself. Mr. _____ testified I had reported him ten (10) times. These documents would have proven the Plaintiff was not being truthful.

I was describing an action the Plaintiff had committed but did not know if I could curse in court. I looked at Judge _____ and she burst out "NO" very loudly. Again I felt like why am I even here.

Judge _____ asked me several questions, all of which seemed to me, only was in support of the Plaintiff's case.

The Plaintiff had no evidence, which did not seem to matter and the Judge would not even look at mine.

The hearing ended and the Judge stated you will have my ruling in 10 days. You can appeal my decision to the Superior Court if you want. I probably will still refer this to mediation. What was the big rush? Why did I not have time to prepare a defense? (Proceedings were recorded.)

As Judge _____ and the clerk stood to leave the courtroom I heard Judge _____ tell the clerk "call the county office and see what the requirements are for submitting a complaint, county regulations don't mean anything".

Oct 20,2010- Ms. _____ county complaint investigator, called to tell me the results of her investigation of Mr. _____. The pictures could not be used as the vehicle was facing the opposite direction in one of them.

I asked Ms. _____ if the _____ court had spoken with her in the past week? She said, no, but they may have spoken to one of my bosses, Mr. _____ assistant department head or Mr. _____ department head.

Oct 25,2010- Deputy served injunction papers. Asked him if he brought the summons? Said "yes". I asked how did you get in the gate was locked? I climbed through the fence. In cases like this I can leave them anywhere, in the mailbox, on the gate or like yours lying on the porch. Have 10 days to file appeal.

Oct 26,2010- Picked up appeal papers at court. Court staff barely spoke to me, given a cold shoulder.

Oct 27,2010- hired an attorney to represent me in my appeal. Mr. _____

Requested CD of hearing from court. Again cold and very unfriendly court staff.

Received Court ruling and Mediation notice in mail. Judge _____ wrote in this ruling, dated Oct 25, 2010, in part "It does not appear that _____ has filed frivolous or false complaints with the agency". How did Judge _____ know this when she accepted no county documents at the hearing? It goes on to say "_____ photographed _____ property over several days". How did Judge _____ know this as she did not take any photographs into evidence during the hearing and there was no testimony as to the number of days that photos were taken that I can recall? It further says "representative of _____ Development Services have offered to participate in a question and answer session" and this "will be held Wednesday Nov. 10, 2010 in the courtroom of the _____ a mediator will be present". This information had to have been obtained between Oct 18-21, 2010, county office closed on Fridays, and the complaint with the pictures

was not investigated and completed until Oct 20, 2010. There were only two (2) copies of the date stamped pictures. I had one (1) and the county had the other. Judge did not accept or look at mine in court.

Who in the court contacted the county office? What was said and what information/evidence was received? Why did I not have the opportunity to question or be present when the person to whom they spoke was questioned/providing evidence? Obviously it was detrimental to me or it would not be in Judge ruling. Was there any information that would have helped me? Does the court seek out evidence on it's own when a litigant does not have evidence of their own?

Nov 1, 2010- Picked up CD at court and took it to Mr. I commented to him how the court staff was so cold and would barely talk to me. Before the hearing the clerk would visit with me at my residence and when I went to the court would talk and be friendly towards me.

Nov 8, 2010- Called Ms. Alternative Dispute Resolution Services, regarding the mediation session that was scheduled for Nov 10, 2010. I told her a judgment had already been rendered and my attorney was filing an appeal. Ms. said she needed to speak with my attorney that this mediation was going to be conducted different. The judge had requested a meeting with the county P&D office to take place just prior to the mediation. I called Mr. and left message. Mr. returned call later and said he had spoken with her and I needed to meet him tomorrow morning at his office.

Nov 9, 2010- Met Mr. at office. He made up and I signed the Notice to Appeal papers. Mr. told he was going to the Justice Court to file this and his Notice to Appear papers. I asked if he would attend mediation with me? Said attorneys are not needed there, they only get in the way.

Nov 10, 2010- went to court for meeting/mediation. Ms. county complaint investigator, represented the county. Judge sat in on the question and answer meeting. Judge stated this was just a meeting and no new evidence could be added to the case.

Ms. informed the meeting that Mr. has only filed two (2) complaints against Mr. and that she herself caught him one time. Judge asked Ms. if the photos taken were of any use? Ms replied "no". Judge then left the meeting.

Why would Judge ask this question? She had already addressed this in her ruling on Oct 25, 2010.

Mr. then accused Ms. and the county of miss-filing/losing documents. This went on until the deputy finally stopped him. What was the purpose of this meeting? There was not another trial/hearing in the case. This was held a month after the trial and weeks after the ruling was issued. (This meeting was recorded.)

This meeting broke up and the mediation session started.

Nov 11, 2010- requested CD of meeting with county from court. Court staff very friendly and polite.

Nov 18, 2010- picked up CD from meeting with county at court. Told clerk I was taking it to my attorney, hesitated, and the clerk said " " I replied yea that's him. Took CD to Mr. While there I mentioned to Mr. how friendly and polite the court staff was now, they had made a 180-degree turnaround in attitude. Mr. told me he had a conversation with them when he filed my Appeal Notice and they probably had a better understanding with regards to me now.

Nov 22, 2010- Requested CD from court for when Mr. went before Judge on Oct 8, 2010.

Nov 24, 2010- picked up CD from court. Clerk told me my Appeal paperwork is going to be sent to Superior court on Monday Nov 29, 2010. Informed Mr. of this.

Dec 1, 2010- spoke with Mr. Ready to handle appeal.

Jan 11, 2011- court informed me that the Superior Court had requested all of the recordings from hearing to be sent to them. This was requested a week or week and half-ago, between Christmas and New Years.

Mar 1, 2011- Received letter from Superior court. Case dismissed, not perfected. Called Mr. and left message.

Mar 2, 2011- went to Mr. office. He told me he had just returned from the Superior Court records, had looked at the records and that his Notice to Appear had not been put in the Court records.

Mar 4, 2011- I went to the Superior Court Appeals records clerk and obtained a copy of the Court records. I learned Mr. had been having problems with his license. It was suggested I check out Mr. I learned that Mr. was suspended when he took my case and did not get reinstated until Nov 19, 2010. I trusted in Mr. when I hired him and had no reason to check him out, he is a lawyer.

If the court knew of this, and I am pretty sure they did, why was it not mentioned to me? Is there any obligation on the court to inform me of such problems with an attorney? The court staff all knew I had hired Mr.

I have been in the Justice Court ten (10) times since Nov 9th and no one said/mentioned a word. Was this a case of do not say anything and just let time run out? Another benefit for the

What happened to Mr. Notice to Appear that was filed on Nov 9, 2010? Why did court staff attitude take such a change after this date?

Since Mar 4, 2011 I have spoken with several others in the legal profession and they all know of the problem Mr. had.

Is this a situation of client beware?

This case has been anything but fair and impartial.

Plaintiff that went before the Judge two (2) times, Oct 8 and Oct 13, 2010, with his case.

Court summons left lying on the porch.

Only one day notice to prepare case for court, get witnesses, consult with legal counsel and obtain documents.

The judge asking questions of me that only benefited the Plaintiff.

Evidence/testimony/information obtained by the court from person/persons without my knowledge against me.

Mediation session held after a ruling already made and an appeal filed. What was the purpose in this? Plaintiff was not going to negotiate on a judgment he already had. I was not going to do anything that might hurt my appeal. So what was mediation for? Appears as though it just took money in for the State.

My attorney did nothing with the Appeal after he visited the Justice Court on Nov 9, 2010. I do not have any proof of what took place, if anything, at the Justice Court but I sure have a suspicion. Mr. led me to believe that he was handling the case the whole time right up until I received the dismissal letter.

If one were to look at the Court records it looks as though I did not even participate in the proceedings. The only papers on my behalf is the Notice to Appeal, summons, judgment and cash receipts.

Do I have trust or confidence that the Justice Court administered the law fairly? Not hardly.

Thank you for your time and attention to this matter.