

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 12-014

Complainant: No. 1433910954A

Judge: No. 1433910954B

ORDER

The complainant alleged that a justice of the peace improperly denied her access to public court records.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the judge engaged in conduct that violated the provisions of Article 6.1 of the Arizona Constitution or the Code of Judicial Conduct and, if so, to take appropriate disciplinary action. The purpose and authority of the commission is limited to this mission.

After reviewing the allegations, the judge's response, and the recording of the hearing in question, the commission decided to dismiss this matter with a private advisory comment to the judge. The complaint is dismissed pursuant to Rules 16(b) and 23(a).

Dated: April 6, 2012.

FOR THE COMMISSION

/s/ Louis Dominguez

Louis Frank Dominguez
Commission Chair

Copies of this order were mailed to the complainant and the judge on April 6, 2012.

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

TO: Arizona Attorney General Tom Horne
 Attorney
 Arizona Commission on Judicial Conduct
 Superior Court Administrator

FROM:

RE: Complaint against Judge and his staff regarding denial of
 inspection of public records request at Justice Court

DATE: January 9, 2012

This is my formal complaint against Judge and his staff at the Justice Court in Arizona regarding their denial of my request to inspect a public record at Justice Court on Jan. 5, 2012. I am now attaching a written request for that record.

On Thursday afternoon, Jan. 5, 2012, I drove 45 miles from my newspaper office in to the Justice Court in Arizona for the purpose of inspecting a traffic citation case involving someone from who I have written about in the past. I expected both the file and my visit to the court to be brief.

Upon entering Justice Court, I verbally informed the receptionist at the front window what I wanted. Rather than ask me to fill out a public record inspection request form, the woman surprised me by telling me to go talk to the judge in the courtroom. The judge was not in the courtroom, but one of his assistants was. I gave her the case number, and she told me to wait in the lobby. After some waiting, I was told to talk to Judge in his office.

The judge (who indicated that he was holding the documents in his hands, but they weren't bound in a normal court folder) asked me if I was related to the man who received the traffic citation, and he asked me why I wanted to see the file. I told the judge I was not related to the man, and that I did not have to tell him why I wanted to inspect the file because it was the right of all citizens to inspect public records. Judge told me he didn't have to let me see the file because he was the judge and his decision was what mattered. I told him that he still was subject to state law, and he couldn't violate law regarding the inspection of public records. Judge said he and his staff generally don't allow anyone to inspect a court record unless the requesting person is the person cited in the file. I told him again he had a duty to follow state law. Judge then said he couldn't let me inspect the file

because it contained confidential information such as the man's social security number and birth date. I told him he could make a copy of the documents and then redact those pieces of confidential information. He then said I would be able to see the file and told me to wait in the lobby.

A few minutes later, his assistant came out and told me I would have to pay \$24 for the file. I told her that was an unreasonable copying fee and that a reasonable fee was not more than one dollar per page. I also told her I had not asked for a copy of the file – I had only asked to inspect the file. She said I had to pay the \$24 fee regardless. I told her I was going to call the Apache County Attorney to complain, and she told me to go ahead and call.

As I stood in the court lobby, I attempted to call the Apache County Attorney and officials at the Apache County Superior Court. I was told by receptionists at both offices that the officials were out of the office, and I was advised to submit a written complaint. As I was completing my telephone calls, Judge _____ came out to the lobby to talk to me. He showed me a legal sized paper that listed a variety of court fees. He showed me the \$24 fee was for "research in locating a document" (see attached). I told him that neither he nor his staff had researched the case for me – that I brought the man's name and court file number into court with me. I told him the \$24 copying fee was unreasonable for two or three pages of documents, and I told him I had never asked for copies – I had just asked to inspect the file. At some point in our conversations, he admitted he had been a judge for only about one year. I told him again he and his staff were violating Arizona state law regarding the inspection of public records. I then left the court.

In my nearly 12 years as a reporter, I have made court record inspection requests in a variety of Arizona justice and superior courts in Apache County, Navajo County, Coconino County, and Maricopa County. Those requests have always been filled in a prompt and professional manner. I have never before had an Arizona court official deny my inspection of a court record.

The community around _____ Justice Court is primarily _____ therefore, if Judge _____ and his staff are routinely denying access to public records to local community members just as they denied me, then I can only conclude that Judge _____ and his staff are most probably denying a large number of citizens, particularly _____ citizens, their right to lawfully inspect Arizona public records.

cc:

Kathryn Marquait, Arizona Ombudsman
 Arizona Center for Law in the Public Interest
 American Civil Liberties Union of Arizona