

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 12-056

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Complainant: No. 1399110664A

Judge: No. 1399110664B

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**ORDER**

The complainant alleged that a municipal court judge improperly refused to act on a case.

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 review, the commission decided to dismiss this matter with a private warning urging the judge to pay closer attention to orders previously issued in a matter and the procedural posture of a case before issuing subsequent, related, orders. The case is dismissed pursuant to Rules 16(b) and 23(a).

Dated: May 31, 2012.

FOR THE COMMISSION

\_\_\_\_\_  
Louis Frank Dominguez  
Commission Chair

Copies of this order were mailed  
to the complainant and the judge  
on May 31, 2012.

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

**CONFIDENTIAL**

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

**FOR OFFICE USE ONLY**

**2012-058**

**COMPLAINT AGAINST A JUDGE**

**Your name:** \_\_\_\_\_ **Judge's name:** \_\_\_\_\_ **Date:** 3/1/2012

**Instructions:** You can use this form or plain paper of the same size to file a complaint. Please describe in your own words what the judge did that you believe constitutes judicial misconduct. Be specific and list all of the names, dates, times and places that will help us understand your concerns. You may attach additional pages but not original court documents. Print or type on one side of the paper only, and keep a copy of the complaint for your files.

This complaint relates to \_\_\_\_\_ of the Paradise Valley Municipal Court, as well as any judges of the Paradise Valley Municipal court with supervisory authority for the performance of \_\_\_\_\_ and involves a matter where \_\_\_\_\_ has refused to act on a case which has been remanded to the trial court after appeal, with specific instructions, and despite repeated requests to process the matter.

I represent a defendant in a Civil Traffic matter (Photo Enforcement), \_\_\_\_\_ in Case # \_\_\_\_\_ in the Paradise Valley Municipal Court. \_\_\_\_\_ conduct in that matter was also a part of a prior complaint, 10- \_\_\_\_\_ which resulted in the Commission issuing a private advisory to \_\_\_\_\_

Following \_\_\_\_\_ judgment against the defendant, the case was appealed to the Superior Court's appellate division.

On or about June 14, 2011, the Superior Court as the appellate court ordered that the trial court submit an audio recording of the service hearing and the bench trial within 30 days, and, if they were not provided, ordered that a new service hearing and new trial be set. (Superior Court Minute Entry filed on 6/16/2011).

A review of the Superior Court record reflects a notice from the trial court, signed by Judge \_\_\_\_\_ and filed 7/13/2011, stating that the trial court "will set a new process service hearing and a new trial". Inexplicably, said notice was never sent to undersigned counsel, but later retrieved from the Superior Court, and equally inexplicably, no new service hearing or new trial were set.

On Dec. 12, 2011, defendant by undersigned counsel filed a Request for Summary Disposition with the trial court, requesting, among other matters, that the case be dismissed in the interest of justice and due to the significant delay, at that time nearly 6 months since the Superior Court's order, 18 months since the original service hearing, and 22 months since the alleged violation.

On Dec. 19, 2011, the \_\_\_\_\_ issued a minute entry and order, denied defendant's request, finding that the Superior Court "requested a new copy of the hearing", that the trial court "complied with that order", and that the Superior Court "still has the matter under consideration."

In effect, it appears that \_\_\_\_\_ has frustrated defendant's efforts to correct \_\_\_\_\_ erroneous judgment by incorrectly claiming that the case has not been remanded and incorrectly claiming that new copies of recordings were provided to the Superior Court, and this despite the Paradise Valley Municipal Court's own minute entry and order which conflicts with his holdings, and despite defendant's repeated attempts to address these compounded errors.

I believe that \_\_\_\_\_ conduct, as briefly outlined above, violated the Code of Judicial Conduct.

In particular, I believe that \_\_\_\_\_ violated a number of the Rules, and that his conduct is such that likely brings the judiciary into disrepute, and that his conduct here shows a pattern of ignoring well established law. I will briefly review the violations of the relevant rules which I perceived, below.

**RULE 1.2. Promoting Confidence in the Judiciary**

erroneous assertions contradicted by his own court's record and the Superior Court's orders are plainly mistaken, absurd, and ones that must shake the public's confidence in the judiciary. I was shocked by unconditioned and unqualified assertion that new recordings had been provided to the Superior Court and that the Superior Court continued to exercise jurisdiction, which are contrary to the record.

**RULE 2.2. Impartiality and Fairness.** A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

holding appears a gross misstatement and misapplication of the facts and procedural posture, as well as creating at least the appearance of unfairness and an absence of impartiality.

**RULE 2.5. Competence, Diligence, and Cooperation.** (A) A judge shall perform judicial and administrative duties competently, diligently, and promptly.

conduct in this matter appears to have caused a significant and unjustified delay in the administration of justice, and severely impaired the defendant's right to have issues resolved without unnecessary cost or delay. It has now been over 8 months since the Superior Court's order, over 20 months since the original service hearing, and over 24 months since the alleged violation.

**RULE 2.6. Ensuring the Right to Be Heard.** (A) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.

unjustified refusal to duly process this matter on the remand of the Superior Court has prevented the defendant from being fully heard.

**RULE 2.7. Responsibility to Decide.** A judge shall hear and decide matters assigned to the judge, except when disqualification is required by Rule 2.11 or other law.

unjustified refusal to process this matter on the remand of the Superior Court appears a plain failure to decide matters assigned to him.

**RULE 2.12. Supervisory Duties.** (B) A judge with supervisory authority for the performance of other judges shall take reasonable measures to ensure that those judges properly discharge their judicial responsibilities, including the prompt disposition of matters before them.

As applicable, the presiding judge or supervisory judge responsible for the performance of [redacted] has also failed to ensure that [redacted] properly discharges his judicial responsibilities, and in allowing [redacted] contumacious conduct. Moreover, in light of [redacted] cited in complaint 10-201, and the Commission's order thereafter, assigning this matter to [redacted] further creates at least the appearance of unfairness and an absence of impartiality.

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Please communicate with me regarding any action upon my complaint.