

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 17-007

Judge:

Complainant:

ORDER

The complainant alleged a pro tem superior court judge made an improper ruling in a traffic 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.

The commission does not have jurisdiction to review the legal sufficiency of the judge's rulings. In addition, the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23(a).

Dated: February 22, 2017

FOR THE COMMISSION

/s/ George A. Riemer

George A. Riemer
Executive Director

Copies of this order were distributed to all appropriate persons on February 22, 2017.

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

2017-007

COMPLAINT AGAINST A JUDGE

Name: _____ Judge's Name: _____

Instructions: Use this form or plain paper of the same size to file a complaint. Describe in your own words what you believe the judge did that constitutes judicial misconduct. Be specific and list all of the names, dates, times, and places that will help the commission understand your concerns. Additional pages may be attached along with copies (not originals) of relevant court documents. Please complete one side of the paper only, and keep a copy of the complaint for your records.

This case started on _____ when I arrived at the _____ to
purchase a permit from the _____ for transporting an RV to _____
located in _____ While stopped at the _____ my truck and paperwork
were inspected by _____ After inspecting all
my paperwork, _____ fabricated charges against me by misquoting _____ regulations and
then under his threat, demanded I sign the logbook pages even though the most recent one he did
not allow me to complete the time entries. He also accused me for operating my leased pickup truck
as a commercial vehicle for the past two days when the driver logs showed it was operated as a non-
commercial truck on a "deadhead" trip back to _____ with no commercial loads. It was
never our intent to haul trailers both ways to and from _____ The logs reflected the non-commercial
status yet _____ ignored the log entries and charged me for operating a commercial truck
and falsifying log book entries. The fact I completed driver logs when the operation was not under
regulations was at the request of _____ and not because of _____ Regulations.
_____ even had the driver's complete logs when we were not driving.
The applicable _____ Regulations pertaining to this case are as follows.

PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL

§390.3 Subpart A—General Applicability and Definitions

(a)(1) The rules in subchapter B of this chapter are applicable to all employers, employees, and commercial motor vehicles that transport property or passengers in interstate commerce.

§390.5 Definitions

Commercial motor vehicle means any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle—

- (1) Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or
- (2) Is designed or used to transport more than 8 passengers (including the driver) for compensation; or
- (3) Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or
- (4) Is used in transporting material found by the Secretary of Transportation to be hazardous.

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The regulations show that in order for a truck to be classified as a commercial vehicle it must be transporting the property of another in interstate commerce. An example is delivering RVs to various parts of the state. Passenger carrying is not a factor because the truck is not properly equipped. If this was a commercial truck then why didn't anyone mention a missing bill of lading which is required by regulation? It did not exist because this operation was not commercial. Evidence submitted by the prosecuting attorney, _____ and my testimony supported my contention that this truck cannot be considered a commercial vehicle because of three areas:

Area #1 - My testimony regarding _____ Not one part of my testimony was challenged or contested.

Area #2 - The drivers log entered into evidence by _____ contained the word "Deadhead", written in the upper right hand corner of the log. _____ pointed to this classification himself. Its meaning is that there is no property of another on board the truck (RV Trailer), and no remuneration had been received. No testimony or evidence was presented showing the contrary.

Area #3 - _____ testified that on commercial trucks, a Bill of Lading number is entered in the upper right hand corner of the log in place of the word "Deadhead." There no bill of lading number appeared anywhere on the driver's log, just the word deadhead.

Considering these three Areas no evidence exists or existed that would qualify the truck to be considered a commercial vehicle (ref 390.5). Its appearance was that of a private truck traveling along the highway not having to stop at _____ Inspection or weigh stations.

The documentation _____ placed into evidence was a copy of the drivers log taken from me on the _____ testified under oath that this log contained the word "Deadhead". In addition _____ was asked by _____ if it was a commercial operation wouldn't there be a number of the Bill of Lading in the place of the word Deadhead and he answered "Yes". The definition or the intent of the word Deadhead means that there is no property of another on board this truck and/or no remuneration was received in any manner or form.

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

FOR OFFICE USE ONLY

2017-007

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During the _____ told me if I appealed his decision, I would have to do it through the courts. This required me to file an appeal within two weeks and just waiting for the judge to send me his decision and to receive the transcripts of the trial, it was more than the limit of two weeks. I am not an attorney and hiring one would have exceeded the money I have already spent on this case.

At the beginning of the trial, _____ stated there must be a preponderance of evidence for the state to win the case. In this matter the preponderance of evidence existed with and not against me yet the Judge made a decision that the truck was a commercial operation, against everything placed before him into evidence during the trial.

The decision of _____ is a classic example of a Miscarriage of Justice.

I feel this unsupported decision by _____ only supports the illegal activities being conducted by the _____ personnel and its officers when inspecting drivers and their trucks.