

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 17-294

Judge:

Complainant:

ORDER

The complainant alleged a justice of the peace set a hearing without adequate notice, gave improper legal advice to a party, engaged in ex parte communications, and made derogatory comments about an elected official during a court hearing.

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 found the judge's negative, derogatory, and potentially profane comments about an elected official during a court hearing were inappropriate and did not inspire confidence in the judiciary. While these comments were improper under Rules 1.2 and 2.8(B), the Scope Section of the Code of Judicial Conduct provides that it is not intended that every transgression will result in the imposition of discipline. The commission decided, after considering all the facts and circumstances, to dismiss the complaint pursuant to Rules 16(b) and 23(a), but to issue a warning letter to the judge to refrain from making similar comments in the future.

Dated: January 31, 2018

FOR THE COMMISSION

/s/ Louis Frank Dominguez
Hon. Louis Frank Dominguez
Commission Chair

Copies of this order were distributed to all appropriate persons on January 31, 2018.

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

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2017-294

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.

SEE ATTACHED LETTER

To whom it may concern:

My name is _____ I am the _____

I had an eviction case for my tenant _____ at the _____ Court, Case # _____
on _____ which was handled by _____

The eviction Judgment was stipulated to by the tenant and provided that the _____ and _____ as
The tenant did not follow through on her promises and ended up being evicted and removed from the home by the _____

On _____ filed a motion to set aside the original ruling from _____
My attorney _____ was only informed by the Court by telephone _____ of _____
that there was a court date set for _____

On _____ the court hearing started. During the first few minutes of the hearing
Judge _____ first informed us that he had met with and talked to _____
as he was at the _____ somebody else. A _____ after that the judge also let us
know that when he had met with her he reviewed the case and asked _____ a couple of
questions, and that he then _____ Neither myself nor my attorney was
present or given adequate time to respond to the allegations before having to appear for the hearing

_____ the judge started making negative and derogatory comments about
_____ that he was not reachable and was not returning his phone calls, which was
supposedly making our case a bit more difficult. I thought it was highly irregular and unprofessional for
the Judge to do that. The _____ has been very good about communicating and we had no issues
getting a hold of him when we needed him.

After hearing all arguments, Judge _____ saw that the tenant did not follow through with her
agreement and upheld the original ruling.

At that point, the Judge should have been done with this hearing. However, he continued on because
the tenant had brought up her belongings left in the property, and her complaint about not being able
to retrieve her items without having to pay some expenses. Even though the Judge had no jurisdiction to
make any comments, ruling or give legal advice, he continued to inappropriately and incorrectly inform
_____ that the landlord/management company could not charge for storing her belongings and
that we should make arrangements for _____ just to get her belongings. Not only did I feel that
was inappropriate, but it was clearly wrong in light of A.R.S. 33-1368(F). The Judge also asked if I held
any deposits, to which my attorney replied _____ The Judge then stated that this was what deposits were
for and that the landlord should just take the money out of the deposit for moving/storage fees incurred
since the eviction, obviously ignorant of the fact that the deposit had long ago been depleted by unpaid
rents and eviction fees and costs. _____ eminded the Judge that there was not a case in front of

him. The Judge agreed, but he still continued on with his “ ” about the handling of the personal property.

Needless to say at this point we are still struggling to get the tenant's belongings out of the home, but the tenant continues to rely on and recite what the Judge said during the hearing, which was that we could not charge for moving or storage fees, even though that advice was contrary to the above law, and was unsolicited legal advice given outside the scope of the eviction matter.

Between the decision to allow this case to be heard again and the ongoing issue of the belongings, it has costed my client/property owner a lot more money in legal fees than in any normal eviction case due to some bad and unethical decisions the Judge made.

I have researched the judicial rules and believed the Judge violated the following ethical rules:

Rule 1.1: The Court *ex parte* set a hearing in less than 24 hours, even though the tenant had already been evicted. The eviction rules only permit the Court to set an emergency hearing if possession is still an issue.

Rule 1.2, Rule 2.2, Rule 2.3. The Judge hardly appeared impartial considering that he engaged in a conversation with the tenant at the window and granted both of which were done *ex parte*. It also was improper for the Judge to make negative comments about the in open Court.

Rule 26. The Court attempted to force a settlement of a case which did not yet exist, and in which he had no jurisdiction-namely, the recovery of personal property AFTER the tenant had already been removed from the property.

Rule 2.9. The Judge communicated *ex parte* with the defendant and ruled to set a hearing without allowing a response from the Plaintiff's attorney, violating both the ethical rules and procedure rules for evictions.

Rule 2.10(B). The Judge should not have addressed any issues regarding the personal property, since that was not a civil case in front of him. In fact, Judge was not even the Judge who originally signed the stipulated judgment.

Rule 3.10. The Judge should not have given legal advice to the parties when there was no civil case before him.

I have a copy of the transcript from the hearing, which I can make available to you. Please contact me at the number and address above if you need any more information. Thank you for looking into this issue.