

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 19-078

Judge:

Complainant:

ORDER

July 10, 2019

The Complainant alleged a municipal court judge failed to follow the law, denied her the right to be heard, engaged in improper demeanor, and denied her due process.

The role of the Commission on Judicial Conduct is to impartially determine whether a judicial officer has engaged in conduct that violates the Arizona Code of Judicial Conduct or Article 6.1 of the Arizona Constitution. There must be clear and convincing evidence of such a violation in order for the Commission to take disciplinary action against a judicial officer.

The Commission does not have jurisdiction to overturn, amend, or remand a judicial officer's legal rulings. The Commission reviewed all relevant available information and concluded there was not clear and convincing evidence of ethical misconduct in this matter. The complaint is therefore dismissed pursuant to Rules 16(a) and 23(a).

Copies of this order were distributed to all appropriate persons on July 10, 2019.

Comp
2019-078

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

Complaint of Misconduct against Judge

Judge

Case Information

Name:

Number:

Status:

Attorneys appearing on this case:

Witnesses of Misconduct

To Whom it May Concern:

This complaint arises from misconduct committed by _____ at my hearing on _____

Issue 1: Violation of 16A A.R.S. Rules Crim.Proc., Rule 6.3 Part 2.

16A A.R.S. Rules Crim.Proc., Rule 6.3 addresses the ability of an attorney to withdraw from a case. The statute states:

(2) If the Case Is Set for Trial. After a case is set for trial, the court may not permit counsel to withdraw unless counsel files a motion that provides:
(A) the name and address of new counsel and a signed statement from the new counsel that acknowledges the trial date and avows that the new counsel will be prepared for trial;
or
(B) ethical grounds for withdrawing.

On _____ I was represented by my former counsel, _____ at a pre-trial conference. After refusing to accept the prosecutor's plea bargain, _____ and the Court set the trial date for _____. Immediately after setting the trial date, Mr. _____ requested that the Court allow him to withdraw as my attorney of record. Against my objections, the court granted his request despite the fact that Mr. _____ did not adhere to 16A A.R.S. Rules Crim.Proc., Rule 6.3 by timely filing and serving a motion that provided contact information of new counsel or ethical grounds for withdrawing. By granting the motion, _____ is in violation of Canon 1. Rules 1.1, 1.2 and 1.6 of the Arizona Code of Judicial Conduct.

Issue 2: Violation of Arizona Code of Judicial Conduct Canon 2. Rule 2.6 (A)

Rule 2.6 (A) states that 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. In more than _____ instances when I attempted to make statements during the hearing, I was abruptly cut off by _____. His misconduct resulted in me being denied the right to have my statements entered into the court record. Included with this complaint is a copy of the official court recording of the hearing that confirms _____ aforementioned misconduct.

Issue 3: Violation of Arizona Code of Judicial Conduct Canon 2. Rule 2.8 (B)

Rule 2.8 (B) states that a judge shall be patient, dignified, and courteous to litigants ... and others with whom the judge deals in an official capacity.... In more than _____ instances when I attempted to make statements during the hearing, _____ acted in an undignified manner, acted mockingly (when he remarked that _____) and was not courteous in his speech. Included with this complaint is a copy of the official court recording of the _____ hearing that confirms Magistrate's _____ aforementioned misconduct.

Issue 4: Denial of due process

Due to the blatant misconduct of Magistrate _____ at the _____ hearing that resulted in a rapidly approaching trial date and no counsel to represent me at said trial, on _____ I filed and served a Notice of Change of Judge and a Motion for Continuance of Trial Date. The latter document was filed so that I could secure counsel prior to trial. In my Motion for Continuance of Trial Date I indicated that a _____ trial date would present a hardship because I neither had counsel, nor reside in the State _____. Although I filed and served both documents on the same day and at the same time (_____), as of

this writing () I have received no correspondence from the court regarding my request for a continuance, and per the court calendar, the trial is still set for
However, on or about I received an order denying my request for a new judge.
Failure to timely issue orders related to motions filed by litigants and unfairly denying a peremptory challenge after grievous mistreat by a judicial officer constitutes a denial of due process.

Sincerely,

IN THE COURT
STATE OF ARIZONA

STATE OF ARIZONA,

Plaintiff,

vs.

Defendant.

)
) ORDER DENYING NOTICE OF CHANGE OF
) JUDGE

)
) Case No(s):
)
)
)

Defendant filed a Rule 10.2 Notice of Change of Judge on _____
The case has been assigned to Judge _____ since _____

IT IS ORDERED denying Defendant's Notice of Change of Judge
as it was not timely filed.

DONE IN OPEN COURT on this _____ of _____

City Magistrate

CERTIFICATE OF TRANSMITTAL

Copy of the foregoing
mailed/hand delivered this
_____ day of _____,
to: _____

Copy of the foregoing
mailed/hand delivered this
_____ day of _____,
to: _____

STATE OF ARIZONA

By _____

By _____

**THE COMMISSION'S POLICY IS
TO POST ONLY THE FIRST FIVE
PAGES OF ANY DISMISSED
COMPLAINT ON ITS WEBSITE.**

**FOR ACCESS TO THE
REMAINDER OF THE
COMPLAINT IN THIS MATTER,
PLEASE MAKE YOUR REQUEST
IN WRITING TO THE
COMMISSION ON JUDICIAL
CONDUCT AND REFERENCE
THE COMMISSION CASE
NUMBER IN YOUR REQUEST.**