

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 20-306

Judge:

Complainant:

ORDER

March 15, 2021

The Complainant alleged a justice of the peace did not afford him the opportunity to be heard and denied him due process in an eviction proceeding.

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 Commission Rules 16(a) and 23(a).

Commission member Roger D. Barton did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on March 15, 2021.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2020-306

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 narrative.

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See Attached Narrative

My name is _____ and I was a tenant in _____. I was evicted by Judge _____ on _____ for non-payment of rent. (See attachment A, Minute Entry from _____ hearing). The constable that served the Eviction stopped the eviction because my entire family had contracted COVID 19 and both my wife and I were laid off from our jobs due to COVID 19. I showed her the paperwork of the COVID-19 notice I had sent my landlord by mail on _____ (See Attachment B, COVID-19 notice to the landlord dated _____). I could not send it certified because all I had was a P.O. Box for his address. I am a _____ in the _____ and when the schools shut down in _____ I also _____ My wife, _____ was a caregiver for an elderly woman. She was laid off at about the same time because the woman's family did not want to risk COVID coming into the home. We had no family income from that point until I went back to _____. After the _____ hearing, I sent another notice on _____ to the landlord that indicated both my wife and I had lost income due to COVID-19. I had my wife video tape me putting into the mailbox. (See Attachment C, COVID-19 notice to the landlord dated _____).

After the eviction was stopped by the constable due to COVID concerns under the Governor's emergency order, the Plaintiff, _____ filed a Motion to Compel. Judge _____ granted that motion at the hearing on _____ "_____." She did not explain in the minute entry the reasons it was "_____." (See Attachment D, Minute entry from _____ hearing). I filed a motion to vacate the monetary amount of the Judgement because at the _____ hearing, I told the Judge he did not want the monetary amount included in the judgement. He did not want the back rent. All he wanted was possession of the home so he could put it up for sale. (See Attachment E, recording of _____ hearing). I wanted that judgement put to \$ _____ so I could appeal the Judge's decision but with a \$ _____ judgement, I would have to put that much up for a bond. I could not afford that bond. She denied my motion without hearing. (See Attachment F, Motion and order of _____ and _____ respectively). As a result, I could not appeal.

I also filed a Motion to Reconsider on _____. Judge _____ denied that motion without a hearing on the same day. (See Attachment G, Minute Entry on _____). After I consulted with an attorney over the weekend, I was going to file a supplement to my Motion to Reconsider to cite Rules of Procedure as the reason for the Motion to Reconsider. However, my family and I were evicted on _____ before I could file the supplement. I took my grandchildren and pets to their maternal grandparents to stay. My wife, my _____ daughter and I slept that first night in the car in the parking lot of a _____. That morning, I conducted by class remotely from that parking lot. The next day we got a motel for _____ nights but ran out of money. At the end of the week, _____ after we were evicted, I received notice that we had qualified for the renter's assistance from the Care's Act which I had applied for in _____ and had gotten and email from the State on _____ saying that they had received it and was processing it. Since we no longer had the house we were at risk of losing that assistance. We then spent _____ at the _____ for the homeless. I conducted my classes remotely from a corner of the _____.

When the lawyer who had tried to help me earlier found out about my situation, he referred me to the _____ who got funds to put us up in a motel where we stayed in for weeks as we looked for another place to rent. Looking for a new place to rent was very difficult because there was now an eviction on our record. We would pay expensive application fees just to be turned down by the landlords because we had an eviction on our record. I owe my mother over a \$ _____ that she lent me for those application fees. We finally rented a home and relocated just last week. I ended

up in the hospital during this ordeal due to a mini stroke when I moved out and then a blood clot just recently due to moving into our new rental.

My family has been through hell and this did not need to happen if Judge had just allowed me to present my case. All I needed was a little more time to get my renter's assistance from the state and to get my first few paychecks from my job that had started back up in early

In preparing for this complaint, I wanted to see the documents that I had filed with the Court on the day of the Motion to Compel, I had tried to load the documents through the Court's electronic portal for the Eviction hearing but they would not go through. I tried again through the portal on and again they would not go through, so this time, I went to the Courthouse and filed them in person at the windows. In the middle of the hearing, the Judge had someone go get the documents since they were not in her file. She obviously got them in the middle of the hearing since she cited an email that I had received from the County that they received my application for renter's assistance. She ruled against me because I had only applied for renter's assistance after I was evicted on (See Attachment H, email from the County). I tried to explain that there was another email in the documents that I filed with the Court that came from the State that they had received my application. She did not seem to look and quickly said there was no such email. There is such an email. (See Attachment I, email from the State). The email she was referring was the email that the County sent after they received my application from the State. I had long ago in applied to the State.

As a result, I wanted to see the exhibits to make sure I had indeed given the Court the email, which I am certain I did. On , I went to the County Justice Court and asked for copies of all exhibits I had filed. The woman at the window acknowledged that there were documents referred to in the electronic file by they were not in the electronic file. When I asked for them to get the paper file and copy those documents for me, I was told they were in Judge chambers and they could not access it. I was told I would be called on Monday, This seemed odd to me that Judge would have the file in her office since the case had been closed for a month. However, I remembered that on the did a story on this case where I had mentioned I was contemplating a Judicial Complaint. Now it made sense that she retrieved the file to look at whether she made a mistake. She wanted to look at the file because of that article.

When I did not hear back from the Court on I went to the Court again on I asked for the documents again and this time a supervisor, helped me and indicated the file was still in Judge chambers and he could not get it and copy the documents. Later that week on called me and told me he finally did get the file from the Judge's chambers and said the documents were not there and did not exist. He explained they were not entered into evidence and that is probably why they are not there. First, they had to be in evidence. I did not know how to move them into evidence since I am not a lawyer, but the Judge obviously looked at them at the Motion to Compel since she cited one of the documents, the email from the County. The trier of fact should not be considering any document until it is in evidence. It follows that if she was looking at them, she entered them into evidence. It is also my understanding, that exhibits should not be destroyed after the case is over unless the Court has offered them back to the party who presented them and is told they do not want them and gives permission to destroy them. I was never asked if I wanted them back and I certainly did not give permission for them to be destroyed. I do not know who

got rid of my documents at the Court, but I do know that Judge [redacted] had the file last before they were discovered missing.

Prior to the first hearing on [redacted] I had tried to upload documents to the Court's electronic portal and was unable. This was the procedure I was instructed to follow to file my exhibits since the Court did not want people coming to Court. The portal did not work and I could not file my documents in open court since the hearing was conducted remotely on [redacted] I appeared on [redacted] for the initial appearance not realizing this was going to be a trial. At the hearing, Judge [redacted] first asked the landlord, [redacted] if he had received any type of notice of COVID-19 issues from me and he said no. I had sent notice by mail on [redacted] but it was not my turn to speak so I said nothing. She then asked [redacted] how much rent I owed. He said I last paid on [redacted] when the rent was due and none since. Judge [redacted] then multiplied the monthly rent amount of \$ [redacted] when it should have only been [redacted] that I had missed. She then started to ask me questions rather than allowing me to say what I wanted to say. She asked me if I agree I hadn't paid since [redacted] and I said yes. Then asked if I agreed with the amount and I questioned it since the next payment had not come yet. She said, well today is the [redacted] and so you owe that right and I agreed in my confusion. However, if I owed that rent then that would mean I could stay in the house through [redacted] Before I could say anything else she turned back to [redacted] and asked if he had any filing fees he paid for this legal action. He said he spent \$ [redacted] on a process server. She then added that to the total for grand total \$ [redacted] for a Judgement and ruled that I was to be evicted on [redacted] At this point, [redacted] said he did not want the money and only wanted possession of the home so he could sell it. Judge [redacted] then said to me, isn't that wonderful and you should hold up your end and vacate. I told her he had been good to me and my family when we came down with COVID and when my wife and I were laid off due to COVID. She then indicated that the eviction would go forward on [redacted] She never asked about my wife and me being laid off or whether I had mailed [redacted] notice of that, which I had on [redacted] She never asked whether I applied for renter's assistance, which I had on [redacted] or whether I had those documents, which I did. I did not know the procedure that if there was a legal issue at the initial appearance and one of the parties is not prepared to go forward with trial that the trial can be reset pursuant to Rule 11 of the Arizona Rules of Procedure for Eviction Actions. I was not prepared to do a trial, if that is what you call what took place, because I could not load my documents on the Justice Court portal ahead of time. I did not know that I could ask for the trial to be set [redacted] off so I could get those documents to the Court ahead of time. I felt steamrolled and did not think it was my place to say anything more since she was asking me the questions. (See Attachment E, recording of the [redacted] initial appearance).

At the Motion to Compel hearing on [redacted] I had dropped off [redacted] documents at court this time to make sure the Court would get them. At the hearing, when Judge [redacted] indicated there were no documents in the file, I told her I had dropped them off [redacted] earlier at window [redacted] She then sent someone down to get them. In the middle of the hearing she did say she had the documents. Even though, I had sent [redacted] notice [redacted] that my wife and I had been laid off due to COVID on [redacted] and then again on [redacted] she granted the Motion to Compel and cited that I had not applied for renter's assistance until [redacted] well after the eviction hearing on [redacted] She said she was looking at the email from my documents that I had filed that said they had received my application and it was dated [redacted] I tried to tell her that there was another email from [redacted] that indicated the state had received my application. She quickly said that there was no email from [redacted] and she ended the hearing. She did not let me explain and she did not take the time to look through all the documents.

**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.**