

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 20-317

Judge:

Complainant:

ORDER

The complainant alleged a justice of the peace (now retired) stated the court does not have to be fair and was biased against him.

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 reviewed all relevant available information and concluded there was not clear and convincing evidence of ethical misconduct in this matter. The Commission approved sending the judge an advisory letter that comments about the court not having to be fair can be misperceived and not inspire confidence in the judiciary, implicating Rule 1.2 of the Code. 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.

Dated: March 17, 2021

FOR THE COMMISSION

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

Copies of this order were distributed to all appropriate persons on March 17, 2021.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2020-317

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.

The case brought before the court is clearly frivolous the Plaintiff filed a suit after being cited for violations from the Arizona Justice of the Peace (hereinafter J.O.P.) has a bias against me for being a vocal citizen in the while he was sitting on the Council. On J.O.P. stated in open court that the court doesn't have to be fair when time after time we requested for the case to be heard on the merits. It's outrageous that Judicial Time has been wasted on less than \$ amount that the court has already received proof the Plaintiff agreed to a settlement of \$ received the cashiers check and cashed it and then filed this lawsuit we are speaking about. Furthermore, the court rules are staff of the Court cannot provide legal assistance but not only has the clerks, but also J.O.P. ~~old~~ walked us out of the court and took us to the front desk to file and Appeal when he hadn't even entered a final judgment. So we wasted the Appeals Court time as well this is all documented in the court record. No citizen of nor anyone should have to endure what our entire family has over the past for a contractor that has multiple confirmed complaints with the Arizona should be able to bring frivolous cases like this and the court doesn't do the right thing and allow the case to be heard on the merits. If this case is heard by a jury of our peers of a contractor taking advantage of a homeowner hopefully justice does prevail and not allow the Plaintiff and his attorney to steal over \$ in just attorney fees from our family. The defendants being one of and the other it truly felt as if Justice would not be served when the J.O.P. stated the courts don't have to be fair. It certainly doesn't sound like Equal Justice Under Law!

J.O.P. in open court said he would address Court Clerks from giving Advise when the 1st motions were filed - then J.O.P. did the same, ~~see to~~

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From: _____
Subject: Re: Need clarification on minute entry issued on _____ for appeal
case # _____ (Lower Court case #
_____)

Date: _____
To: ~~external sender@external.com~~

FYI

The _____ Justice Court has recording and ruling from JOP for defendants to file appeal and it was premature.

Sent from my iPhone

On _____ at _____ wrote:

Motion to Set Aside and reinstate trial has been filed

From: _____
Sent: _____
Subject: RE: Need clarification on minute entry issued on _____ for appeal case
_____ (Lower Court case #
_____)

EXTERNAL SENDER

The following is from Judge

First, _____ requested only an award of attorney's fees incurred in connection with the appeal. That request was denied.

Second, I was led to believe by both parties that a default judgment had been entered. The appellants' opening memorandum (at 4) states that a final judgment was entered. The appellee's brief (at 4) also refers to a default judgment, and in any event, does not dispute appellants' characterization.

A final judgment either provided for or did not provide for an award of attorney's fees incurred in connection with the trial court proceeding. Either way, there is nothing more for the trial court to do regarding attorney's fees. On the other hand, if a default judgment has not been entered, then this court

had no jurisdiction to decide the appeal. In that event, should the trial court enter a final default judgment, the appellants would be permitted to file a new motion to have it set aside, and assuming that motion meets the meritorious defense standard, the denial of such a motion would present an issue on appeal that would be much different from what was presented to me the first time around. In short, if a final judgment has not been entered, the parties may be well-served to engage in serious settlement discussions.

As for me, I would appreciate learning whether the trial court entered a final, appealable default judgment. If it did not, I must issue a new order vacating my ruling because this court has jurisdiction to consider only appeals after a final judgment has been entered [see A.R.S. 22-261(A)], and parties are not permitted to stipulate to jurisdiction when none existed.

County

NOTICE: cases are not under the e-file system. As a result, when a party files a document, the system does not generate a courtesy copy for the Judge. Therefore, you will have to deliver to the Judge a conformed courtesy copy of any new filings.

Sent:

Subject: Need clarification on minute entry issued on for appeal case

Justice Court has received a minute entry issued on _____ by Commissioner _____ regarding the case # _____ (Lower court case # _____). On page #2, the minute entry ordered "2. The court in its discretion denies _____' request for an award of attorney's fees. _____ may file a request for an award of costs incurred on appeal." Since the second sentence of the order states costs incurred on appeal, the court is not clear if the denied attorney's fees is for appeal process only, or for the entire case proceeding. The plaintiff's attorney is requesting the court to rule on the request for attorney fees of \$ _____ filed on _____ which incurred prior to the appeal. The court would like a clarification on the order. Thanks for your assistance.

<m9242355.pdf>