

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 21-056

Judge:

Complainant:

ORDER

June 23, 2021

The Complainant alleged a superior court judge manipulated the record to prevent him from getting an appeal.

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 members Denise K. Aguilar and Christopher P. Staring did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on June 23, 2021.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2021-056

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 complaint being filed by:

Against:
Judge

For:

1. Interfering in the justice process to prevent me from getting appeals and reviews that the court rules allow me to have.
2. Improperly denying me access to court documents in the course of a trial.
3. Improperly denying me access to court documents after the trial was over, so I would not have the documents I would need to file an appeal to Judge decision in the Court.
3. Using threats and intimidation, including making threats to use his power as a judge to have me arrested, in an attempt to prevent me from filing motions I am entitled to file, obtaining information I am entitled to get in court, and putting pressure on him to allow a review of his decision.
4. Manipulating the information disclosed for the record of the Court of court to prevent documents that he is required to provide from being available for reference by the court.
5. Perjury by contradiction in signed affidavits.

Filing Title: Complaint against Judge , Court
County Arizona.

Introduction

In of I had a case before Judge of the Court of County Arizona, case I didn't agree with his initial ruling and went through the appeals process to get it reviewed. The judge interfered actively in the process to prevent the appeals—both legally filed—from being heard by the court.

He was able to succeed in preventing these reviews from being held (the internal reviews authorized by Rule 14, discussed below), even though I have a right to these reviews under court rules. They were never held and Judge, the presiding judge on the case and the one who was required to facilitate them, has worked actively to make sure that the required reviews do not take place.

After the trial was over, he continued to interfere, threatening to have me arrested if I made any attempts to contact the court to obtain documents that I need for my appeal and manipulating the electronic record submitted to the Court of court to make sure it didn't contain any of the key documents I would need to reveal what actually happened. (The trial transcripts, for example, were excluded, as was my entire appeal memorandum and all exhibits submitted with the memorandum.) I believe that Judge behavior violates the Arizona Rules of Judicial conduct and request an investigation.

Judge also issued a ruling on, that contained statements that he knew to be false. In fact, they were false on the face, because they conflicted with other facts that were stated on the same document. Specifically, they claimed in open text that the case was still open and being heard, but they contained a provision to a rule in the Rules of Procedure that indicated the case was closed, and therefore the appeal clock was ticking and my appeal rights would end after the

filing, even though the appeal text clearly indicated the litigation would continue in the case for a great many. This, I believe, was an attempt to trick me into accepting the case was still open so I wouldn't file an appeal, and thereby cutting off my route to a review of the case.

Basic Facts Of The Complaint:

The original case I was appealing to Judge was simple: I had a tenant who I had to evict because she refused to move when her lease was up. When she finally moved out, she demanded her \$ deposit in cash. I

didn't pay it that way: I returned her deposit by posting it to her account, as the law requires, and sending her a final statement.

The ruling was also simple: the judge ruled that I did owe the \$. She also ruled that I owed the attorney \$ in legal fees for the litigation (issued over the course of rulings, which took place after Judge had closed the case).

My appeal was based on issues.

First: the law doesn't require me to return the deposit in cash on receipt of the keys, as the judge claimed. I am only required to return it the exact way I returned it, by crediting it to the tenants account. In this case, even that wasn't required: when a tenant violates the law by staying on after her lease is expired, forcing the landlord to evict, her rights end when she begins to violate the law by inhabiting the premises illegally.

Second: The judge had engaged in numerous violations of the which prevented me from having a fair trial. These include issuing orders to have my address changed from my real address to the address of an uninhabited construction site, so I would not get my mail, failing to correct the improper address upon notice, holding a large part of the trial in secret without notifying me, and endangering my life by violating the lockdown rules during the pandemic and issuing rulings that require immediate response from me when courts are closed and it is impossible for me to act.

Third: The law only allows recovery of reasonable attorney fees and a reasonable fee would be the fee that would have applied in Court (the only court where tenant disputes over security deposits are allowed to be filed) for a similar action. That would have been \$ to \$ (depending on the judge; different judges award different amounts) not the amount she awarded.

I expected to win the appeal easily.

I was surprised when Judge came back with a ruling upholding the judges ruling. He didn't actually rule on any of the issues I had raised however. He came up with some rather silly excuse about why he didn't have to rule on them. His main claim is that there is an unwritten provision of Rule 116(a)(2)(iii) of the that happened to apply to me. This unwritten law takes away all of my rights to protest anything about the trial. (I know this sounds crazy but this is *exactly* what he said. I have attached his rulings as Exhibit A and B. Read them yourself. This is what they say.) Since I didn't have the legal *right* to protest rule violations by the court, he wouldn't consider them. He dismissed all of them without discussing any of them.

As far as the legal issues, he claimed his only obligation was to determine if the judges interpretation of the law was ' ' He claimed it was for the judge to interpret the law as she did (claiming it required me to return the entire deposit, in cash, without any offsets or statements, at the time of the key return; see exhibit B). Does the law say this? It clearly does not. But his ruling held that didn't matter: his only obligation was to determine if the judge had been reasonable in her interpretation of the law. She had, he claimed, so he had the legal obligation to uphold her ruling.

His ruling is very cryptic. In fact, I didn't really understand that it was a final ruling until I had filed a Rule 14 request for rehearing and he denied it because, he claimed, the case was closed. (In fact, Rule 14 filings can be filed when cases are closed.) I didn't realize it because it specifically said that the case was still open: He remanded the matter of attorney fees to the court to hear them again. (Note: it is clear that I didn't know it was closed by my filing, which opens by stating that I am filing even though the case is not closed.) He only closed it, officially, with his reference to Rule 54C, something that a self-represented person would not realize closed the case, because self-represented people don't have the rules memorized. In other words, the words of the ruling said the case was still open. (This means that the appeal deadline had not begun.) But the coded message within, the reference to Rule 54C, meant that the appeal deadline had begun and the clock was ticking. If I didn't file an appeal on this case within I would lose my rights.

I think that, if not for Judge other attempts to prevent a rehearing of his ruling, this might be put down as a mistake. But we need to consider the evidence in context. He made several other very aggressive attempts to prevent this case from being reviewed. (These are described below.)

In context, and in light of events both before and after his subterfuge in this ruling doesn't just appear to be an unintentional error. It appears to be intentional. I think he knew full well what he was doing: he was trying to trick me into thinking the case was still open while secretly closing it, in another attempt to prevent me from having his ruling reviewed.

First Attempt to Evidence Prevent Review:

The people who write the rules for the Arizona Court don't appear to want any issues to be appealed to the or Courts if they deal with simple disputes that the Court judges should be able

**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.**