

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 17-284

Judge:

Complainant:

ORDER

The complainant alleged a superior court commissioner applied the wrong legal standard and misunderstood the facts in an appellate matter.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the commissioner 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.

The commission does not have jurisdiction to review the legal sufficiency of the commissioner's rulings. In addition, the commission found no evidence of ethical misconduct and concluded that the commissioner did not violate the Code in this case. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23(a).

Commission member Colleen E. Concannon did not participate in the consideration of this matter.

Dated: December 13, 2017

FOR THE COMMISSION

/s/ Margaret H. Downie

Margaret H. Downie

Executive Director

Copies of this order were distributed to all appropriate persons on December 13, 2017.

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

2017-284

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.

After spending the last _____, I realize that Arizona does not always regard itself as part of the rest of the United States of America. It seems to me that whenever the federal laws interrupt what Arizona considers to be the regular course of business, it regards the federal laws as being optional. I want to assure you that Arizona is indeed part of the United States of America and that the federal laws are actually not optional and in fact mandatory and further take precedence over Arizona state laws when the same conflict.

I had the unfortunate experience of being involved in a _____ action as notated above approximately _____. The court decided against my position and I no longer have an ability to fight that case. However, to the substantial portion of the population of the State of Arizona that has disabilities such as mine, I am writing this complaint.

During the _____ mockery of a trial, the court was informed that I had a _____. I also informed the court that while I had _____ that the acoustics in this particular courtroom were simply god-awful and I was having difficulty hearing anyone that was not speaking directly and clearly into a microphone. The court attempted to provide me with an _____, which is allegedly provided in all of the Arizona state court rooms.

However, on this particular occasion, and on a number of other occasions that I have witnessed an been part of, the _____ was not properly working. Prior to the court taking testimony, I informed the Court that I could not hear properly and requested a continuance or at least an _____ that would allow me to fully participate in the courtroom.

Instead, the the court said it would speak up and try to enunciate clearly to accommodate my _____. However, the plaintiff did not cooperate and during various parts of the trial I had to interrupt and asked things to be repeated. The court as you can see in the transcript of record became quite annoyed with me for interrupting and for attempting to put on a vigorous defense..

I knew that under the American Disabilities Act, that the court was required, not optional, to provide me with an _____. Thus, after receiving a negative ruling, I attempted to appeal the matter and get a new trial. The appeal Judge _____ seems to think that the standard for whether or not an _____ is required under the ADA is whether somebody appears to be able to participate in the trial.

Somehow according to _____ the ADA can be supplanted if the judge says he will speak up. I can assure _____ and the rest of the State of Arizona that this is not the standard for following the ADA. _____ also goes on to state that I only initially complained about the headphones because there was static. If you will look at the record what I said was all I could hear was static.

However as I pointed out in my appeal brief, the quality of the recording of the transcript was so poor it was impossible to make out what was being said. What I actually said during the trial was that all I could hear was static.

It is also not the standard of the ADA to have the trial court explained to me or summarize to me the proceedings. Under the ADA, I am allowed to participate fully which means in real time not to get a summary of what the judge thinks is being said during trial. This is a clear violation of my rights under the ADA.

Additionally, _____ also got the facts backwards. This shows help for the recording quality and generally the sound in the courtroom was on the day that I had my trial. The plaintiff never said he was giving the _____. That was me I said that. In fact I had brought out _____ to collect the _____ so that no further charges would be incurred.

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In actuality of fact the _____ were sold by the plaintiff. The plaintiff never said that the _____ were valueless. What he said was that the _____ did not have any value to him. This was in fact a lie because he went and sold the _____ at auction.