

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 19-171

Judge:

Complainant:

ORDER

The complainant alleged a superior court judge was biased against him, failed to rule on matters, and made improper evidentiary rulings in a family law matter.

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 reminding her to be proactive with her calendaring system, and to be specific in her rulings to ensure all pleadings are addressed so as not to violate Rule 1.2. The complaint is therefore dismissed pursuant to Rules 16(a) and 23(a).

Commission members Roger D. Barton and Colleen E. Concannon did not participate in the consideration of this matter.

Dated: September 23, 2019

FOR THE COMMISSION

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

Copies of this order were distributed to all appropriate persons on September 23, 2019.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

19-171

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.

Please see attached civil complaint that was filed by mail on _____, in the _____ . It details a number (but not all) of the allegations I allege against Judge _____.

Please see also letter from attorney _____. In this matter I attempted to retain _____ for representation in _____ . _____ declined to represent me because more than _____ of _____ cases are heard before Judge _____. _____ then suggested to me that I find counsel outside of _____ County who doesn't usually appear before Judge _____.

The letter from _____ is a tacit admission of, and testimony to, Judge _____'s prejudice and bias, and that Judge _____ lacks impartiality. There is no other reasonable explanation for an attorney refusing to take on a client out of apparent fear of a Judge's wrath.

Please dig into her case files, you will see that she exhibits a consistent pattern of prejudice, bias, and deep-seated favoritism in matter before her in _____.

Hand-Delivered

Dear [redacted] :

It was a pleasure to meet with you today. I am confirming that you did not hire me and that I do not represent you. I have declined to represent you. I represent parties only in [redacted] County, and over [redacted] of my cases are before Judge [redacted]

I suggest that you consult with an attorney from another county who does not usually appear before Judge [redacted]

I am sorry that I cannot help you. I wish you the very best.

Very Truly Yours,

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Plaintiff Pro Se

PLAINTIFF,

v.

DEFENDANT.

) Case No.

) **CIVIL RIGHTS COMPLAINT:**

JURISDICTION AND VENUE

1. This is an action for declaratory relief pursuant to 42 U.S.C. § 1983 based upon the past, present, and continuing violations of Plaintiff's rights under the Fourteenth Amendment to the United States Constitution. Jurisdiction exists pursuant to 28 U.S.C. § 1331 and 1343 based on 42 U.S.C. §1983 and questions of federal constitutional law. Jurisdiction also exists under the Declaratory Judgment Act, 28 U.S.C. §§ 2201(a) and 2202.

2. Venue is proper in that the events and conduct complained of herein all occurred in the State of Arizona.

PRELIMINARY STATEMENT

3. It is a fundamental principle of the American system of justice, both civil and

1 court – this fact is so basic that it needs no explanation.

2 9. When such party's motion is denied and the presiding judge offers an explanation
3 for the denial which is supported by established rules, procedures, laws, or precedent, then that
4 party's rights to due process and equal protection are assured. The courts, therefore, have an
5 obligation to give a good faith, fair, and impartial consideration every motion and the court is not
6 permitted to simply ignore motions that are filed. Every motion filed requires that the court give
7 due consideration to such and then enter an order either granting or denying the motion. Even if
8 such motion is frivolous or vexatious the court still must give some consideration to the motion
9 even as the court is free to deny such. The court, however, is not entitled to ignore the filing of a
10 motion.
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12 10. When a court refuses to issue any order upon a motion by a party, either granting
13 or denying such, and instead simply ignores it, the court is acting in a manner which appears to
14 exhibit at least some tangible degree of bias and prejudice. When a court repeatedly engages in a
15 pattern of this behavior, while at the same time not in any manner subjecting the opposing party
16 to such, this evinces that there is in fact bias and prejudice and deep-seated favoritism by the
17 court.
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19 11. The court is not permitted to pick and choose which party's motions are given
20 consideration and which are not and repeatedly engaging in such behavior clearly manifests bias
21 and prejudice and is demonstrative of a deep-seated favoritism towards one party over the other.
22 This is clearly grounds for disqualification of the judge for cause.
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24 12. Arizona Rules of Civil Procedure ("Ariz. Rules of Civ. Proc."), Rule 42, allows
25 for a change of judge for cause when a party seeking establishes grounds by affidavit as required
26 by Arizona Revised Statutes ("A.R.S.") § 12-409. Such grounds includes an extrajudicial source
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1 criminal, that all parties in a matter be afford equal access to the courts. Even when a party
2 cannot afford legal representation and must pursue justice without the assistance of counsel, the
3 courts nevertheless have a duty and obligation to administer justice fairly and impartially with
4 regard only to the facts of the matter at hand.

5 4. That many courts hold that *pro se* parties are expected to know the law in the
6 same manner and to the same degree as a licensed attorney is not only preposterous, but also
7 frequently results in a substantial denial of due process and equal protection under the law to
8 which every person is entitled. This position is analogous to holding that a layperson who is
9 unable to afford health insurance be required to perform a major, life-saving surgery upon
10 himself.
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12 5. In 2007, the American Bar Association's *Model of Judicial Conduct* Rule 2.2 was
13 updated with new comment 4 setting forth that judges may “make reasonable accommodations
14 to ensure *pro se* litigants the opportunity to have their matters fairly heard.” The exact language
15 in comment 4 has been adopted by the supreme courts in at least 13 states, including the Arizona
16 Supreme Court, except that the Arizona Supreme Court uses the term “self-represented” rather
17 than “*pro se*.”
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19 6. Even if a *pro se* party's filings do not strictly conform to the Arizona Rules of
20 Civil Procedure, Arizona Rules of Family Law Procedure, or the Local Rules of Civil Procedure,
21 the Court should nevertheless make reasonable accommodations for a *pro se* party's filings in the
22 interest of justice.
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24 7. In any allegation of bias and prejudice against a judge there is an inherent
25 presumption that the actions of the judge were fair and impartial, and free of bias and prejudice.
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27 8. When a party to a matter files a motion he is seeking some type of relief from the
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**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.**