

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 24-038

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Judge:

Complainant:

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**ORDER**

January 17, 2025

The Complainant alleged a municipal court judge had a policy to reject certain plea agreements.

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 complaint is therefore dismissed pursuant to Commission Rules 16(a) and 23(a).

Commission member Delia R. Neal did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on January 17, 2025.

*Via U.S. Mail and Email*

Arizona Commission on Judicial Conduct  
1501 W. Washington Street, Suite 229  
Phoenix, Arizona 85007  
[cjc@courts.az.gov](mailto:cjc@courts.az.gov)

Dear Arizona Commission of Judicial Conduct,

It is with regret that we must report the conduct of a judicial official. It is our belief Judge [redacted] ("Judge [redacted]") and Judge [redacted] ("Judge [redacted]") have violated the cannons of judicial conduct.

We believe both Judge [redacted] and Judge [redacted] have substantially interfered with the negotiations of the parties in a criminal case by only accepting certain plea agreements when a defendant is charged with a certain crime. We believe Judge [redacted] and Judge [redacted] have crafted a policy where they are essentially forcing defendants to take pleas to certain crimes and have essentially taken the role of the [redacted]. We do not believe this is the role of the judiciary. We also believe Judge [redacted] and Judge [redacted] reviewing and approving of a public records request before it is disclosed to the requesting party is improper. This is exasperated by the fact that the requested records were only partially disclosed to date.

Undersigned [redacted] is submitting the following summary as a statement of facts based on the alleged judicial misconduct with the consent of our client, [redacted] as well as the consent of the assigned prosecutor on his case, [redacted]. The reason for this judicial complaint is our experience with Judge [redacted] and Judge [redacted] during our case, [redacted] v. [redacted] in [redacted] Court.

The procedural history of this case follows. One of the audio recordings of the proceedings from [redacted] has not been made available by the time of the filing of this complaint and therefore statements herein have been set forth as closely as possible based on undersigned counsel and defendant's recollection.

On [redacted] (“Mr. [redacted]”) was cited for criminal speed pursuant to A.R.S. § 28-701.02(A)(3). Mr. [redacted] was given a summons to appear at [redacted] Court on [redacted] Mr. [redacted] missed his first court date because of a clerical error on his part, resulting in an arrest warrant being issued and an additional charge for Failure to Appear (A.R.S. § 13-2506(A)(2)). Mr. [redacted] immediately hired undersigned counsel to assist in resolving his warrant and his underlying criminal speed charge.

Undersigned [redacted] and Assistant City prosecutor, [redacted] Esq. (“Mr. [redacted]”), reviewed all discovery available in this case. After reviewing the discovery, undersigned [redacted] conducted an officer interview. After conducting the officer interview, undersigned [redacted] had a long phone call with Mr. [redacted] regarding the significant legal issues in the case.

For explanation, it was determined that the Lidar device used by the officer to clock Mr. [redacted] speed was calibrated in [redacted] eight months before Mr. [redacted] was cited with that specific device, which seriously calls into question the device’s accuracy. The officer did not conduct any pre or post operational checks at the beginning or the end of his shift, like the Lidar Instruction Manual requires. In addition, the officer did not note where he was when he conducted the stop, which was extremely important in this case since the speed limit changes at multiple points on this roadway. On top of the legal issues, undersigned counsel and Mr. [redacted] talked about many mitigating factors. Mr. [redacted] did not have any traffic infractions and had no previous criminal convictions. The parties agreed that Mr. [redacted] was eligible for Defensive Driving School through the MVD to get the ticket dismissed, due to his clean driving record.

After we discussed the legal issues and the mitigation, Mr. [redacted] was transparent with undersigned [redacted] and explained that **Judge [redacted] and Judge [redacted] have a policy that they do not allow any other resolution in a criminal speed case but a guilty plea to the criminal speed charge.** Mr. [redacted] stated that he acknowledged the legal issues and mitigating factors and wanted to offer Mr. [redacted] something other than a plea to the criminal speed charge, such as a non-criminal resolution like a diversion offer with Defensive Driving School. Although Mr. [redacted] stated this, he then said because of Judge [redacted] and Judge [redacted] policy, the criminal speed plea is the only plea he could offer Mr. [redacted] to have this case resolved in a non-trial resolution because the judges denied all other agreements. After this conversation, undersigned counsel discussed the options with Mr. [redacted] and Mr. [redacted] decided to set this matter for trial.

Mr. [redacted] trial was set for [redacted] After Mr. [redacted] trial was set, Mr. [redacted] and the undersigned [redacted] again discussed the legal issues and mitigation in this case along with our upcoming trial, when Mr. [redacted] offered a subsequent plea offer. [redacted] subsequent plea offer was a plea of guilty to count two; Failure to Appear pursuant to A.R.S. § 13-2506, and a dismissal of count one; Excessive Speed pursuant to A.R.S. § 28-701.02. *See Exhibit A – The Plea Offer Rejected by Court.* When discussing this matter on the phone, Mr. [redacted] told undersigned counsel that he specifically offered this plea agreement to Mr. [redacted] because he believed the Court would accept this plea since the plea was to a higher class of misdemeanor than the excessive speed charge paired with the fact that a failure to appear

conviction could affect Mr. [redacted] future release conditions if he were to have another criminal charge in the future.

After discussing this new plea offer with Mr. [redacted] Mr. [redacted] decided to vacate the trial in this matter and accept this subsequent plea offer from [redacted] The [redacted] Court vacated the trial date and then set Mr. [redacted] matter for a Change of Plea hearing on [redacted]

On [redacted] undersigned [redacted] appeared with Mr. [redacted] in [redacted] Court. Mr. [redacted] was excited that this case would be resolved in a non-trial resolution and was eager to right his wrongs by pleading guilty to the Failure to Appear charge. On this day, we were to appear in front of Judge [redacted] but for some unknown reason he sent Mr. [redacted] to appear in front of Judge [redacted] instead.

When we appeared in front of Judge [redacted] he rejected our plea agreement. Judge [redacted] started by explaining that he had a plea agreement in front of him and this proposed plea agreement was to plead to count two, the Failure to Appear charge, and a dismissal count one, the Criminal Speed Charge. *See Exhibit B - [redacted] Audio; Time Stamp 0:00:51.* Undersigned [redacted] confirmed that this was the plea agreement. *Id; Time Stamp 0:00:59.* Judge [redacted] then immediately asked undersigned [redacted] to tell the Court why she believes that this plea is in the interests of justice. *Id; Time Stamp 0:01:00.* Undersigned [redacted] explains that this plea was in the interests of justice because Mr. [redacted] was pleading to the higher class of misdemeanor and that Mr. [redacted] mis-calendared his first court appearance and he knows that that mistake is his fault, and therefore Mr. [redacted] wants to move forward and right his wrongs. *Id; Time Stamp 0:01:05.* The Court responds by saying undersigned counsel was correct; that the Failure to Appear charge is a higher class of misdemeanor than the criminal speed, but criminal speed has more collateral consequences. *Id; Time Stamp 0:01:37.* Judge [redacted] continued by saying “

” *Id; Time Stamp 0:01:52.* Undersigned [redacted] then explains that the prosecutor was under the impression that the Court would accept this plea and that is why we agreed to this, and asked if the Court would accept a plea to the Failure to Appear charge, with an attached condition that he must attend a traffic school. *Id; Time Stamp 0:02:26.* Judge [redacted] responded and said, “

” *Id; Time Stamp 0:02:53.* Judge [redacted] then says, “ *Id; Time Stamp and 0:03:01.* Judge [redacted] rejected the plea without knowing the facts and legal issues regarding Mr. [redacted] criminal speed charge. Judge [redacted] said on the record that people *must* routinely plead guilty to the criminal speed charge, and he wants to see Mr. [redacted] accept the same responsibility everybody else does, without attempting to hear the legal issues and mitigation the prosecutor and undersigned [redacted] agreed existed.

After this first attempt to enter into this plea agreement given by [redacted] undersigned [redacted] met with the prosecutor. The prosecutor, undersigned [redacted] and Mr. [redacted] decided it was in the interests of justice and judicial resources to attempt to have Judge [redacted] accept this plea agreement.

After this, undersigned [redacted] and Mr. [redacted] appeared in front of Judge [redacted]. As stated previously, this is the audio recording that has not been made available by the time of filing this complaint for unknown reasons, and therefore statements regarding this appearance have been set forth as closely as possible based on undersigned counsel and defendant's recollection. If our office receives the audio recording after this filing, we will supply the recording to the Commission.

Judge [redacted] told Mr. [redacted] that if Judge [redacted] rejected the plea agreement, he is not going to accept the plea agreement either. After this statement, undersigned [redacted] argued that the current plea agreement is to a higher class of misdemeanor. [redacted] also argued that she and the prosecutor reviewed all the discovery in this case and are the individuals familiar with the facts. Additionally, undersigned [redacted] argued that the prosecutor agreed with the defense that there are strong legal issues in this case; one being the improperly calibrated Lidar device used. Undersigned [redacted] argued this is why Mr. [redacted] and [redacted] entered into this specific agreement that was now sitting in front of Judge [redacted]. Judge [redacted] told undersigned [redacted] something to the effect of: "

" Judge [redacted] rejected our plea agreement and stated *he would take a plea agreement to the Excessive Speed charge*. At no point during this plea rejection did Judge [redacted] ask for the facts or legal issues of Mr. [redacted] case. In the alternative, Judge [redacted] told counsel he would take a plea to an excessive speed charge *after* undersigned [redacted] just informed the Court there were legal issues in this case. We believe Judge [redacted] violated the rights of the parties to negotiate and was not acting as a neutral party.

Undersigned [redacted] and Mr. [redacted] had another meeting and that is when Mr. [redacted] offered a plea agreement to count one, Excessive Speed, and the dismissal of Count two, Failure to Appear. Mr. [redacted] decided to enter into this plea agreement. Mr. [redacted] had doubts that he would receive a fair trial and impartial trial in front of this Court because both judges were clear in how they wanted to see Mr. [redacted] case resolved.

Undersigned [redacted] and Mr. [redacted] appeared in front of Judge [redacted] for the second time. When undersigned [redacted] handed Judge [redacted] staff the new plea agreement, Judge [redacted] asked undersigned [redacted] what charge the plea was to. When undersigned [redacted] told Judge [redacted] it was a plea agreement to the Excessive Speed charge he said, " [redacted] " See *Exhibit C – Plea Agreement Accepted by Judge [redacted]* Mr. [redacted] then entered into a plea agreement in front of Judge [redacted] to count one, Excessive Speed and a dismissal of count two, Failure to Appear. See *Exhibit D – Judge [redacted] Audio Accepting Excessive Speed Plea Agreement*.

On [redacted], undersigned [redacted] requested the audio from the appearances Mr. [redacted] had in front of both Judge [redacted] and Judge [redacted]. When undersigned counsel's office reached out regarding the status of this request, **the court staff stated the Judge had to review and approve this audio before the audio can be sent to our office.** Undersigned [redacted] believes the practice of a judge reviewing and approving public record requests before they can be released to the requesting party is completely wrong. Undersigned [redacted] did not receive the requested audio until [redacted]. When undersigned [redacted] received the

audio on [redacted] there was a missing audio. Our office received the audio from Judge [redacted] rejection of the plea and Judge [redacted] subsequent acceptance of the subsequent plea to the Excessive Speed charge. Undersigned [redacted] did not receive the audio from Mr. [redacted] appearance in front of Judge [redacted] where he rejected Mr. [redacted] first plea agreement. Upon realizing this, on [redacted] undersigned [redacted] immediately called the Court to make them aware that we did not receive the first part of Mr. [redacted] hearing in front of Judge [redacted] where the plea agreement was rejected. The Court stated they would review the recording and get back to us. On [redacted] the Court called undersigned [redacted] to explain the Court found the other recording we were missing, and Judge [redacted] had reviewed it and approved it and it will be sent to undersigned [redacted] At the time of drafting this letter, we are still awaiting the missing audio from plea rejection in front of Judge [redacted] and will provide it to this commission when it is received.

Assistant City Prosecutor, Mr. [redacted] felt compelled to make his own statement regarding Mr. [redacted] matter and the judges' practices in general. We include Mr. [redacted] statement as *Exhibit E – State's Statement Regarding Mr. [redacted] case*. In this letter Mr. [redacted] gives insight into Judge [redacted] and Judge [redacted] practice and policy, and how Mr. [redacted] experience reflects this policy. I have highlighted some of Mr. [redacted] statements that I felt were concerning. Mr. [redacted] wrote, “

” *Id.* “

.” *Id.* Mr. [redacted] wrote, “

” *Id.*

Mr. [redacted] continued by stating, “

.” *Id.* In addition, Mr. [redacted] states, “

” *Id.* Finally,

Mr. [redacted] stated, “

.” *Id.* In our communications with Mr. [redacted] Mr. [redacted] made clear that he was very concerned that Judge [redacted] and Judge [redacted] are reviewing the public records requests and approving those requests before they are sent to the requesting party. Although Mr. [redacted] has joined in this complaint and written his own statement, we encourage you to contact Mr. [redacted] regarding this matter for more information. Mr. [redacted] email address is: \_\_\_\_\_ Mr. [redacted] may also be reached by phone at:

Based on the above, and after a long conversation with our ethics [redacted] undersigned [redacted] believes there is just cause to file a complaint with the Commission of Judicial Conduct alleging that Judge [redacted] and Judge [redacted] have violated judicial cannon(s). Judge [redacted] and Judge [redacted] policy and actions in this Court show a clear pattern of conduct, which is supported by Mr. [redacted] statement. Judge [redacted] and Judge [redacted] were unwilling to consider the facts and unique circumstances of Mr. [redacted] case,

**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.**