

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaints 23-507 & 24-043

Judge: Susanna C. Pineda
Complainants: David B. Gass (23-507)
Anonymous (24-043)

ORDER

Two complainants alleged a superior court judge wrongfully disseminated political statements on social media, publicly demonstrating antisemitic bias.

Maricopa County Superior Court Judge Susanna C. Pineda posted social media content opining on the conflict in Israel and Gaza following the attack against Israel on October 7, 2023, and also on historical events in the region prior to that date. These posts appeared on Judge Pineda’s social media account starting in mid-October 2023 until early December 2023. Some of Judge Pineda’s posts included video links to other speakers who expressed controversial opinions regarding these same subjects. Judge Pineda is readily identifiable as a judicial officer on her social media account. Her social media posts were available to other judges, court staff, and some other acquaintances.

Rule 1.2 of the Arizona Code of Judicial Conduct provides that “[a] judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.” Comment 1 to Rule 1.2 makes clear the rule “applies to both the professional and personal conduct of a judge.” Comment 2 notes that “judge[s] should expect to be the subject of public scrutiny that might be viewed as burdensome if applied to other citizens, and must accept the restrictions imposed by the code.” Comment 3 provides that “[c]onduct that compromises or appears to compromise the . . . impartiality of a judge undermines public confidence in the judiciary.” And Comment 5 establishes that the test for “appearance of impropriety” is objective. Thus, as applicable here, the Commission must evaluate whether “reasonable minds” would perceive Judge Pineda’s social media posts as violative of Rule 1.2 or reflecting “adversely” on her “impartiality.”

Judge Pineda’s actions on social media violated Rule 1.2, diminishing public confidence in the judiciary and reasonably calling into question her impartiality. Through her social media account, Judge Pineda expressed political opinions on matters currently the subject of widespread, heated public disagreement, such as

calls for a cease-fire in Gaza and criticism of the policies of the Israeli government. In some instances, the tone or language of the posted content was overtly antisemitic or reasonably interpreted as such. These statements from a judicial officer, made directly or indirectly, create an appearance of impropriety in violation of Rule 1.2.

The Commission accepts Judge Pineda's statement that she is committed to principles of equality, and also her statement that she treats all litigants "equally and without bias." But, as noted, the test for determining whether a violation of Rule 1.2 has occurred is objective. The Commission also notes Judge Pineda's ready acknowledgment that she lacked care with her social media presence, and through such carelessness, linked to content with which she disagrees. The Commission agrees with Judge Pineda's assessment that she was "reckless" in some of her actions.

The Commission also concludes Judge Pineda's sincere attempt to limit the distribution of her social media content does not mitigate her violation of Rule 1.2. Although the social media content was available only to members of a designated group, rather than the public at large, this group was comprised of approximately 250 members. Additionally, those group members could easily share or otherwise publicize the content and thereby make it available for public scrutiny, and their doing so would be completely beyond Judge Pineda's control. Judge Pineda's statements were not, under these circumstances, private expressions of opinion.

All thoughtful members of society, judges included, are likely to have opinions concerning the pressing matters of our times. The Commission's findings and conclusions herein should not be construed as condemnation or approval of any particular political view. Judge Pineda is not being disciplined because she holds particular opinions. Judge Pineda is being disciplined because she publicly voiced or endorsed opinions on a matter of intense and emotional public debate, and by doing so she has allowed reasonable minds to question her impartiality.

Accordingly, Judge Susanna C. Pineda is hereby publicly reprimanded for the conduct described above pursuant to Commission Rule 17(a). The record in these cases, consisting of the complaints, the judicial officer's responses, and this order shall be made public as required by Commission Rule 9(a).

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Commission member Regina L. Nassen did not participate in the consideration of these matters.

Dated: April 2, 2024

FOR THE COMMISSION

/s/ Christopher P. Staring

Hon. Christopher P. Staring
Commission Chair

Copies of this order were distributed to all appropriate persons on April 2, 2024.

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

FEB 05 2024

January 31, 2024

RE: Complaint Against Judge Susie Pineda

Dear Arizona Commission on Judicial Conduct:

I make the anonymous Complaint against Judge Susie Pineda of the Maricopa County Superior Court. This Complaint is made anonymously as I am also a Judicial Officer of the Maricopa County Superior Court, and I fear retribution and the risk of being ostracized if it ever became public that I filed this Complaint against another judicial officer. This is of particular note as I am informed that our presiding judge is aware of the content of this Complaint and took no action.

Attached is a Facebook post made by Judge Susie Pineda. I am not connected to Judge Pineda via social media, so I did not see it first-hand. A copy of this post has been widely shared privately among judicial officers in Maricopa County. It is my understanding that the post was discovered in early December, however, I do not know the exact date on which it was posted. While I only attach one post, I am informed that there are other offensive posts on this subject that were also made by Judge Pineda.

I believe the post clearly demonstrates an anti-Jewish bias. When someone specifically states that they are not saying anything about Hamas, it is clear that they are, at a minimum, tacitly endorsing the terroristic mass rape and murder of civilians based upon their perceived membership to a particular ethnic and religious group. Furthermore, referring to those who support Israel ("Zionists") as bigoted is certainly evidence of Judge Pineda's bias against a particular group of individuals. While perhaps not a violation of the Arizona Code of Judicial Conduct, referring to a Holocaust survivor and Nobel laureate as a bigot demonstrates her significant ignorance and deficit of judgment. In any event, her clear and unambiguous communication demonstrates bias against a particular group of individuals, and I doubt that any such individuals would feel they would be treated fairly in her courtroom.

Judge Pineda's Facebook Post violates the following sections of the Arizona Code of Judicial Conduct:

RULE 1.2. Promoting Confidence in the Judiciary

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

(Certainly, her expression of bias compromises her independence, integrity, and impartiality. In addition, it undermines public confidence in the judiciary.)

RULE 2.3. Bias, Prejudice, and Harassment

(A) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.

(B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so.

(C) A judge shall require lawyers in proceedings before the court to refrain from manifesting bias or prejudice, or engaging in harassment, based upon attributes including but not limited to race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, against parties, witnesses, lawyers, or others.

(D) The restrictions of paragraphs (B) and (C) do not preclude judges or lawyers from making legitimate reference to the listed factors, or similar factors, when they are relevant to an issue in a proceeding.

(Her Facebook post is an act that demonstrates bias and prejudice against individuals based upon their ethnicity and religious affiliation.)

RULE 2.4. External Influences on Judicial Conduct

(A) A judge shall not be swayed by partisan interests, public clamor, or fear of criticism.

(B) A judge shall not permit family, social, political, financial, or other interests or relationships to influence the judge's judicial conduct or judgment.

(C) A judge shall not convey or permit others to convey the impression that any person or organization is in a position to influence the judge.

(Her public statement demonstrates an alignment with anti-Israel and anti-Zionist individuals. Her statement that she is not saying anything about Hamas is also troublesome as it may be viewed by some as a tacit approval of the acts of October 7 – even if she does not actually condone the mass rape and murder, she gave the public perception that she does not disagree with such acts of terror as long as they are against Jews and/or Israelis.)

RULE 2.10. Judicial Statements

(A) A judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court, or make any nonpublic statement that might substantially interfere with a fair trial or hearing.

(B) A judge shall not, in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial performance of the adjudicative duties of judicial office.

(C) A judge shall require court staff, court officials, and others subject to the judge's direction and control to refrain from making statements that the judge would be prohibited from making by paragraphs (A) and (B).

(D) Notwithstanding the restrictions in paragraph (A), a judge may make public statements in the course of official duties, may explain court procedures, and may comment on any proceeding in which the judge is a litigant in a personal capacity.

(E) Subject to the requirements of paragraph (A), a judge may respond directly or through a third party in writing, via social media or broadcast media or otherwise to allegations in the media or elsewhere concerning the judge's conduct in a matter or to false, misleading, or unfair allegations or attacks upon the judge's character or reputation.

(Judge Pineda's public statement gives the impression to any litigant, witness, or attorney who Judge Pineda may know, or suspect is Jewish, Israeli, or supports Jews and/or Israel, that she negatively receives anything they say or write.)

RULE 2.11. Disqualification

(A) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following circumstances:

- (1) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of facts that are in dispute in the proceeding.

(While it is unknown as to whether Judge Pineda has disqualified herself in any matter involving a Jewish and/or Israeli attorney, witness, or litigant, her failure to do so moving forward is a clear violation of this rule. A good practice may be for her to announce her bias, assuming she remains on the bench, to each litigant and attorney who has a case pending before her.)

RULE 3.1. Extrajudicial Activities in General

A judge may engage in extrajudicial activities, except as prohibited by law or this code. However, when engaging in extrajudicial activities, a judge shall not:

- (A) participate in activities that will interfere with the proper performance of the judge's judicial duties;
- (B) participate in activities that will lead to frequent disqualification of the judge;
- (C) participate in activities that would appear to a reasonable person to undermine the judge's independence, integrity, or impartiality or demean the judicial office;
- (D) engage in conduct that would appear to a reasonable person to be coercive; or
- (E) make use of court premises, staff, stationery, equipment, or other resources, except for activities that concern the law, the legal system, or the administration of justice, or unless such additional use is permitted by law.

(The Facebook post is an extrajudicial activity that could lead to frequent disqualifications by Judge Pineda and it also demeans the judicial office.)

Judge Pineda is certainly free to have any personal opinion or belief of her choosing. However, the public expression of bigotry is beneath the public expectations of a judicial officer. If I were a Jewish and/or Zionist litigant, witness, or attorney with a matter assigned to Judge Pineda, I would want to be made aware of her bias so that I could either exercise a peremptory notice of the judge or file a Notice of Change of Judge of Cause. Furthermore, her post demeans the entirety of the superior court bench by association. I believe if you were to ask yourselves how the public would receive news of her post should it be made more widely public via a news media outlet, you would arrive at the conclusion that it would not be received well and would injure the entirety of the judicial branch.

It should also be noted that as the Presiding Judge of the Maricopa County Superior Court had actual knowledge of this Facebook post by Judge Pineda violated Rule 2.15 in the event it is true that he did nothing after gaining knowledge of the post.

Thank you for your consideration to this important matter.



Susie Pineda-Rodriguez

I'm not saying anything about Hamas. I stand by the innocents on both sides. I cry seeing children mutilated and killed. I also do not and have never agreed with Zionist. I met Elie Wiesel while I was in college and called him a hypocrite to his face when he explained surviving the Holocaust and then explained his Zionist (and bigoted) beliefs as it pertained to the aims of the Israeli state. This after studying and reading 40 books on how the Holocaust was allowed to take place. The class was called "Prospectives on the 20th Century: The Holocaust." Seeing the Zionist plan proceeding is horrendous. Seeing a people being rounded up/isolated and confined, then indiscriminately bombed, killed and mutilated is sickening. We should all be appalled because these are human beings and silence kills. We know that historically.

3h Like Reply

Honorable Susanna C. Pineda

SUPERIOR COURT OF ARIZONA

IN MARICOPA COUNTY
East Court Building
1010 West Jefferson Street, Suite 913
Phoenix, Arizona 85003

Resp
2/26/24
24-043

February 26, 2024

Commission on Judicial Conduct
1501 West Washington, Suite 229
Phoenix, Arizona 85007

Re: Case Nos. 23-507 and 24-043

Dear Commission Members:

I am in receipt of the anonymous judicial complaint filed against me on January 31, 2024, and that the commission has asked if had any additional response considering the similarities between this complaint and Case No. 23-507.

This complaint appears based on the perception that an anti-Zionist statement (based on the concept as explained to me during college studies in 1983) is an expression of bigotry against the Jewish people and that Jewish people will not feel comfortable appearing before me. The anonymous writer equates Zionism with Judaism. I have never equated the two.

As you can see from comment attached to the complaint, I was responding to a question and referenced a college course I took regarding the Holocaust. As one of approximately 20-25 of the 120 plus students from the class that had the opportunity to personally met with a prominent Holocaust survivor. I referenced my reaction when he explained his Zionist beliefs and how he envisioned the Zionist goal--to have a "pure" Jewish state--to materialize. I also referenced my belief that the execution of that "plan" has led to the current conflict. For clarification, what came to mind during that 1983 college conversation was the term "segregation." I do not believe in segregation. I believe all people are equal and that segregation promotes bigotry. As a college student, I called the speaker out, unable to understand how he could support any form of segregation as segregation of the Jewish people was a key factor that led to the Holocaust, his placement in a concentration camp, and the massacre of millions of Jewish people.

As you can see from the post attached to the anonymous complaint, my intent was to comment on those Zionist beliefs and to indicate that they have led to the current human tragedy that continues to unfold in Gaza and my prayer that it must stop. Although I continue to follow the humanitarian crisis in Gaza, I have not shared any reports since I received Judge Gass' courtesy copy of his complaint (23-507) on December 18, 2023. I do, however, continue to pray that the killing of innocent men, women and children ends. I also pray that all people can live together harmoniously.

With regards to my position as a judicial officer, I reiterate that I have and continue to treat all litigants before me, regardless of their race, gender, religion, or social-economic position, equally and without bias.

If this Commission has any further questions regarding this matter, please feel free to contact me at _____ at any time.

Sincerely,

Susanna C. Pineda
Judge, Maricopa County Superior Court