

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 25-045

Judge:

Complainant:

ORDER

May 16, 2025

The Complainant alleged a justice of the peace was biased, made improper rulings, and had ex parte communications in a criminal 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 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 Regina L. Nassen did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on May 16, 2025.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2025-045

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.

I am not party to any criminal case in this court, but I have observed criminal proceedings in this court and witnessed concerning conduct in several cases, to include: improper ex parte communication with the State (while rigidly avoiding the same with defendants except during combined initials/arraignments where the State is not present); motions and causes going without consideration out beyond 60 days potentially in violation of A.R.S. § 11-424.02(A) and Code of Judicial Conduct Rules 2.5 and 2.7; an ex parte and sua sponte amendment to a charging document altering and adding absent jurisdictional elements without motion from the State (to "fix" a defective complaint conferring no jurisdiction, essentially resulting in offenses charged by the judiciary instead of the executive, as well as tampering with a public record by a public prosecutor); improper denial of counsel in cases that may result in incarceration in violation of Criminal Rule 6.1 and the 6th Amendment and Ariz. Const. Article 2 Section 27; the Justice misstating the law when the denial of counsel was objected to and then requiring each individual defendant denied counsel to sign a waiver of counsel informing them they can be sentenced to the State Prison or County Jail (even when they have said "I don't want to waive counsel, I want counsel"); denying the right to be heard in violation of Code of Judicial Conduct Rule 2.6; locking the front of the building so litigants cannot enter unless security is present and lets them in, but the court staff and State's attorneys are free to come and go out the back; complete and utter disregard for the Victim's Bill of Rights to include locking the building during business hours and refusing a person asserting right to be heard as victim an opportunity to even argue their right to be heard at an initial appearance and without any basis for the court to have knowledge of who the victim might be; accepting pleas without any factual basis; accepting nolo contendere pleas outside the presence of the State; accepting disclosures filed with the court in blatant disregard of criminal rule 15.4(f) in a case with no right to a jury trial, thereby prejudicing the trier of fact; refused requests for court records not under seal in violation of A.R.S. Sup.Ct.Rules, Rule 123.

Most of this occurred on _____ of this year, in _____ where my wife is an erroneously misnomered or mistaken identity defendant (her true and correct legal name is _____, as well as a case of a woman who's initial appearance was heard just before my wife's the same day (I was refused the full morning's verbatim records of proceedings even after invoking the open records law and _____ Court Rules when requesting records that would inform me of her name), and _____, who was cited as a result of the same incident my wife was and entered a no contest plea, after being informed he did not have a right to counsel or a jury trial that was accepted without an Attorney for the State present and without factual basis. I am also aware these are not isolated incidents, but occur regularly, due to a case in which I am the recognized crime victim from _____ an interfering with Judicial Proceedings matter stemming from interstate violations of a protective order obtained for me by the _____ County District Attorney's Office in _____ as a cooperating witness to an assault with a semi-automatic firearm against an off-duty law enforcement officer, a relative of my wife and I, which I prefer not to reference specifically with a case number or case name because the case involves an outstanding fugitive that threatened my life. In that case I was denied access to the building altogether, and after several denied attempts to enter the court to inspect the record, I was given a photocopy of it through a cracked door. To the current Justice's credit, the practice of denying entry to the courtroom while proceedings are occurring or the entire building during the court's business hours seems to be significantly reduced since he took the bench, however I was denied entry to the building .

Detail and Exhibits:

1. **The Judge cannot bring a charge or proceed against an erroneously misnamed defendant:**

The charging document in my wife's case contains numerous deficiencies. Notably, it lists no facts that substantiate the charge or show how [redacted] was involved in any criminal activity, no Form 4A/B, no probable cause statement, just an incomplete Arizona Traffic Ticket and Complaint charging 13-2907.01, written up as Domestic Violence via False Reporting to Law Enforcement. The officer failed to include essential jurisdictional details, such as the location of the offense, rendering the court's jurisdiction over the matter questionable, as it was not possible to determine whether it occurred in this court's precinct. It charged 13-2907.01 tagged DV, as this is not a statute that falls under the DV statute, it is not subject matter the court has jurisdiction to adjudicate. Nobody ever asked her true and correct legal name during the investigation, and the citing Deputy never actually looked at her ID. The named defendant has only my wife's first name in common as a result, yet the court insists on using a name that is not hers when threatening to issue an arrest warrant if she does not submit to fingerprinting that would populate the central state repository with inaccurate data, subverting the legislature's stated purpose in passing 41-1750, without first appointing counsel or finding probable cause.

Under Criminal Rule 16.4 (b): "the court must order a prosecution's dismissal if it finds that the indictment, information, or complaint is insufficient as a matter of law."

Under Criminal Rule 16.2 "lack of jurisdiction may be raised at any time."

Ariz. R. Civ. P. 12 provides that "If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action."

Ariz. Criminal Rule 5.4 states "The magistrate must dismiss the complaint and discharge the defendant if a magistrate finds that there is not probable cause to believe that an offense has been committed or that the defendant committed it."

Rather than dismissing the case, as is required when the court finds it lacks jurisdiction or the complaint is insufficient as a matter of law, or defective, the court appears to have found it insufficient and defective, conferring no jurisdiction, then invited [redacted] of [redacted] to tamper with it, fixing some issues, curiously leaving others. The altered ATTC form bears two sets of initials, "[redacted]" and "[redacted]". The Magistrate, [redacted] Justice of the Peace [redacted], in the regular course of his court business, signs his name with a rubber stamp with a particular stylization, with the [redacted] and [redacted] extended in artistic fashion to loop around the rest of the letters of his first and last name in circular manner, and he appears to have "initialed" his approval of these amendments, which have "[redacted]" stylized with the [redacted] looping around both letters similar to his stamped signature next to them. (See exhibits attached to the end of this document) "[redacted]" is certainly the Justice. I brought this citation into the courthouse on [redacted] and the court's clerk informed me that "[redacted]" is [redacted] of [redacted]. The alterations and initials present on the court copy of the citation are not present on the copy served upon arrest. This also constitutes perjury by the officer that cited the offense, a felony, pursuant to ARS 13-3889 as the Deputy that issued the citation certified he had probable cause and it was a complete copy of the complaint that would be filed in court, but he did not have probable cause nor was it a true and correct copy of the complaint that was filed in court. It was only after the initial appearance, when looking at the court copy with my wife that we became aware of the unserved alterations made in secret, outside the presence of the defense. Specifically, where the location was blank, a location was added. The domestic violence designation was scribbled out. The court allowed these amendments without written motion from the State's Attorney, and ex parte, then

concealed this. With his initials, the Judge effectively charged the case himself, a clear violation of separation of powers doctrine. The court is now proceeding to a trial without any determination whether the named defendant and the person made to sign a promise to appear only match as to first name due to misnomer or mistaken identity, so they ensure they have the right defendant and their name correct, as was required at the initial per Criminal Rule 4.2 "At an initial appearance, a magistrate must:(1) determine the defendant's true name and address and, if necessary, amend the formal charges to correct the name and instruct the person to promptly notify the court of any change of address." The State has been allowed to file disclosures under Criminal Rule 15.1 with the court instead of serving them on defendant, as is specifically proscribed by Criminal Rule 15.4. Those disclosures reveal that the State seems to be under the impression the case is styled

does not have a problem with answering to her maiden name, but _____, the name the case is proceeding under because of the court's unreasonable and quite rude decision to rely completely on the citation the court saw fit to allow them to alter in nearly every other regard to "fix" the case the criminal rules required be dismissed, is simply not her name, and the court has insufficient evidence to determine whether this is misnomer or mistaken identity, as the citing Deputy does not even appear to have written a report. Every rule I have ever heard of regarding misnomer in the entire history of AngloAmerican jurisprudence would not provide for holding _____ to an allegation against _____, it's not a misspelling, they are not pronounced the same, it's not her maiden name, they have only a first name in common, yet the court proceeds as if she is _____. Complicating the problem, it appears from searching the name _____ on the Arizona _____ Court's Case Access site that there is more than one woman with a substantial record in this State by the name of _____. If the court were to have my wife taken into custody because she refused to be ten-print fingerprinted to comply with an order that does not have her current name nor her maiden name nor a similar misspelling of either on it, not only would the central state fingerprint repository be populated with inaccurate data, this inaccurate data would associate my wife's biometric identifying information with a known criminal with this name, when my wife has never been convicted of any crime in any court anywhere in the world. Any person should be horrified by the very idea this could occur in the modern day.

- 2. Defective complaints and proceeding without jurisdiction are the norm at _____ Justice:**

While the citation my wife was issued may be an extreme example of a defective charging document proceeded upon, proceeding upon defective charging documents in misdemeanor cases is the norm in this court. The patrol Deputies in this precinct, their Sergeant, the court's clerks, and the Justice of the Peace have all stated in my presence that "_____", however a citation without a description of facts tending to show a crime occurred and the defendant is probably responsible simply fails to charge a public offense. It is a fundamental aspect of criminal pleading in the United States and required in order to offer protection against double jeopardy and to provide notice of the nature and cause of the allegation, rights under the 5th and 6th amendments that the offense must be described in a manner that gives sufficient notice, that "descends to particulars". Such a citation does not even meet the statutory definition of a complaint. "**§ 13-4261 - Law enforcement officer; affidavit; definition "complaint" means a written statement of the essential facts constituting a public offense.**" Most, if not all, misdemeanor charges are brought to this court using Arizona Traffic Ticket and Complaint forms without any attached narrative, Form 4a/b or probable cause statement. This is not to say I think it is impossible to validly charge an offense via the ATTC form alone, but law enforcement here is in the habit of writing only the statute title, or even an abbreviation of just the title for the section they are citing as the only allegation.

3. **Ex Parte Communication and failure to record proceedings:** Even though a prosecuting attorney is in the building, no prosecuting attorney is present in the court for initial appearances. Instead, they are sitting in a restricted area conducting PTCs that are not being recorded as required by Criminal Rule 16.3. While the State may waive presence in the initial, the court does not seem to understand what requires both parties to be present in the courtroom when it comes up during an initial. On [redacted], I observed a woman shortly before my wife's matter was called enter an open guilty plea to a criminal traffic offense, and not guilty to failing to appear on that case, while sobbing. After the court accepted the plea, the court realized the offense was cited outside the precinct, and stated the court just realized it didn't have jurisdiction. After realizing this, the Justice informed the defendant he was going to “ [redacted]”, then left the room to go speak with the attorney for the State, outside the presence of the defendant, instead of applying the Criminal Rules, or at least having the State's Attorney appear in open court. On [redacted] my wife came to the court for her PTC. This was not recorded for there to be a verbatim record of proceedings as required by the criminal rules. During the PTC she informed the State's Attorney, [redacted], that she had been erroneously denied counsel and did not wish to speak with him. I attempted to speak to the prosecutor, who inquired if I was an attorney. I told him I was not, however this was an unusual situation because neither of us are the named defendant in the case. I was not attempting the unauthorized practice of law, trying to represent a criminal defendant in pretrial conference negotiations, I was representing my marital community threatened with erroneous prosecution after unlawful search and seizure of both of us by law enforcement at my home, my premarital real property, and therefore a place that would require both an arrest warrant with special authorization for the arrest to occur outside of the normal hours, as well as a search warrant covering my property as the homeowner not suspected of any wrongdoing, in order for an arrest of my wife to lawfully occur at midnight in the curtilage of my residence based on events a week prior. He responded that my wife was the named defendant, however as I previously said, the court has the case styled [redacted], which is not and never has been my wife's name. This was a prosecutor newly assigned to this court, he had never met my wife, never seen her ID, and could only have assumed. Additionally, there was insufficient information in the record for it to be possible for the court, or the prosecutor, to determine if this was a result of misnomer or mistaken identity, which they refused to even consider may have occurred. The State's own filings indicate they mistakenly believe the case is styled [redacted], which is my wife's maiden name and she has no problem responding to that name, although her true and correct name is [redacted] since our marriage and subsequent visit to the Social Security Administration. The prosecution, upset she asserted right to silence and that I was trying to show him both versions of the citation in the case, the pink copy she was served, and the white court provided copy with several alterations the State never moved for initialled by the Justice of the Peace, along with her social security card from when she legally changed her name after marriage, ACA Crough told us to “ [redacted]” and then when I asked if I could show him one more thing, “ [redacted]”. As we were exiting the room, the Justice entered. While standing in the lobby, leaving the Prosecuting Attorneys [redacted] and [redacted] in the PTC room with the Justice of the Peace engaging in ex parte communication, we could hear both prosecuting attorneys speaking in a derogatory manner including saying “ [redacted]” This is not what occurred, these attorneys simply failed to pay attention to their own case and were making prejudicial speculations, and this was said in the presence of the Justice. It was so obviously improper the court security officer cracked the door to the room and mentioned that they could be heard from the lobby, to which Attorney for the State [redacted] responded “ [redacted]” (to the best of my

recollection on wording and identifying _____ as the speaker based on sound of voice of a man who had spoken to me directly only moments before, I could not see who was speaking from where I was standing, but I am quite sure it was _____, with the Justice next to him)

4. **Denial of Right to Counsel and the Right to be Heard:** At her initial appearance, _____ asserted her right to counsel under the Sixth Amendment, yet was denied appointed counsel. The ARS section cited is punishable with _____ months in jail and according to the judge, fines and surcharges of _____. The prosecution was not present during this hearing, although a prosecutor was in the building, he was conducting PreTrial Conferences in a restricted area, a back room, which are also not being recorded as required. (Ariz. R. Crim. P. 16.3 (f) Record of Proceedings. Proceedings at a pretrial conference must be on the record.) Under the circumstances, there was no stipulation the prosecution would not be seeking jailtime, nor did the court stipulate jailtime would not be sentenced, in fact, the court indicated the exact opposite in writing when compelling her to sign a waiver of counsel form that states she can be sentenced to State Prison or the _____ County Jail in this case. The judge required _____ to sign this waiver of counsel form over her objection, after she'd asserted right to counsel and responded to the court's directive to sign the form by saying “ _____”, and giving bad, incorrect legal advice about the purpose and effect of a waiver of counsel in his attempt to coerce signing. She was informed that unless she had a very compelling reason for refusing to waive counsel, the waiver would need to be signed. When she attempted to cite to case law and the Criminal Rules, she was denied the right to be heard, cut off, and told “ _____”. The Justice was misstating the law, as provided by Criminal Rule 6.1, (b) Right to Appointment of an Attorney. (1) As of Right. An indigent defendant is entitled to a court-appointed attorney in any criminal proceeding: (A) that may result in punishment involving a loss of liberty. This coerced signing of the waiver clearly invalidates it as it was not knowing, willing, or voluntary. _____ is a homemaker and has no income, and is therefore unable to hire private counsel in a case that may result in jailtime due to being indigent. I am unable to afford counsel for her, and that has not even come up in contacting attorneys on the off chance one is willing to work for what little I can afford because I've been unable to find any attorney willing to travel to our quite rural local courthouse to represent her. The very few law offices that are within a half an hour by car radius of the court I was advised against using by more than one of the attorneys I did contact, apparently based on their knowledge of those firms' past work and reputation.
5. **Entrapment by Judiciary:** I recently received mail addressed to “ _____” to my home, from the court. As no person by that name lives here, it would be a misdemeanor for either myself or my wife to open it, turning a functionally illiterate Deputy's silly mistakes into something like an attempt to entrap a criminal defendant forced to self-representation with a new offense. Not by overzealous law enforcement officers, but by the judiciary hearing the case, the very branch of government that is supposed to protect against overzealous law enforcement officers. As it would be a misdemeanor to open it, and law and motion practice is essential to a defense, to the extent she's capable of defending herself after being deprived of counsel, the same court that deprived her of counsel is also making it impossible for her to defend herself by accepting prejudicial documents for filing from the State that are almost entirely made up of testimonial hearsay, documents which may not be submitted in a limited jurisdiction court (Rule 15.1 disclosure filing proscribed by Rule 15.4) and without proper service on the defendant, while simultaneously failing to properly serve her an order in response to a defense motion in order for her to decide how to proceed with her defense she is being forced to put on herself, without guiding hand of counsel. The only exception allowing for filing Rule 15.1 disclosures in

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