

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 2026-038

Judge:

Complainant:

ORDER

June 5, 2026

The Complainant alleged a municipal court judge (now retired) improperly allowed his staff to fulfill a records request while a motion to seal the criminal case was pending.

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 Regina L. Nassen and Christopher P. Staring did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on June 5, 2026.

ARIZONA COMMISSION ON JUDICIAL CONDUCT COMPLAINT

RESPONDENT: Honorable

(Retired)

COURT: Municipal Court CASE NO:

CROSS-REFERENCE / ASSOCIATED FILINGS:

- **Judicial Conduct:** In re: Judge (CJC Filed)
- **Professional Conduct:** Grievance re: Prosecutor
- **Institutional Misconduct:** Complaint against Municipal Court Administration

I. THE "SEVERANCE" TRAP: A JUDICIAL ADMISSION OF ADMINISTRATIVE ERROR

THE ALLEGATION: Judge utilized a self-contradictory legal theory regarding "severance" to retroactively justify an unlawful corporate record release while simultaneously denying the Petitioner's due process rights.

1. The Supervisory Breach: On , the Municipal Court fulfilled a record request for at , just minutes after a phone call from the corporation. This occurred despite the Petitioner having filed a **Revised Petition to Seal Records** at that same morning. As the presiding judicial officer, Respondent is responsible for the administrative integrity of the court and the protection of records once a privacy interest is asserted **see Exhibit C**.

2. The Judicial Admission of "Non-Severability": On , Judge dismissed the Petitioner's request, stating: "
" **See Exhibit D**. This judicial ruling renders the Respondent's prior administrative oversight irrefutably unlawful:

- **The Unified Record Theory:** By ruling that " , " the Respondent confirmed that Case No. was a single, inseparable legal unit.
- **The Admission of Wrongdoing:** If the record was un-severable, the Respondent permitted a "de facto severance" on that he later ruled was legally impossible. Alternatively, if no severance occurred, the Respondent has admitted that the court transmitted the **entire, un-severed record**—including the sensitive acquitted charge—to a third-party adversary while a petition to seal was actively awaiting a judicial decision.

- **Conclusion of Pretext:** The Respondent used "non-severability" as a judicial cover-up. He held the Petitioner to the standard that the case could not be separated (to deny the sealing), while allowing the court to ignore that same standard to provide an immediate disclosure of the un-severed record.
- **The Seven-Day Evidence of Pretext:** The Judge's lack of signature on , is the "definitive proof" of this systemic failure. Per **Exhibit C**, the formal "MOTION-GRANTED" entry for the corporate record request was not entered by the Judge until . This creates an irreconcilable -day gap where records were released () before they were legally authorized (). By subsequently ruling on that " ,," the Judge attempted to legally "freeze" a record that he had already allowed his staff to prematurely "thaw" and distribute. This proves that the "Non-Severability" theory was not a legal necessity, but a retrospective shield used to mask a documented ministerial breach of Rule 123.

II. THE "AUTOMATIC STAY" AND THE LEGAL SCOPE OF RESTRICTED ACCESS

1. Absolute Restriction of the Entire Record: Once the Petition to Seal was filed at , the status of the **entire** case record changed to "Provisionally Confidential" under **Rule 123**.

- **Definition of Restricted Access:** In this context, "restricted access" signifies a total suspension of public availability for the **entire case file**. Access is limited strictly to the Judge, authorized staff, and the parties. There are no carve-outs for "partial" or "selective" release.
- **The Prohibition of Selective Disclosure:** Selective or piecemeal disclosure during the pendency of a sealing motion is a **judicial act**. By allowing staff to decide which documents were "safe" to release to , the Respondent permitted an unauthorized exercise of judicial power that violated the mandatory protections of **Rule 123** and **A.R.S. § 13-911**.

2. The Irrelevance of Prior Payment: A prior payment does not create an entitlement to records once access becomes restricted by a pending motion.

- **Administrative vs. Judicial:** Payment is a ministerial fee; access is a judicial determination. The moment the petition was filed, the court's authority to "complete" any pending or previously paid request was **legally frozen**.

The Respondent's failure to ensure the record remained "in limbo" until his ruling constitutes a gross departure from procedural neutrality.

III. IRREFUTABLE CRIMINAL PROCEDURE VIOLATIONS

1. Violation of Rule 36.1(c)(2) and the Scope of Restricted Access: Pursuant to **Ariz. R. Crim. P. 36.1(c)(2)**, the court is strictly forbidden from providing even a copy of the petition to seal to any person other than a party. It is a logical and legal certainty that if the court is barred from disclosing the petition itself, it is necessarily barred from disclosing the **entire underlying case record** that is the subject of that petition.

- **Prevention of Mootness:** Releasing any part of the un-severed record before a judge rules effectively pre-judges the matter and renders the Petitioner's statutory rights moot. The Respondent had a non-discretionary duty to withhold the entire record until an express judicial order was issued.

2. Constructive Notice and Judicial Expertise: The Respondent is charged with inherent knowledge of the **Arizona Rules of Criminal Procedure**. The filing of a "Petition to Seal Records" provided the court with **Actual and Constructive Notice** of a privacy assertion. The Respondent cannot claim ignorance of these mandatory rules to justify a 4-minute "concierge" release to a corporate adversary.

3. Due Process (14th Amendment): The Respondent rendered the Petitioner's statutory rights under **A.R.S. § 13-911** moot by allowing the disclosure of records before the motion was heard. This "race to disclose" is a total failure of **Procedural Neutrality** and a violation of the right to a meaningful hearing.

IV. FAILURE OF JUDICIAL OVERSIGHT (CANON 2, RULE 2.12)

- **The Double Standard:** The Respondent used the "un-severable" nature of the appeal as a sword to deny the Petitioner's rights, while simultaneously allowing the court to treat the record as "severable" and "public" to serve **see Exhibit C**.
- **Strategic Obstruction:** The Petitioner was met with "wrong form" instructions on _____, a tactic designed to "run out the clock" until the Respondent could issue a dismissal on _____ based on a status (the appeal) that had existed since _____.

- **Result:** This delay ensured the records remained accessible to _____ while the Petitioner was forced into procedural red tape, rendering the eventual judicial review a total nullity.

VII. EXHIBIT D: FORENSIC PROOF OF ADMINISTRATIVE DISARRAY AND PRETEXT

THE EVIDENCE: The Petitioner presents the signed "**Order Regarding Petition to Expunge Records**" (**Exhibit D highlighted sections**) and contrasts it with the official **Case Docket** of the same date (**Exhibit C**).

1. Irreconcilable Conflict of Legal Theory (Severance vs. Insufficiency):

- **The Docket Entry (Exhibit C):** On _____ at _____, the official docket records a judicial order dismissing the petition because the "_____
_____".
- **The Signed Order (Exhibit D):** The actual signed order issued on the same day dismisses the petition for a "_____".
- **The Judicial Violation:** The Respondent provided two entirely different legal justifications for the same dismissal. Under the **Arizona Code of Judicial Conduct, Canon 2, Rule 2.5 (Competence and Diligence)**, a judge has a mandatory duty to maintain accurate court records. The existence of a "hidden" legal theory in the docket (severance) that is completely omitted from the signed order (insufficiency) suggests that the "severance" argument was a fluid pretext used to justify the prior unauthorized disclosure to _____.

2. The Statutory Error (A.R.S. § 13-911 vs. § 36-2862):

- The Petitioner filed his request under **A.R.S. § 13-911** for a general sealing of criminal records (**Exhibit B**).
- The Respondent issued the dismissal (**Exhibit D**) using a form specifically for **A.R.S. § 36-2862 (the Marijuana Expungement statute)**, which has zero relevance to the Petitioner's charges and **petitioner has never been charged with in his entire life**.
- **The Breach of Judicial Duty:** Pursuant to **Rule 2.12 (Supervisory Duties)**, a judge is responsible for the administrative tasks of their staff.

Signing an order under the wrong statute, while ignoring the correct statute cited in the actual petition, demonstrates a reckless lack of oversight that directly prejudiced the Petitioner's statutory rights.

3. The "Inability to Act" Contradiction:

- The Respondent claimed in **Exhibit D** that he was " " because the court " ."
- **The Logic Trap:** If the court lacked sufficient information to *identify* the records for the purpose of sealing them, it was a physical and legal impossibility for the court to have successfully *identified* and transmitted those same records to . on .
- **Conclusion:** The court cannot claim "ignorance" of the record to deny a citizen's privacy while simultaneously demonstrating "perfect knowledge" of the record to serve a corporation. This contradiction is proof of a **Lack of Impartiality (Canon 2, Rule 2.2)**.

VIII. STRATEGIC OMISSION AND INTERFERENCE WITH APPELLATE RIGHTS

THE ALLEGATION: The Respondent utilized a "Split-Record" strategy to insulate his ruling from appellate review, violating the Petitioner's right to a clear and appealable final judgment.

1. The "Negligence" Framing and Demonstrable Pretext: By signing an order (**Exhibit D**) citing a " ," the Judge framed the dismissal as a result of the Petitioner's own procedural negligence. This classification is a calculated administrative tactic that prevents a substantive appeal, as a higher court is led to perceive the error as a pro se litigant's failure to provide details rather than a flawed legal ruling.

The logical impossibility of this finding is confirmed by the case record:

- **The Motion (Exhibit B):** The Petitioner explicitly identified the specific charge to be sealed: " ."
- **The Prosecutor's Acknowledgment (Exhibit E):** clearly identified the request in her reply (Lines 6-8), stating: "

**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.**