

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 13-178

Judge: Steven Conn

Complainant: Amy Dudek

ORDER

The complainant alleged that a superior court judge made inappropriate comments and was biased.

Rule 1.2 of the Code of Judicial Conduct requires judges at all times to act in a way that promotes confidence in the judiciary and to avoid both impropriety and the appearance of impropriety. Rule 2.8 requires judges to “be patient, dignified, and courteous” toward court participants including victims.

In the underlying case, Judge Conn presided over the sentencing in which the complainant was the victim. She appeared in the courtroom for the sentencing, and Judge Conn failed to verify whether the victim was present before pronouncing his sentence. The complainant submitted a letter to the judge opposing a sentence involving incarceration. During the sentencing, the judge referred to the victim as an “idiot” and negatively characterized her motivations.

The commission finds that the judge’s comments and characterizations were improper and violated Rules 1.2 and 2.8 of the Code. While the judge’s concerns about the defendant’s conduct were entirely appropriate, his comments about and characterizations of the victim were not.

Accordingly, Superior Court Judge Steven Conn is hereby publicly reprimanded for his conduct as described above and pursuant to Commission Rule 17(a). The record in this case, consisting of the complaint, the judge’s response, and this order shall be made public as required by Rule 9(a).

Dated: December 11, 2013.

FOR THE COMMISSION

/ s / Louis Frank Dominguez

Louis Frank Dominguez
Commission Chair

This order may not be used as a basis for disqualification of a judge.

Copies of this order were mailed
to the complainant and the judge
on December 11, 2013.

This order may not be used as a basis for disqualification of a judge.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2013-178

COMPLAINT AGAINST A JUDGE

Your name: Amy Dudek Judge's name: Steven F. Conn Date: 7/8/13

Instructions: Use this form or plain paper of the same size to file a complaint. Attach additional pages, as needed. Please describe in your own words what the judge said or did that you believe constitutes judicial misconduct. To help us understand your concern, be specific and list all of the names, dates, times and places where the conduct occurred. Include only copies of original documents or court recordings that are relevant to your allegations. Print or type on one side of the paper only, and keep a copy of the complaint for your files.

On 6/3/13 at the Mohave County Superior Courtroom District 3 I attended the sentencing of Fabian Decker. I was the victim in the courthouse, according to Arizona law, for domestic violence. I submitted a victim statement for the sentencing, as per my rights as the victim, which the judge read to himself prior to the hearing. At the hearing Mr. Conn stated he did not know if I was there or not and I probably wouldn't like what he had to say but he didn't care. He then proceeded to state he did not agree with my wishes to have Fabian released on probation, saying that I was "an idiot" and might be completely fine with being hit. He stated I would probably let Fabian do it again and again, that I had low self esteem and I didn't care what happened me. He then made statements that I might even like being hit as part of a sexual thing. I feel like the judge used the entire case to basically slander me to the entire courtroom, and it was a complete defamation of character. Several things he said showed his bias on the case, and I feel it completely swayed his ruling. I feel he violated the judicial code on several counts, including not being impartial and respectful, on top of insulting me over and over. I do not get mad or offended easily, but his actions completely baffled my friend who accompanied me and I. She literally had to keep me in my seat I was so mad. I did nothing to this judge except submit my beliefs on what I thought the outcome should be, but he used the time speak on his bias beliefs, insult my character, and rip me apart. It was completely inappropriate and unacceptable behavior of a judge. I fully expect this to be looked into, and I fully expect Judge Steven Conn to be reprimanded and disciplinary actions to be taken. I, as a citizen and a victim, will not stand for this. As a victim I do not need to be attacked by a judge. As a human being I will not stand to be slandered by anyone, especially not in a courthouse on record.

(Attach additional sheets as needed)



**SUPERIOR COURT OF ARIZONA
COUNTY OF MOHAVE**

**STEVEN F. CONN
JUDGE
DIVISION III**

**401 EAST Spring STREET
POST OFFICE BOX 7000
KINGMAN, ARIZONA 86402**

(520) 753-0709

SEP 04 2013

August 30, 2013

Commission on Judicial Conduct
ATTN: Jennifer Perkins, Staff Attorney
1501 W. Washington St., Suite 229
Phoenix, AZ 85007

Re: Case #13-178

To Whom It May Concern:

This letter is in response to your letter dated August 20, 2013, asking me to respond to the above Complaint. I have included the FTR disc which includes the entire sentencing in question, which lasted about 30 minutes. I have included some instructions that my technical support people said I should include if anyone actually wanted to be able to listen to the FTR. I have included the 3 pages of the presentence report that describe the conduct which led to the charges against the Defendant Fabian Decker in which Ms. Dudek was the victim. I have included the letter that Ms. Dudek submitted before sentencing. I am hoping that the latter 2 will help put my comments at sentencing in some context. If there are additional records from this case that you would like to review please let me know and I can provide them to you.

I would start by pointing out what I think is confirmed in the Complaint itself, which is that I did not know that the victim was present in the courtroom. Normally I would be advised by either of the attorneys that a victim was present but that was not done in this case. The only relevance to that circumstance is that it should have been obvious that I was directing my comments to the Defendant, not to the victim.

To the extent that the victim says that I made a statement that she might like being hit as a sexual thing, I do not believe the record confirms that I said any such thing. What

I did say, probably a couple of different times, was that there were aspects to the relationship between the Defendant and the victim that I obviously did not understand. I believe the above comments were prompted at least in part by the comment attributed to the Defendant at the bottom of Page 4 of the presentence report in which he asserted that "they bite and scratch each other sexually", although I do not believe my comments were endorsing the Defendant's apparent suggestion that the victim had consented to being bitten.

Although I did not technically call the victim an idiot, I did say that if this was acceptable behavior to her because she was in love with the Defendant, then she was an idiot. If I had this to do over again, that is the one comment I probably would have deleted. I would have to agree that referring to a victim as an idiot, even obliquely, is inconsistent with the basic principles of victim's rights.

The main thrust of my comments were directed to the Defendant and were a continuation of the theme presented in the prosecutor's comments. I wanted to convey to the Defendant that most women would not be forgiving of such treatment, that he should not feel free to abuse the victim in a similar manner in the future, and that he should not expect that any other woman that he became involved with in the future would accept such behavior. I have made similar comments on dozens of prior occasions when sentencing people for abusing their partners. Keeping in mind that I did eventually place him on probation, I was also trying to make it clear to him the consequences he would be facing if he violated his probation.

The Defendant was being sentenced pursuant to a plea agreement that would have allowed me to sentence him to prison or place him on probation, with a fairly significant amount of discretion regarding length of incarceration under either option. In such cases I generally spend more time trying to explain the reasons for making a decision than I would in a case with a stipulated sentence. The one thing that the victim does not mention is that I stated fairly unequivocally that I felt that no person who treated a woman the way the Defendant treated her should be placed on probation but that I was doing so only because of the position that she stated in her letter. She actually should have felt empowered by the fact that she was able to influence a judicial decision to the extent that she did. I admit that perhaps she could have enjoyed this positive aspect of her experience with this case a little more if not for the suggestion that she was an idiot.

Having been a prosecutor for 8 years and a Superior Court judge handling almost exclusively criminal cases for 28 years, it is often disheartening to see how some victims of domestic violence enable their abusers. I have had enough of these cases that ended up in homicides to know the direction in which they can go. I am aware of some of the social, emotional, financial, psychological and dependency reasons why some victims put up with abuse similar to what was involved in this case. Perhaps some of my comments to the

Defendant reflected a frustration with the fact that any woman would accept being treated this way.

Thank you for this opportunity to respond to the concerns expressed by the victim. If I can provide any further information please let me know.

Sincerely,

Steven F. Conn
Judge of Superior Court

Encls.

PRE-SENTENCE REPORT – PART ONE

PRESENT OFFENSE SUMMARY:

The following is from the Lake Havasu City Police Department DR#2013-002351:

On February 9, 2013 prior to 8:14 a.m., Fabian Joseph Decker (22) allegedly committed Aggravated Assault by Domestic Violence, Disorderly conduct by Domestic Violence, and Threats at _____, AZ. Allegedly he got into an argument with the victim, Amy Dudek (age unknown), and caused serious bodily harm by breaking the victim's nose, biting the victim's arm, and caused the victim to lose consciousness by assaulting the victim in an unknown manner.

Officer D. Wilson was dispatched to _____ AZ in reference to a delayed assault by domestic violence. Upon his arrival he spoke to a female who identified herself as Amy Dudek and she related the following events.

Amy Dudek stated her boyfriend, Fabian Joseph Decker, and she had been dating for about eight months and was romantically involved. Last night, February 8, 2013, she and Fabian Joseph Decker were arguing and he gets very jealous. She left him at P.L.U.R. _____ around 11:00 p.m. and went to _____. She ran into her ex-boyfriend's mother and talked with her for about an hour. She stated she had been drinking last night (unknown number of drinks). She left BJ's and did not remember how she got home.

Fabian Joseph Decker showed up at her house and was very mad that she went out to BJ's without him. They started arguing in her room and stated it was "intense." She has no memory of what happened next. She blacked out. When she came to she saw him on the floor, he was "foaming" (white stuff) out of his mouth and she thought he was having a seizure or dying. She ran and got her Mom (Diane Dudek; age unknown).

Amy Dudek and Diane went back to her room and Fabian Joseph Decker was gone. They did not know where he went. Amy Dudek did not know she was injured until her Mom pointed it out. She found bit marks on her arm. In the past Fabian Joseph Decker had bit her arm.

Amy Dudek reported that a week prior, Fabian Joseph Decker bit her right ear and grabbed her right arm. He has allegedly threatened to kill her parents several times in the past and usually about once a month. She states he only makes these statements when he drinks and he later tells her that he is just "joking" about killing her parents. She also stated she did not attack him. The only injuries he will have are from her trying to push or hit him to get him away from her.

Amy Dudek stated she did not want to prosecute Fabian Joseph Decker or go through the whole court process. She stated she probably did something to "deserve this." She did not report the incident a week ago because she has lots of reasons not to, she wanted to die, and declined to talk further.

Diane Dudek, Amy Dudek's mother, reported that last night she fell asleep on the couch. She woke up around 1:00 a.m. when Amy Dudek returned home. She did not hear Fabian Joseph

Decker arrive at the house. Amy Dudek woke her up around 3:00 a.m. or 4:00 a.m. and her face was covered in blood. Amy Dudek told her Fabian Joseph Decker was on the ground and something happened to him. They went and checked Amy Dudek's room. Fabian Joseph Decker was not in the bedroom and she suspected he left out the window because the front door was still locked. Her husband went and checked the neighborhood to make sure Fabian Joseph Decker was okay and he was not able to locate him.

After cleaning Amy Dudek up and the residence Diane Dudek took her to the hospital. Amy Dudek would not let her mother walk around the house alone and she was worried Fabian Joseph Decker was going to come back and kill her. Amy Dudek told her she was able to fight him off her, was concerned for her safety, and was groggy and appeared confused at times. She told her mother also that while she and Fabian Joseph Decker were fighting she was calling for her mother. Diane Dudek stated she did not hear the cries for help. She stated Fabian Joseph Decker had assaulted Amy Dudek in the past. Amy Dudek had told her that morning that five months ago Fabian Joseph Decker slammed her head down giving her a concussion. Amy Dudek stated she vomited and had nausea but she never went to the hospital.

Diane Dudek was unaware of the bruises on Amy Dudek's right arm. Amy Dudek stated she wore long sleeves since the incident so her Mom would not see the bruises. Diane Dudek stated she does not allow Fabian Joseph Decker into her home since he stole from her (refer to DR-12-13486 for further detail).

Officer D. Wilson spoke to the emergency room physician, Dr. Hicks and the following was reported. Amy Dudek had a concussion due to her symptoms of nausea, memory loss, and dizziness which are consistent with a concussion. Her nose was broken, the bite marks on her right ear and the bruises on her right arm were consistent with being about a week old.

Officer D. Wilson went to _____ and spoke to Julie Decker. She stated that Fabian Joseph Decker no longer lived at the residence and the last time she saw him was yesterday afternoon. He stopped by to use the phone and she gave him some food. Julie Decker stated she does not allow him inside her home because he is a bad influence on her special needs kids, she does not trust him, and he has a drinking problem. She stated he has stayed with "Keegan" in the past and Keegan lives in an apartment above the police department somewhere. She stated she knew Fabian Joseph Decker was hanging out with his girlfriend Amy Dudek last night.

Officer D. Wilson photographed Amy Dudek's injuries. Her right arm had two bite marks and individual teeth marks were clearly visible on Amy Dudek's arm. Both areas appeared to be swollen and red. One bite was on the forearm near the elbow and the second was in the middle of the forearm. Amy Dudek complained of jaw pain. The bruises on her right bicep were dark red and yellow, the top of her right ear was red and had a scab on the inside, the bridge of her nose between her eyes was noticeably distorted, and the area around her eyes were swollen.

On February 10, 2013 Officer D. Wilson meet with Allan Dudek at his home. Allan Dudek stated he did not see Fabian Joseph Decker at the residence yesterday morning. Amy Dudek woke him and Diane Dudek around 3:30 a.m. He saw that Amy Dudek's face was blood, her nose was broken, she was bleeding from her left eyebrow, and he noticed bite marks on her arm a

short while later. He stated that in the past Fabian Joseph Decker has used her window to exit the residence and he is not welcome in his house. Allan Dudek stated the blinds were damaged yesterday morning (top portion was ripped so that they were no longer secured to the rail above the window). Two blind shades were ripped and Fabian Joseph Decker left a jacket and a bag at the house which had a bottle of alcohol.

Diane Dudek stated she had washed Amy Dudek's pillow case because it was full of blood. She saved the pillow to show the police which she found on Amy Dudek's bed near the head board. Officer D. Wilson, re-photographed Amy Dudek's injuries and the pillow. A large blood stain approximately six (6) inches wide and six (6) inches tall was located on the pillow. He inspected the two damaged blinds in her bedroom noting they would no longer hang from the rail. A third damaged blind was located outside her window on the ground.

On February 14, 2013, Officer's Saunter and N. Smith responded to _____ in regards to a call that Fabian Joseph Decker was seen walking towards the library. Upon their arrival they observed a male that matched the description they were provided. They identified him as Fabian Joseph Decker. Fabian Joseph Decker was directed to walk to a bench near the emergency exit (south entrance) to the library. He complied and took a seat for a few minutes. He indicated his backpack was located outside the library and his driver's license was in his backpack. Library personnel opened the door and he walked outside. Fabian Joseph Decker ran from the officer's and they were unable to locate him.

On February 15, 2013, information was received that Fabian Joseph Decker was at P.L.U.R. _____ Officers Bekkedahl, Yost, K. Smith, and D. Willson responded to the location. Officer D. Wilson found Fabian Joseph Decker lying on the bathroom floor. When asked if he knew why they were trying to contact him, he responded it was because he ran from the police yesterday because his friend had just stolen a piece of beef jerky from Kmart. He was Mirandized and told him the police had tried to contact him about an incident that occurred at Amy Dudek's house.

Fabian Joseph Decker changed his story in regards to the incident several times. He stated he and Amy Dudek did go out to P.L.U.R a few days ago and they were smoking hookah and having a few drinks. The owner of P.L.U.R. asked him to get her cab ride home and leave since she was so wasted. She refused and drove away. He decided to go to BJ's with a friend and saw that she was also there. He finished his game of pool and left to find her since friend's told him she was really drunk outside. He walked to her house, knocked on her window, and she let him in through the window. One time he stated that she was already hurt when he arrived and he ran because he was not supposed to be at the house. Another time he stated he came in through the window, fell against her, and she hit her head on the dresser really hard. He stated that he had been messing around with her earlier in the night at P.L.U.R., nibbling on her neck, and that they bite and scratch each other sexually. He stated he never bit her on her arm and did not do it intentionally or aggressively. He also changed the reason for running from the police to he thought he may have a warrant. He admitted that he has lied to Officer D. Wilson in past police contacts.

Victim Statement- Amy Dudek
Case: CR-2013-0222 Fabian Decker
Sentencing: June 3rd, 2013

Judge Steve Conn,

Throughout this whole event I have never once been against Fabian. I attribute this to knowing his true character. Fabian is a very caring, very giving individual, who wants nothing more than to be able to turn his life around. I believe a case of alcoholism has gotten in the way of this happening however. When Fabian drinks to excess he becomes a different person that lashes out with anger. Sober, Fabian has never acted violently. I believe that prison is not the place for him. Instead I feel he would benefit much more from a sentence of probation. I think that probation with opportunities for A.A. meetings, or any other kind of resource to address his alcoholism, and possibly even therapy for anger management would be just what he needs to help him get past this demon and get back to being a productive member of society, and the good person we all know he is. The threat of prison time for breaking any such probation would definitely be enough to keep him on the right path. I also believe that going just to prison instead would not afford him these opportunities to rehabilitate and could possibly only exacerbate the situation.

I only want what's best for Fabian. I know that probation is the proper route for him. It's the only one that provides a support system to get better, which is exactly what a person struggling with an addiction needs. It also provides proper incentive to stay the course by having clear, unsavory, consequences if not met, and this is also a crucial component. I have full faith that this is the route that needs to be taken, instead of locking him away and hoping the problem just disappears. I have seen Fabian suffer enough with the jail time he has already served, and I am ready to watch him be an active participant in turning his life around and making up for his actions.

Thank you for your time,

Amy Dudek