

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 "[j]udge[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.