

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 10-235

Complainant: No. 1400810220A

Judge: No. 1400810220B

ORDER

The complainant alleged that a superior court judge improperly excluded pertinent evidence during her trial, failed to declare a mistrial, and allowed the prosecutor to put on a dramatic closing with a powerpoint presentation. The complainant further alleged the judge improperly expressed his feelings about the defendant's guilt during sentencing. The commission reviewed the issues and found no evidence of ethical misconduct on the part of the judge. Judges are not prohibited from commenting on the guilt of a defendant during a sentencing hearing, and decisions regarding presentations to the jury, the admissibility of evidence, or whether a mistrial should have been declared are within the discretion of the judge and outside the jurisdiction of the commission. Accordingly, the complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: October 29, 2010

FOR THE COMMISSION

/s/ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on October 29, 2010.

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**2010-235****COMPLAINT AGAINST A JUDGE**

Your name:

Judge's name:

Date: 9/15/10

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.

After the prosecutor put on a dramatic performance in his closing along with a power point presentation and after allowing non medical person to diagnosis herpes in the defendant. One of the jurors came forward and asked to be dismissed - Reason - he had gone through the same thin 20 years or so before. He had been allowed to sit through the entire trial but did not go to deliberation. Judge did not declare a mistrial even though this juror had been communicating with other jurors for 3 days. The loss of this juror, had he remained could have made a difference between a hung jury and a guilty verdict. At minimum the jury would have had to return on Monday. This happened on a Friday afternoon when everyone wanted to leave for the weekend and the jury didn't want to come back.

At sentencing this same judge expressed his feelings of the defendants guilt, excluded pertinent evidence throughout the trial, allowed prosecution to put on a dramatic performance and allowed the jury to stare at the power point presentation while he was deciding Not to declare a mis-trial that was called for