

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 10-326

Complainant: No. 1407810667A

Judge: No. 1407810667B

ORDER

The complainant alleged that a superior court judge improperly denied a motion to continue filed by his attorney. He further alleged the judge did not give him adequate time to present his argument and denied his request for new counsel. After analyzing the issues, the commission found no evidence of misconduct on the part of the judge. The commission is not a court and cannot change judicial decisions. The complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: March 15, 2011.

FOR THE COMMISSION

/s/ Keith Stott

Executive Director

Copies of this order were mailed to the complainant and the judge on March 15, 2011.

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

2010-326

COMPLAINT AGAINST A JUDGE

Your Name:

Judge's Name:

Date: 7-5-10

Instructions: Describe in your own words what the judge did that you believe constitutes misconduct. Please provide all of the important names, dates, times, and places related to your complaint. You can use this form or plain paper of the same size to explain your complaint, and you may attach additional pages. Do not write on the back of any page. You may attach copies of any documents you believe will help us understand your complaint.

On or about 5-2-10 I went before Judge He was doing the court calander and was supposed to be assigning my case to a trial judge. My court appointed atty Robert C. Corbitt asked Judge for a continuence. Judge requested the grounds for this request. My atty Robert C. Corbitt informed Judge that we had been having trouble obtaining my Email records. He told Judge that these records were needed to contact witnesses for the defense as well as obtain correspondence between the alledged victim and the defend-ent. Judge asked my atty if he had submitted a court order to get these records my atty stated that he had not yet done so. Judge then denied our request for continuence. At this point I asked Judge if he had recieved my Motion to Dismiss counsel. He said he had not but would listen to my oral argument. My written motion's were 8pgs. original 2pgs. backup as I thought the original was lost. I tried to explain that my lawyer Robert C. Corbitt convinced me to get continuence after continuence even though I had originally requested a fast and speedy trial. During this time he was supposed to be obtaining my bank records, Emails, and phone records so that we could contact potential witnesses as well as obtain evidence to refute the allegations in the police report as well as thoes made by the alledged victim. I told judge that I agreed with him that Mr. Corbitt had ample time and opportunity to obtain these records because of the importance of these records and because of the fact that I should be able to present evidence and call witnesses on my behalf I requested that

(Attach additional sheets as needed.)

Mr. Corbitt be removed as my attny. Judge denied my motion. When I tried to explain that there were many other reasons for my request he refused to hear them.

The original motion to dismiss counsel was sent to my trial Judge Commissioner Lynch (8 pgs.) I was in custody at the time and sent the motion through ILS inmate legal services, when I did not get a receipt back from ILS I became worried and sent a back up motion to Judge (2 pgs) I explained in the motion that it was a fail safe and if the original wasn't lost to disregard the 2nd and use the original. Commissioner Lynch was original

When I went before Commissioner Lynch he told me he couldn't rule on my original motion as Judge after receiving my back up had already made a ruling denying my request to change counsel. was a back up, should not of ruled

By denying my lawyers request for a continuence, he also denied me an opportunity to call witnesses in my defense as well an opportunity to present evidence which show that many of the charges are unfounded.

By denying my request to change counsel Judge forced me to go to trial with a lawyer that failed to address almost all of my concerns & request. At the start of trial my attny. had still not presented me with a copy of the grand jury indictments^{transcripts} even though I'd been requesting them for 10 months. Nor had he broken down and explained the charges against me. I will provide you copies of my request as well as copies of

copies of the motions to dismiss counsel, I will also provide you with a list of request made to my lawyer which were never addressed and which Judge deemed unimportant by denying my Motion.

1. Requested that Mr. Corbitt submit a motion for sanctions pursuant to rule 15.7, state violated procedural law by not providing timely disclosure. I believe that around the 1st of Feb. Mr. Corbitt and Ms Erin Otis requested a continuance to obtain blood and urine test results from the lab or hospital even though I had been requesting full discovery + disclosure for the previous 7 months. Ms Otis stated at this time that it would take another 1 1/2 months to obtain the results in printed format but that she could verbally tell us the results. Judge did not reprimend my lawyer or Ms. Otis for failing to comply with my earlier request for full discovery and felt that it was perfectly reasonable to have me sit in County Jail with no bond for an additional 1 1/2 months. Neither Judge nor Robert Corbitt questioned Ms. Erin Otis as to how she could provide the results verbally but not in document form. I requested that my attny submit a written motion^{for} sanctions on Dec 14th 2009 if he did so the test results should have been produced by the state well before the date Ms. Otis stated that it would take an additional 1 1/2 months on top of the 7 months they already had.

if Mr Corbitt did not submit this motion Judge having been made aware of his ineffectiveness

by not submitting motion, along with his failure to put in proper court orders to obtain my email records, as well as my bank and phone records. Add to those that Mr. Corbitt had also not bothered to provide me requested grand jury transcripts (and never did) ignored numerous request for glasses lied about not being able to provide me legal supplies so that I was unable to effectively assist in my defense, that I was being denied my right to call witnesses and present evidence just to name a few.

I feel Judge acted with cautious indifference when he denied the request for continuence and the request to change counsel. Judge denied my lawyers request for an continuence because he felt my lawyer was negligent and did not act in a timely manner. YET a month and a half previous he didn't the States request for a continuence nor did ^{he} question or reprimend the States failure to provide discovery in a timely fashion (10 months for the state to provide test results) nor did he feel it unreasonable that the state needed an additional 1 1/2 month provide me discovery evidence that was already 5 months overdue.

Judge recognized that my lawyer failed to act in a timely and professional manner by denying his request for a continuence, yet failed to recognize the same when he ruled on my motion to change counsel.

Judge also charged my attny with contempt for failing to be on time for a court date affirming my allegations of ineffective counsel.

2010-326

In conclusion I feel that Judge [redacted] was too lenient on Ms. Otto for by granting a continuance 9 months after my arrest and 5 months after she should've provided my lawyer and myself full discovery. I also feel that he should've reprimanded my lawyer for not demanding full discovery + disclosure as I asked my lawyer to do repeatedly.

I also feel Judge [redacted] treated me unfairly by not looking at my written motion to Commission Lynch and asking me to present an oral argument that I was not prepared or trained to give. He also cut me short on said oral argument not allowing to fully explain my reasons.

I think Judge [redacted] also acted unfairly when my main complaint and reasons for requesting a change of counsel was because my lawyer Mr. Corbett failed to act in a timely and professional manner in an effort to obtain my phone records (needed to contact potential witnesses) my e-mail records (needed to contact potential witnesses as well as refute statements made by the victim in the police reports) My bank statements (needed to establish time line of events plus corroborate my testimony). Which is the same reason Judge [redacted] refused to grant my lawyer and myself a continuance. By doing so Judge [redacted] denied me my right to call witnesses and present evidence on my behalf.

By not granting my change of Counsel motion or my lawyer's request for a continuance Judge [redacted] also

2010-326

denied me my right to glasses so that I could see evidence and assist effectively in my jury selection. He denied me my right to see my grand jury indictment transcript as well as all other disclosure and discovery that I had requested of my lawyer to see, my right to have the charges against me explained and broken down, my right to legal supplies and case law I repeatedly requested. He also failed to reprimand my lawyer for not acting in a timely manner to obtain the testimony of my father, a witness, before he passed away as I had repeatedly warned that he might.

I think Judge [redacted] decisions were based more on convenience for the state than on me receiving adequate Counsel or a fair trial.

I have copies, as I had mentioned in my motion, of all request and letters/motions stamped and dated by LLS to my attorney yet Judge [redacted] decided that these held no bearing on his quick and un-studied opinion. If you need specific copies please let me know I will provide some copies for your review.

Thank You for your time and consideration.