

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 11-010

Complainant: No. 1409910219A

Judge: No. 1409910219B

ORDER

The complainant alleged that two superior court judges made errors several years ago in determining sentences for a criminal conviction and a subsequent parole violation. The commission reviewed the matter and found no evidence of ethical misconduct on the part of either judge. The issues raised involve legal rulings that are outside the jurisdiction of the commission. Accordingly, the commission dismissed the complaint, pursuant to Rules 16(a) and 23. .

Dated: April 12, 2011.

FOR THE COMMISSION

/s/ Keith Stott

Executive Director

Copies of this order were mailed to the complainant and the judge on April 12, 2011.

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

January 6, 2011

TO: COMMISSIONER ON JUDICIAL CONDUCT

FROM:

RE:

TO WHOM IT MAY CONCERN;

IN 2000, MS. WAS CHARGED WITH ONE COUNT OF SEXUAL CONDUCT WITH A MINOR IN VIOLATION OF A.R.S. 13-1405 AND ONE COUNT OF ATTEMPTED MOLESTATION OF A CHILD IN VIOLATION OF A.R.S. 13-1410, MS. BASED ON ADVICE OF COUNSEL ACCEPTED A PLEA AGREEMENT AND WITH RESPECT TO COUNT I, PLEA GUILTY TO A CLASS 6 FELONY, SEXUAL CONDUCT WITH A MINOR FIFTEEN YEARS AND OVER. JUDGE SENTENCED MS. TO A MOTIVATED TERM OF LESS THAN A YEAR IN THE ARIZONA DEPARTMENT OF CORRECTIONS.

WITH RESPECT TO COUNT II, PLEA GUILTY TO A CLASS 3 FELONY, MOLESTATION OF A CHILD UNDER FIFTEEN YEARS OF AGE. JUDGE SENTENCED MS. TO PROBATION. ON MAY 8, 2006, JUDGE BASED UPON A PROBATION VIOLATION SENTENCED MS. TO 2.5 YEARS IN THE ARIZONA DEPARTMENT OF CORRECTIONS. MS. HAS SERVED THE MAJORITY OF HER SENTENCE.

THE ONE AND ONLY VICTIM IN THIS CASE WAS 17 YEARS OLD.
 WITH RESPECT TO COUNT I, MS. WAS CHARGED
 APPROPRIATELY AND SENTENCED ACCORDINGLY. HOWEVER,
 WITH RESPECT TO COUNT II, BEING THAT THE VICTIM WAS
 17 YEARS OLD, THE STATE SHOULD HAVE BEEN PROSECUTED
 WITH CHARGING MS. WITH A VIOLATION OF R.A.S.
 13-1410.

" A PERSON COMMITS MOLESTATION OF
 A CHILD BY INTENTIONALLY OR
 KNOWINGLY ENGAGING IN OR CAUSING
 A PERSON TO ENGAGE, EXCEPT
 SEXUAL CONTACT WITH A FEMALE
 BREAST, WITH A CHILD WHO IS
 UNDER FIFTEEN YEARS OF AGE."

JUDGE, DUE TO STATUTORY CONSTRUCTION,
 SHOULD NOT HAVE ALLEGED A GUILTY PLEA TO A
 VIOLATION OF R.A.S. 13-1410 AND DISMISSED THE
 CHARGE. JUDGE, DUE TO STATUTORY
 CONSTRUCTION SHOULD HAVE NOT VIOLATED MS.
 PROBATION AND DISMISSED THE CHARGE THIS
 CONSTITUTES GROSS INCOMPETENCE OF THE JUDICIARY.
 SINCE MS. INCARCERATION, SHE WAS DIAGNOSED
 WITH A CHIARI MALFORMATION AND TUMOR AT THE
 BASE OF HER SKULL. MS. DUE TO HER MEDICAL
 CONDITION ASKED ME TO FILE THIS COMPLAINT ON HER
 BEHALF. SINCERELY,