

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 16-243

Judge:

Complainant:

ORDER

The complainant alleged a superior court judge, now retired, was biased against him and improperly sentenced him in a criminal case.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the judge engaged in conduct that violated the provisions of Article 6.1 of the Arizona Constitution or the Code of Judicial Conduct and, if so, to take appropriate disciplinary action. The purpose and authority of the commission is limited to this mission.

The commission does not have jurisdiction to review the legal sufficiency of the judge's rulings. In addition, the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23(a).

Dated: October 12, 2016

FOR THE COMMISSION

/s/ George A. Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on October 12, 2016.

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

COMPLAINT

THIS COMPLAINT IS FILED AGAINST THE HONORABLE
 RESIDING ON THE BENCH IN
 , NOW
 REFERRED TO AS THE DEFENDANT, RAISES THIS COMPLAINT.
 IN , DEFENDANT WAS STANDING TRIAL FOR
 OF CHILD MOLESTATION, OF
 ATTEMPTED SEXUAL ASSAULT AND , SEXUAL
 CONDUCT WITH A MINOR. AND WERE
 DISMISSED DUE TO LACK OF EVIDENCE. OF
 OF CHILD MOLESTATION, HE WAS FOUND
 GUILTY OF.

IN THE EXHIBIT ONE THE AFFIDAVIT BY DEFENDANT
 YOU WILL SEE THERE WAS A MISTRIAL. THE MISTRIAL
 WAS REQUESTED BY PROSECUTION TO COVER UP A SEQUENCE
 OF EVENTS THAT WOULD PROVE DEFENDANT'S INNOCENCE.

LATER THE COURT STARTED A NEW
 TRIAL WITH A NEW JURY. IT IS WELL ESTABLISHED IF THE
 DEFENDANT WAS TO RAISE THE MISTRIAL ISSUE HE WOULD
 WAIVE ANY CONSTITUTIONAL CLAIM TO DOUBLE JEOPARDY
 UNLESS THE PROSECUTOR COMMITTED THE ERROR. IN THIS
 CASE IT WAS THE PROSECUTOR WHO COMMITTED THE ERROR.
 YET THE HONORABLE JUDGE ALLOWED A DOUBLE JEOPARDY
 CLAUSE BE DONE IN HIS COURT ROOM. THE HONORABLE
 JUDGE IGNORED ALL CONSTITUTIONAL RIGHTS OF DEFENDANT AND
 ALLOWED THIS ABUSE OF DISCRETION TO HAPPEN IN HIS COURT
 ROOM.

DURING THE SECOND TRIAL ON MULTIPLE TIMES THE
 JUDGE ALLOWED THE PROSECUTOR TO HAVE JURY DISMISSED

SO THE PROSECUTOR COULD COERCE ALLEGED VICTIM INTO PROCEEDING IN FOLLOWING HIS GUIDELINE TO THE POINT. ONCE, THE JURY WASN'T EVEN DISMISSED AND WERE PRESENT DURING THIS ILLEGAL CORNER CONVERSATION YET THE HONORABLE JUDGE ALLOWED THIS UNETHICAL PROCEDURE TO HAPPEN. ON ANOTHER OCCASION THE PROSECUTOR AND [REDACTED] HAD THE ALLEGED VICTIM LOOK AT THEM FOR QUESTIONING SO THE PROSECUTOR AND [REDACTED] COULD LEAD THE ALLEGED VICTIM. THE HONORABLE JUDGE SAW THIS AND DID NOTHING TO STOP IT. THE HONORABLE JUDGE HAD EVERY CHANCE TO STOP THIS INJUSTICE BUT REFUSED TO LIFT A HAND. HE GAVE DEFENDANT NO EQUAL RIGHT OR FAIR TRIAL. HE LET THE PROSECUTOR RUN THE COURTROOM AS A RESULT, DEFENDANT'S RIGHTS WERE VIOLATED. SEE EXHIBIT AFFADAVIT.

MEMORANDUM OF LAW.

THE DEFENDANT MOVES TO REOPEN HIS CASE AND TO HAVE THE HONORABLE JUDGE [REDACTED] RECUSED FOR BEING BIAS AND PREJUDICIAL AND DISOBEYING HIS ETHICS. HIS IS TO UPHOLD DEFENDANT HAS REQUESTED AN UNTIMELY [REDACTED] OF ACTUAL INNOCENSE AND IT IS WELL ESTABLISHED THAT WHEN PRESENTED WITH AN AFFADAVIT. SEE EXHIBIT [REDACTED] PREJUDICE. THE JUDGE MAY NOT PASS UPON THE TRUTH OF FALSITY OF THE ALLEGATION CONTAINED THERE IN BUT MUST ACCEPT THEM AS TRUE FOR THE PURPOSE OF PASSING UPON THE LEGAL SUFFICIENCY OF THE AFFADAVIT. SEE BERGER V. UNITED STATES 255 US 22,

41 S. CT 230, 65 L. ED 481 (1921). THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT USC. ESTABLISHES A CONSTITUTIONAL FLOOR FOR A JUDICIAL BIAS CLAIM, SEE BRACY V. GRAMLEY 570 US. 899, 905 117 S. CT 1793 138 L. ED. 2D 97 (1997).

WHEN THE HONORABLE JUDGE ALLOWED A DOUBLE JEOPARDY TO HAPPEN IN HIS COURT ALLOWED THE PROSECUTION TO HARRASS AND MANIPULATE ALLEGED VICTIM AND LEAD THE JUDGE'S RULINGS WERE ALL FOR THE STATE AND HE VIOLATED THE RULES OF JUDICIAL CONDUCT AND WAS BIAS AND PREJUDICE AND PROVED HIMSELF UNFIT TO HEAR THIS CASE, SEE BRACY V. SCHOMIG 286 F 3D 406 (7th CIR 2002).

DENIAL BY THE HONORABLE JUDGE TO THE RIGHT TO AN IMPARTIAL JUDGE IS A DUE PROCESS VIOLATION AND IS NOT SUBJECT TO THE HARMLESS ERROR ANALYSIS SEE, FRANKLIN V. McLAUGHRY 398 F.3D 955 962 (7th CIR 2005)

WHEN PROSECUTION SIDE BARRED IN THE FIRST TRIAL AND REQUESTED A MISTRIAL FOR HIS CONSTITUTIONAL ERROR AND WAS GRANTED A MISTRIAL AND THEN LATER ALLOWED NEW TRIAL THE JUDGE ALLOWED A DOUBLE JEOPARDY HEARING AND DID NOTHING TO STOP IT. IF DEFENDANT ASKED FOR MISTRIAL HE WOULD HAVE WAIVED HIS RIGHT OF CONSTITUTIONAL CLAIM OF DOUBLE JEOPARDY, BUT BECAUSE IT WAS PROSECUTION IT IS NOT WAIVED. SEE OREGON V. KENNEDY 456 US 667, 102 S. CT 2083 72 L. ED 2D 416 (1982).

LEE V. UNITED STATES 432 US 23, 33, 34, 97 S. CT 2141 53rd L. ED. 2D 80 (1977).

A FAIR TRIAL IN A FAIR TRIBUNAL IS A BASIC REQUIREMENT

OF DUE PROCESS. SEE IN RE MURCHISON 349 U.S. 135
136 75 S.CT 623 99 LED 942 (1955).

WHEN THE JUDGE IS BIAS AS IN THIS CASE, HE
COMMITTS STRUCTURAL ERROR REQUIRING AUTOMATIC REVERSAL.
SEE JOHNSON V. UNITED STATES 520 US 461 468 117 S.CT
1544 137 LED 20. 718 (1997).

BASED ON THE FACT THAT THE HONORABLE JUDGE
KNEW HE COULD NOT HEAR THIS CASE HE
SHOULD HAVE FILED A MOTION OF RECUSAL. A MOTION OF
RECUSAL IS VIEWED FOR AN ABUSE OF DISCRETION WHICH THE
JUDGE COMMITTED SEE JORGENSEN V. CASSIDY 320 F3D
906 911 (9th CIR 2003); McFARLAND V. STATE 707
50 20 166 180 (MISS 1977)

REQUEST

THE DEFENDANT REQUESTS THE COMMISSION ON JUDICIAL
CONDUCT TO INVESTIGATE DEFENDANTS CLAIMS REOPEN HIS
CASE AND LET A REVERSAL TO OCCUR BASED ON THE
THAT HAPPENED. IT IS OBVIOUS FIRST TRIAL
HE CALLS MISTRIAL BECAUSE PROSECUTOR REQUESTED IT.
FAVORITISM, THEN A SECOND TRIAL THAT THE JUDGE KNEW
WAS A VIOLATION OF THE CONSTITUTION OF DOUBLE JEOPARDY
THEN LETTING THE PROSECUTORS DISMISS JURY SO HE COULD
COERCE ALLEGED VICTIM AND KEEPING IT OFF RECORD.
ALLOWING THE PROSECUTOR AND EXPERT WITNESS
TO LEAD WITNESS WHAT TO SAY. DEFENDANT
RECEIVED NO FARNNESS HIS CASE SHOULD BE REHEARD

AND REVERSED AND THE HONORABLE JUDGE'S LICENSE
REMOVED. THIS IS A LEGAL COMPLAINT.

I WAIT TO HEAR AN HONEST ANSWER FROM THE
JUDICIAL COMMUNITY.

SIGNED THIS DAY OF
