

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 16-245

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Judge:

Complainant:

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**ORDER**

The complainant alleged a superior court judge was prejudiced against him, denied him effective counsel, denied his right to be heard, and spoke negatively about his 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

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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.*

I understand the commission cannot reverse court orders or assign a new judge to a case.

I declare, under penalty of perjury, that the foregoing information and the facts I have provided upon which my allegations of judicial misconduct are based are true and correct.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

### INSTRUCTIONS

Use the following space or plain paper of the same size to explain your complaint. Explain why you believe what the judge did constitutes judicial misconduct. Be specific and list the names, dates, times, and places relevant to your allegations. Additional pages may be used and relevant copies of documents may be sent with your complaint (please do not send original documents). Use one side of each page only and write legibly or type your complaint. Please keep a copy of your complaint for your records.

numerous violations of the AZ judicial code of conduct clearly constitutes misconduct. \_\_\_\_\_ has intentionally denied me effective counsel, threatened/intimidated me, spoke negatively about my case in open court, denied me my right to be heard in court, and has abused his position as the judge in my case by ruling against me prejudiciously and against established law and caselaw.

I first began to see \_\_\_\_\_ held bias against me when he would not grant my request for new counsel back in \_\_\_\_\_.

I eventually filed a \_\_\_\_\_ motion for new counsel which he simply deferred ruling on. In the motions I was clearly explaining how my attorney was engaging in misconduct yet he didn't care or take action. Eventually I filed a \_\_\_\_\_ motion for change of counsel in \_\_\_\_\_ of \_\_\_\_\_ (\_\_\_\_\_. In this motion I laid out in detail just how ineffective my counsel was. (\_\_\_\_\_).

how he was violating numerous ...

sections of Rule 42 of AZ Rules of professional conduct, and how he was engaging in misconduct by committing fraud against and myself. At the last hearing simply said that badmouthing my attorney wouldn't get me a new lawyer. My advisory counsel even told the judge that an appealable issue was being created due to the fact that I had been attempting to get new counsel for nearly years, that we couldn't work together because we were at adverse positions, and that because he had

interest. Nevertheless ( that may create a conflict of didn't care and denied me new counsel. This taken alone may not have constituted an intentional pattern of misconduct yet there have been other examples of ruling against established law simply out of prejudice towards me. They are:

On trying to argue my motion for new counsel I told that my advisory counsel had denied me my right to interview witnesses and present a defense effectively, through his actions. interrupted me and told me I had no right to be present during witness interviews and that by making that statement it showed the court I didn't know what I was doing. To be clear I'm a Pro-Per defendant. His statement/ruling was clearly against well established law from the AZ constitution to the U.S. Constitution.

furthermore it was against the 9<sup>th</sup> circuit rulings in: U.S. v Mendez-Rodriguez, 450 F.2d 1 (9<sup>th</sup> cir. 1971), U.S. v Castillo, 615 F.2d 878 (9<sup>th</sup> cir. 1980) and established state caselaw such as: State v. Draper, 158 Ariz. 315 (1988) and State v. Moncayo, 115 Ariz. 274, 564, P.2d 1241 (1977) ("A defendant and his counsel certainly have a right to talk with any witness having knowledge of matters which may be beneficial or detrimental to the defense").

On my motion for due to being ineffective the judge stated that the defendant had the right to counsel or advisory counsel, that's it. He said that met the requirements set by Bounds v. Smith yet another judge granted as the defendant, counsel because that court found that by did not meet the standards set by Bounds (see: State v. Nolte, CR-97-10394)

On a motion for to be viewed in camera I had numerous controlling cases to support my position. The state had none, they simply said that they didn't feel the need to because the none of the were on the " " list. This doesn't satisfy the standards set forth by the 9<sup>th</sup> circuit in: U.S. v. Henthorn, 931 F.2d 29, 31, 9<sup>th</sup> cir. 1991), U.S. v. Cadet, 727 F.2d 1453, 1467 (9<sup>th</sup> cir. 1984), Milke v. Ryan, 711 F.3d 998 (9<sup>th</sup> cir. 2013). Nevertheless the motion was denied.

To be clear, the county attorney never replied to any of my motions, he only replied on the motion with no caselaw to support his position. I had motions that are supported by controlling caselaw for

A judge shall only consider the evidence presented yet summarily denied all my motions even though by doing so he was ruling against the law.

It is clear through his lack of diligence and ruling time and time again in error that <sup>is</sup> engaging in misconduct. A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially (A.R.S. Sup. Ct. Rules, Rule 81, Code of Jud. Conduct, Rule 2.2). A judge shall perform judicial and administrative duties competently, diligently, and promptly (A.R.S. Sup. Ct. Rules, Rule 81, Code of Jud. Conduct, Rule 2.5). Based on actions on he was in violation of both of these rules.

barely glanced at the motions before he began ruling on them. Competence in the performance of judicial duties requires the legal knowledge, skill, thoroughness and preparation reasonably necessary to perform a judge's responsibilities of judicial office (A.R.S. Sup. Ct. Rules, Rule 81, Code of Jud. Conduct, Rule 2.5, 2009 comments 1). A judge must interpret and apply

the law without regard to whether the judge approves or disapproves of the law in question. A pattern or legal error or intentional disregard of the law may constitute misconduct (A.R.S. Sup. Ct. Rules, Rule 81, Code of Jud. Conduct, Rule 2.2, 2009 comments 1 & 2). It is clear from the judge's rulings and motions that he wasn't prepared and never actually read through the motions.

intentionally ruling against established caselaw and disregarding the law shows a pattern of legal error from his prejudice. Yet this is not only violation of the code of judicial conduct.

During the hearing on I asked if I would get a chance to speak. The judge immediately became very angry. He asked if I had been denied a chance to speak before, yet before I could answer he interrupted me. Later when I was trying to explain my position threatened to have me kicked out of the court room. A judge who manifests prejudice in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute. Threatening and intimidating is a manifestation of prejudice and a judge must avoid conduct that may be reasonably perceived as prejudicial (A.R.S. Sup. Ct. Rules, Rule 81, Code of Jud. Conduct, Rule 2.3, 2009 comments 1 & 2).

Time and time again on

interrupted me

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PAGES OF ANY DISMISSED  
COMPLAINT ON ITS WEBSITE.**

**FOR ACCESS TO THE  
REMAINDER OF THE  
COMPLAINT IN THIS MATTER,  
PLEASE MAKE YOUR REQUEST  
IN WRITING TO THE  
COMMISSION ON JUDICIAL  
CONDUCT AND REFERENCE  
THE COMMISSION CASE  
NUMBER IN YOUR REQUEST.**