

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 17-255

Judge:

Complainant:

ORDER

The complainant alleged a superior court judge improperly refused to accept his criminal complaint.

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).

Commission member Anna Mary Glaab did not participate in the consideration of this matter.

Dated: November 22, 2017

FOR THE COMMISSION

/s/ Margaret H. Downie

Margaret H. Downie

Executive Director

Copies of this order were distributed to all appropriate persons on November 22, 2017.

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

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VERIFIED COMPLAINT AGAINST A JUDGE

I, _____, (hereinafter "complainant"), after being duly sworn, depose and state as follows:

1. Based on my knowledge and belief and personal knowledge, a preponderance of evidence concerning the crime(s) committed against me, the facts as set forth in this verified complaint against a judge, there is cause to believe that _____ has committed violations of law to include Title 18 U.S.C. Section 4, Misprision of Felony, and 18 U.S.C. Section 242, Deprivation of Rights Under Color of Law; 18 U.S.C. Section 241, Conspiracy against rights; A.R.S. § 13-2512, Hindering Prosecution in the First Degree; A.R.S. § 13-2511, Hindering Prosecution in the Second Degree; A.R.S. § 13-2409, Obstructing Criminal Investigations or Prosecutions and A.R.S. § 38-443, Nonfeasance in Public Office, A Class 2 Misdemeanor, Abuse of Process thus warranting this complaint.

2. _____, is subject to impeachment pursuant to A.R.S. §38-311 for high crimes, misdemeanors or malfeasance in office, abuse of process and should be disqualified under Article 6.1 Section 2 of the Arizona State Constitution from acting as a judge, without loss of salary, while there is pending information charging _____ in the United

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States with a crime punishable as a felony under Arizona or Federal law.

3. is the complainant, witness to and victim of the crime(s) committed by

4. is currently the presiding judge for the
County.

5. As a judge, should maintain the dignity of judicial office at all times, and
avoid both impropriety and the appearance of impropriety in professional life.

6. However, , complainant, has suffered and continues to suffer direct emotional
harm as a result of judicial misconduct and abuse of process while
performing duties of judicial office as the

7. The professional conduct of judges are governed by Arizona Supreme Court Rule 81, Rules
of the Supreme Court or also known as Arizona Code of Judicial Conduct in which the
black letter of these rules are binding and enforceable.

8. Pursuant to the Arizona Code of Judicial Conduct, is prohibited from
committing violations against the following Canon 1 rules as a judge.

9. Canon 1 Rule 1.1 provides:

RULE 1.1. Compliance with the Law

A judge shall comply with the law, including the Code of Judicial Conduct.

10. On , pursuant to A.R.S. § 13-2512 did knowingly
and willfully with intent, concealed commissions of Felony and Misdemeanor, Federal and
State Crimes charged against ,

11. hindered the apprehension, prosecution, conviction or punishment of
and for their crimes consequently rendering assistance

1 to the [redacted] by shielding them from prosecution when [redacted] willfully
2 concealed their crimes by not either determining probable cause and reporting these crimes
3 to proper authority which are duties the performance of which is required of [redacted] by law
4 committing abuse of process against [redacted] and denying him his due process rights.

5
6 12. On [redacted] mailed a cover letter and a criminal complaint with a
7 probable cause statement made against [redacted] by
8 way of Certified Mail, Restricted Delivery CMR#

9 13. It was received and signed for on [redacted] at the [redacted] where
10 [redacted]
11 was working.

12 14. [redacted] cover letter requested [redacted] to determine probable cause.

13 15. On approximately [redacted], Complainant received a letter dated [redacted]
14 and written by [redacted] acknowledging receiving a Criminal Complaint
15 against [redacted] and stated in writing "**Dear**
16 **: The Court has received the documents entitled Criminal Complaint that you**
17 **submitted to my office requesting a finding of probable cause. Pursuant to Rule 2.3 of**
18 **the Arizona Rules of Criminal Procedure, criminal complaints must be signed by a**
19 **prosecutor or made upon oath by a law enforcement officer. Your complaint is not signed**
20 **by a prosecutor nor does it contain an oath from a law enforcement officer. As a result,**
21 **the court cannot file this complaint into the court record or take any further action on**
22 **it."**
23

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25 16. [redacted] filed this complaint upon information and belief and when a complaint is made
26 upon information and belief, "a duty devolves upon the magistrate to inquire as to the
27 sources of the complainant's information and the grounds of his belief...[The magistrate
28

1 should not accept without question the complainant's mere conclusion that the person
2 whose arrest is sought has committed a crime." *Erdman v. Superior Court*, 102 Ariz. 524,
3 526-27, 433 p.2d 972, 974-75 (1967).

4 17. Nevertheless, [redacted] failed to inquire into [redacted] information and as to the
5 grounds of his belief.

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7 18. [redacted] has personal first hand knowledge regarding the information in the complaint
8 due to the fact that the crimes were committed against [redacted].

9 19. Nevertheless, [redacted] failed to proceed under Rule 2.4 which its purpose is written
10 in *Flager v. Derickson*, 134 Ariz. 229, 655 P.2d 349 (1982), "...The purpose of Rule 2.4 is
11 to ascertain "whether probable cause exist to believe that a named, or adequately described,
12 defendant committed a public offense." *Rodriquez v. Superior Court*, 123 Ariz. 559, 601
13 p.2d 322"

14
15 20. [redacted] violated not only [redacted] due process rights but denied
16 his Victims rights pursuant to Section 2.1, Article 2 of the Arizona State Constitution.

17 21. [redacted] failed to perform her duty pursuant to 16A A.R.S. Rules of Crim.Proc.,
18 Rule 2.4(a).

19
20 22. [redacted] serves in a position of public trust who granted [redacted] this position of trust
21 and had a duty to act without discretion when [redacted] received the Criminal Complaint.

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23 82. I [redacted], the complainant, have filed this complaint pursuant to Article 22, Section
24 5, Article 6, Section 25, of the Arizona Constitution and the Superior Court for the
25 [redacted] has Jurisdiction over this complaint pursuant to Article 6, Section 14
26 or The United States District Court For The District of Arizona.

27
28 I [redacted] am a credible person and swear under penalty of perjury, I am competent to testify

1 on the matters stated, to the best of my knowledge and belief, these facts and circumstances are
2 true and correct and made upon personal knowledge.

3 Respectfully submitted this
4 _____
5

6 **VERIFICATION**

7
8 **STATE OF**

9 SWORN TO AND SUBSCRIBED BEFORE ME, _

10 Notary

11 by _____
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14 _____, which

15 witnesses my hand and seal of office.
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18 **NOTARY PUBLIC IN AND FOR**
19 **THE STATE OF**
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