

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 17-271

Judge:

Complainant:

ORDER

The complainant alleged a superior court judge improperly admitted evidence and improperly instructed the state on how to admit evidence in a criminal trial. The complainant also alleged various other professionals who are outside the jurisdiction of the commission committed misconduct.

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: December 6, 2017

FOR THE COMMISSION

/s/ Margaret H. Downie

Margaret H. Downie
Executive Director

Copies of this order were distributed to all appropriate persons on December 6, 2017.

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

CONFIDENTIAL

Arizona Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
Phoenix, Arizona 85007

FOR OFFICE USE ONLY

2017-271

COMPLAINT AGAINST A JUDGE

Name: _____ **Judge's Name:** _____

Instructions: Use this form or plain paper of the same size to file a complaint. Describe in your own words what you believe the judge did that constitutes judicial misconduct. Be specific and list all of the names, dates, times, and places that will help the commission understand your concerns. Additional pages may be attached along with copies (not originals) of relevant court documents. Please complete one side of the paper only, and keep a copy of the complaint for your records.

please see attached/enclosed letters

To Whom It May Concern:

I, _____, am seeking post conviction relief in the form of having my charge of extortion dismissed with prejudice and removed from my record for the following reasons.

First, my initial public defender failed to investigate my defense I was _____ Although, I was not _____ did not warranted denial of effective representation by _____ never contacted the organizations who provided information they were _____ He failed to investigate the entire case. _____ violating my Civil Right to a fair trial by meeting, on video, with the first prosecutor, the “alleged victim,” and _____ supervisor. This occurred outside of _____, captured on video, and witnessed by the bailiff. I knew the bailiff witnessed this illegal act when I heard her say, “_____” while talking on the phone. This violation of my Civil Right to a fair trial was confirmed when _____ supervisors told me, after they had met, the “alleged victim” wanted to speak to me. I refused by not acknowledging the “alleged victim” when he tried to speak to me. The “alleged victim’s” actions were captured on video inside _____

Second, my second public defender ineffectively represented me by not investigating my defense of being _____ failed to investigate the illegal meeting which took place, on video, outside of _____ failed to effectively represent me during his cross examination of the “alleged victim” by not pointing out the “alleged victim” committed perjury when he lied under oath stating nothing in the emails were true. This question was asked by the male prosecutor during the “alleged victim’s” testimony. The “alleged victim” said, “No!” Then he later admitted under oath he taped me in the back of the head. _____ failed to effectively represent me when during cross examination he failed to ask: Was it true the “alleged victim” had no contact with me after I text him to drop of the file and later dropped off the file? The “alleged victim” committed perjury, because he did tried to contact me inside of _____, captured on video. _____ failed to effectively represent me when he failed to object to the _____ illegally and unethically instructed the female prosecutor (on record) how to admit evidence into trial after _____ objection was sustained. _____ ineffectively represented me by not objected to the judge aiding the prosecution Criminal Contempt Rule 33.4 b). _____ ineffectively represented me when he failed to have the case dismissed with prejudice, because of judicial misconduct. _____ ineffectively represented me when he failed to file a judicial misconduct complaint. _____ ineffectively represented me when he failed to object to a video of me, offered into evidence late (Rules of Criminal Procedure Article IX Rule 901; Rule 103 1,a, 1-2.) _____ did not ask for a continuance to properly view and

have the video examined by a professional for authenticity. [redacted] did not object to having the video, which was redacted, submitted before having viewed the entire unredacted version which was not available at trial (Arizona Rule of Evidence Article X 1002 & 1008 a & b). Under Rule 15.8 b-c [redacted] failed to ask the trial judge for sanctions against the prosecution. After viewing this video I decided to take a plea. According to the Arizona Rules of Evidence and Criminal Procedure the video shown should not have been allowed in the court by [redacted]. The prosecution had more than enough time to access any and all content of my phone since [redacted] ineffectively represented me by not discovering, through a proper interview of me, the phone was illegally obtained from my vehicle. A detective stopped and detained me at [redacted]. Upon arrest the officer only took two keys, which were on my person; my sunglasses, which were covering my eyes; and my cell phone belt clip, which was clipped onto my belt. My phone was on the front passenger seat, out of the "grab area." The officer who parked my car approximately a half a mile from the location where I was arrested violated my 4th amendment right of illegal search and seizure when he took the phone from the front seat of my car later ending up in [redacted] custody. I believe the [redacted] needed a search warrant to obtain my property. [redacted] ineffectively represented me when he encouraged me to sign an affidavit of fact. If I would have took the ineffective advice of [redacted] I would have enabled the [redacted] and the prosecution to cover up the fact they illegally obtained my phone (Arizona Rules of Evidence Article X 1002, 1007, 1008 a & b). My phone and its content should have never been entered into evidence, because its content should have been considered "fruit of the poisonous tree." [redacted] under Criminal Procedure Rule 15.6 b & c should have never allowed the redacted video to have been presented in court (Rule 102). [redacted] under Sanctions Rule 15.7 a-2 should have requested the charge be dismissed with prejudice.

Third, the initial prosecutor violated my Civil Right to a fair trial when she met with the "alleged victim," [redacted], and his supervisor outside of [redacted] captured on video, and witnessed by the bailiff. According to Rule 15.1 a, b-3 the State failed to disclose what transpired during that meeting.

Fourth, [redacted] used coercion to obtain my password and my phone in violation of my 4th amendment right. [redacted] told me she was keeping my phone; therefore, depriving me of my property without a warrant. The information obtained from her actions and the actions of all the detectives make the phone and all its content "fruit of the poisonous tree." Please see the entire video (not the redacted version) of [redacted] interview of me.

Finally, [redacted] committed judicial misconduct and violated my Due Process rights when he instructed the female prosecutor how to admit foundational evidence, which was crucial in my prosecution, into evidence after the sustained objection by [redacted] under [redacted]

Criminal Procedure Rule 15.6 b & c should have never allowed the redacted video to be shown in court. Under Arizona Rules of Evidence Article X 1002 & 1008 a & b, the redacted version should not have been allowed in court. Moreover, according to Rule 19 a, b, c, d, & e, of the should have been disqualified and possibly removed from the bench.

In conclusion, I hope whomever reads my post conviction relief request grants my request, because if any of the information presented is confirmed upon thorough investigation of trial transcripts, unredacted/redacted video, courtroom video and audio, prosecutor's prep, law enforcement department reports, and my trial public defender's prep will demonstrate my Civil Rights were violated; therefore, justice will only be served by granting my request for post conviction relief.

As you can read it was never a fair fight. As mentioned in my letter to this wrong must be righted by all parties involved.

Thank you and please note at sentencing I must say for fear of being sent to jail, I was pleased with my representation and treated fairly.