

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 19-050

Judge:

Complainant:

ORDER

June 26, 2019

The Complainant alleged a superior court judge was biased against him, improperly sentenced him, and failed to rule on various motions.

The role of the Commission on Judicial Conduct is to impartially determine whether a judicial officer has engaged in conduct that violates the Arizona Code of Judicial Conduct or Article 6.1 of the Arizona Constitution. There must be clear and convincing evidence of such a violation in order for the Commission to take disciplinary action against a judicial officer.

The Commission does not have jurisdiction to overturn, amend, or remand a judicial officer's legal rulings. The Commission reviewed all relevant available information and concluded there was not clear and convincing evidence of ethical misconduct in this matter. The complaint is therefore dismissed pursuant to Rules 16(a) and 23(a).

Commission members Roger D. Barton and J. Tyrrell Taber did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on June 26, 2019.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2019-050

COMPLAINT AGAINST A JUDGE

Your Name: _____ Judge's Name: _____ Date: _____

Instructions: Describe in your own words what the judge did that you believe constitutes misconduct. Please provide all of the important names, dates, times, and places related to your complaint. You can use this form or plain paper of the same size to explain your complaint, and you may attach additional pages. Do not write on the back of any page. You may attach copies of any documents you believe will help us understand your complaint.

See attached Motion for Change of Judge for Cause, and Motion to Compel Rulings on Previously Filed Motions.

(Attach additional sheets as needed.)

Witnesses

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COMES NOW, _____, Pro Se Defendant in the above-styled and numbered cause and states the following in support of his Motion to Compel Rulings on Previously Filed Motions.

I.

On _____ Defendant's Rule 32 proceeding was assigned to the sentencing Judge, the Honorable _____. Within these Rule 32 proceedings, Defendant filed _____ (_____ motions on _____ : Motion to Vacate Evidentiary Hearing (set for _____); Motion for Dismissal of Counsel and Appointment of New Counsel; Request for Order to Prior Counsel, the Public Defender's Office and the _____ ; to Provide a Copy of the Entire Case File, Including All Transcripts, Notes, Emails; and Motion for Clarification Regarding a Potential Amended Petition. (See Exhibit A).

II.

On _____ Defendant filed a Memorandum and Request for Ruling for each of the above-mentioned motions, specifically requesting, “

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” (See Exhibit B).

III.

In direct violation of Rule 91(e), R. Az. Sup. Ct., Defendant has never received any notification or ruling with regard to the four aforementioned motions, however, an evidentiary hearing was rescheduled and held on _____ without Defendant’s knowledge or presence and with newly-appointed, but unbeknownst to Defendant, _____ counsel.

In his Motion for Clarification Regarding a Potential Amended Petition, Defendant expressed his desire to file an amended _____ but that he would prefer to wait and see if new information gained from the requested orders in his previously filed motion uncovered any new claims. Rule 32.5, Ariz.R.Crim.P., specifically states, “The Defendant shall include every ground known to him or her for vacating, reducing, correcting, or otherwise changing all judgements or sentences imposed upon him or her, and certify that he or she has done so.” Bearing this admonition in mind, Defendant deferentially made his request for clarification, putting the matter to the Court for a preferred time frame. With this knowledge, Judge _____ abused her discretion by not only leaving the motion unruled upon, in direct violation of the Arizona Constitution and statutory law, but quickly ruled dismissing Defendant’s _____ proceeding without allowing for the amended petition for post-conviction relief directly asked for.

IV.

Pursuant to Rules of the Arizona Supreme Court, Rule 81 Judicial Ethics, Rule 2.5
Comments:

- (2) A judge should seek the necessary docket time, court staff, expertise, and resources to discharge all adjudicative and administrative responsibilities.
- (3) Prompt disposition of the court’s business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission....
- (4) In disposing of matters promptly and efficiently, a judge must demonstrate due regard for the rights of parties to be heard and to have issues resolved without unnecessary cost or delay

1 Arizona Constitution, Article 2 § 11.

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3 **V.**

4 Pursuant to Rules of the Arizona Supreme Court, Rule 91 Superior Court Administration:

5 (e) Every matter submitted for determination to a judge of the superior court for
6 decision shall be determined and a ruling made not later than sixty days from
7 submission thereof, in accordance with Section 21.

(f) Every document or object filed in an action or proceeding shall constitute a part
of the record in the superior court.

8 Arizona Constitution, Article 6 § 21.

9 **CONCLUSION**

10 Based upon the foregoing facts and legal argument, Defendant respectfully asserts that Judge
11 abused her discretion by not ruling on his Request for Order to Prior Counsel, the
12 Public Defender's Office and the to provide a
13 copy of the entire case file, including all transcripts, notes, emails, and Motion for Clarification
14 Regarding a Potential Amended Petition. By not ruling on his aforementioned motions, in violation
15 of his Arizona constitutional and statutory rights, Defendant is entitled to relief in the form of the
16 granting of the instant motion.

17 DATED this day of

21 Pro Se Defendant

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23 **CERTIFICATE OF SERVICE**

24 ORIGINAL of the foregoing e-filed with
25 the Clerk of the Superior Court this
26 day of and:

**THE COMMISSION'S POLICY IS
TO POST ONLY THE FIRST FIVE
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.**