

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 20-133

Judge:

Complainant:

ORDER

September 15, 2020

The Complainant alleged a superior court judge violated Rules 1.2, 2.2, 2.3, 2.4, 2.5, 2.6, 2.9, 2.10, and 2.11 of the Code.

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 Commission Rules 16(a) and 23(a).

Commission members Gus Aragón and Joseph C. Kreamer did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on September 15, 2020.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2020-133

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.

See Attached

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My name is _____ and I am a _____ and a _____ time graduate of _____ During my work in the _____ industry about _____ ago, I was befriended by a colleague of mine named _____. Due to an unfortunate turn of events, _____ was charged with failing to return a rental car in _____. All of this stemming from the severe PTSD which he suffers from as a result of being shot multiple times in _____ in _____ during a random shooting that left him near dead. As a result, I decided to show my support for my friend by attending his numerous court dates. In _____ Judge _____ took over for Judge _____ as _____ and it was at that time I noticed a serious difference in the way _____ was treated. In contrast to Judge _____ behavior which was free of bias and impartial, Judge _____ is not. On several _____ occasions, she has exhibited what is not only behavior that is unbecoming of a judge of _____ Court, but is unethical and quite frankly exhibits and perpetuates a prejudice against the defendant _____. It wasn't until the last court date on _____ that it was clear to me as well as numerous others in attendance that day that Judge _____ clearly has a bias against the defendant. Upon reflecting back on the last several hearings I had attended, I noticed a distinct pattern of behavior by the Judge that goes against the AZ Judicial Code of Conduct which has seriously impacted this case and may likely result in my friend getting anything but a fair and impartial trial. It was then that I was prompted to read and examine these codes further as I wanted to learn for myself what guidelines were set forth regarding judicial conduct and what was acceptable and not acceptable.

In the **Preamble** and in **Rule 1.2** of the Code of Judicial Conduct clearly states that the judge is to "avoid impropriety and the appearance of impropriety" which at the very least she has failed to avoid the appearance of impropriety. This appearance of impropriety was evident from the first court date with her on _____ which I attended. The defendant was in the hospital at this time and although this verification had been provided to all parties prior to the proceedings, I decided to bring the verification with me and attend the hearing myself, just in case. The hospitalization was due to the defendant's severe PTSD symptoms which had become unmanageable. His court appointed attorney at the time was _____. Although a prior rule 11 determination had been made recently, _____ felt a new rule 11 determination was warranted based on _____ recent hospitalization and because his client was exhibiting what he described as abnormal behaviors; such as, his client had started contacting him numerous times daily about the case and other things. The prosecution objected and despite the new information and medical verification provided that day, Judge _____ denied the motion for a new rule 11 determination stating that one had already been made.

In addition to the denial, statements were made by the prosecution and the judge herself in such a tone that seriously implied the defendant was feigning his symptoms. All of this was based on her own personal beliefs and not medical facts. The judge went as far as to approve the defense's motion to continue for only _____ away and then stated that the hearing would go on whether the defendant was present or not and that a bench warrant would be issued for his arrest if he was not there. She actually was considering issuing one that day despite the fact the defendant was hospitalized and proof was provided. It should be noted that the minutes do not

accurately reflect what was said in the courtroom and obviously cannot convey the tone with which it was said. For example, the minutes from (exhibits) stated the defendant was not present and that the judge did not issue a warrant because defense attorney vowed that he had daily contact with the defendant but says nothing about the fact that verification was provided to all parties prior to the proceedings about his being in the hospital (see exhibit). These types of omissions and/or skewing of the facts along with the underlying attitude of distrust in that was not really sick and that he was delaying the proceedings for some other unknown reason has been conveyed every time there is a court proceeding and usually close with the statement by her that the case will be tried in his absence if the defendant does not appear irregardless. The minutes state that the defendant was “

”(see exhibits) which does not convey that message with nearly the amount of distrust and dislike as it was presented in court. I have no answer as to why this has been happening nor do I have an explanation for Judge obvious dislike of but had I been able to get copies of the actual transcripts, one could easily denote the negative undertones set forth by not only the prosecutor but the judge herself. As a matter of fact, I felt so strongly about Judge negative attitude toward the defendant that I wrote a letter to her on expressing this to her (see exhibit). This same negative tone and attitude of dislike been carried over into every hearing since then and led up to the horrific violations that took place on in Judge courtroom when she herself made the statement that the defendant was “ (violating Rule 2.10)

That along with blaming the defendant for all of the delays in the case is one that permeates every hearing with her and is not only perpetuated by the prosecution but by the Judge who is supposed to be free of bias and prejudice according to Rule(s) 1.2, 2.2 & 2.3. I say this because there are facts that are omitted from the discussions and minutes as well as an unspoken tone of disapproval for the defendant when it comes to the reason for the delays in the case as well. For example, on several occasions, including where Judge makes statements to the effect that the defendant was intentionally delaying the case by changing attorneys and so forth and actually lists all the attorneys and the dates they were appointed to him. Not once did she make mention of the fact that did not ask to get rid of them. They all withdrew, some quite surprisingly; except one, who was simply replaced by privately funded counsel, is another who helped create this deadly web of bias against the defendant.

literally refused to act on the fact that the is responsible for a corrupt investigation and has made statements to the family and friends to the effect of , ’ and “

”. Yet, instead of withdrawing from the case at that point, filed a motion to sever the charges which ensured that would not have to address the illegal search by the police dept. which is where the drug charge stems from. She readily approved the motion to sever on even though had already filed a motion to withdraw as counsel of record to be counsel only on The motion to withdraw due to unpaid monies was granted by Judge on without

question even though it was not accurate. The family actually had paid the entire contract amount and it was very elusive in regard to the amounts due for trial as she had quoted the family 2 entirely different amounts which had yet to be settled. Then as Knapp Counsel, although she'd already accepted payment for trial, failed to appear at the pre-trial conference and then withdrew altogether from Knapp counsel on without appearing. This left the defendant's elderly mother to try to track down trial monies that were already paid to her to be Knapp counsel. At no time did Judge ask the family if they'd paid nor did she inquire into the matter in any way whatsoever. She just approved it and then stated that she usually doesn't allow attorneys to withdraw this late in the process but gave no explanation as to why she allowed it this time. That explanation would reveal itself upon reflecting back on the course of events and how everything has played out, starting from the time she took over the case in

In during one of my first few visits with she had asked me who the judge was in the case. When I told her, I also commenced to explain that I had noticed Judge exhibit a bias against the defendant. She said that she was friendly with Judge as they practiced family law together and tried to assure me she would be a good judge as even back then I noticed the prejudice against It was this as well as unethical courtroom discussions between the Judge and the prosecutor which were witnessed by the defendant's mother during recess where Judge assured that she was not going to give a bond to the defendant and that she had already " ". In the AZ Judicial Code of Conduct, **Rule 2.9 A** is explicit that such ex parte communications are forbidden when neither the defendant nor his counsel are present which was definitely the case on It wasn't until I read **Rule 2.11** of the AZ Code of Judicial Conduct that I learned that because she and had been friends recently that Judge should have disqualified herself the moment filed a motion to represent the defendant or at the very least made both parties aware of this fact and allow them an opportunity to agree or disagree to her continuing to preside over the case on record. The defendant's family is looking into legal action against and at the very least, we will be filing formal complaints against her. To add to the injustices has endured during this entire legal process, Judge exhibited undue preferential treatment toward and then in direct contrast, wouldn't give private attorney a chance to even try to represent the defendant, despite the fact that the family, friends and colleagues of had hired him to do so.

On the same day was permitted to withdraw from the case entirely, made his second attempt to try to represent the first of which was denied citing no more delays would be allowed in the case. She cited the fact that he asked for a 60day continuance so he could file substantive motions as the reason for the denial. Interestingly enough, they allowed the state a continuance on that same day when we showed up for trial as the state had another trial that same day. was the new court appointed attorney who was appointed as lead counsel to work with who would serve as Knapp counsel when she withdrew as lead counsel only prior. On

**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.**