

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 20-208

Judge:

Complainant:

ORDER

October 15, 2020

The Complainant alleged a superior court judge was biased against him in a post-conviction relief proceeding.

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 member J. Tyrrell Taber did not participate in the consideration of this matter.

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

2020-208

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.

I initiated a Rule 32 Post-Conviction Relief in _____ I was represented by several attorney's until _____ when Attorney _____ filed his notice of compliance asserting no colorable claim for relief. On _____ the courts ordered that if defendant so chooses, Defendant must file a Pro Per Petition for Post-Conviction Relief.

On _____ I filed a "Motion to Request the State Disclose the Abatement Material the Defendant is Requesting". On _____ The courts ordered the states response to the motion to be filed no later than _____ NO RESPONSE WAS FILED BY THE STATE. "See Attachment A"

On _____ I filed a "Motion to Hold the State in Compliance to Court Order from _____ to Respond to Motion". On _____ the courts addressed my motion and granted the state an extension of time (no later than _____) with out the state even acknowledging their duties. "See Attachment B". Copy of court order from _____ from the Honorable _____

On _____, I filed a motion to Preclude the States Argument to my "Motion to Request the State Disclose Affirmation Material/Evidence that was Requested". The reason for this motion was because the State again failed to respond within the time frame that was ordered by the courts. The State filed their response towards the end of _____ and provided/served me a copy of their response in the beginning of _____. "See attachment C".

On _____, I filed a "Motion to Request a Deposition of Officers. On _____, the courts addressed the motion. They ordered the state to file a response by no later than _____. "See Attachment D".

On _____ The courts stated that they have not received the states response from the court order of _____. "See Attachment E".

On _____, I filed a "Motion to Hold the State Non-Compliant to Court Order from _____ to respond to Defendant's Motion to Request a Deposition of Officers. "See Attachment F".

On _____, I filed a "Motion to Request the Court to Hold the State on Procedural Default and Obligate the State to Provide Defendant with "All" Material

that has been requested in previous motions." "See Attachment F."

The Honorable _____ chose to ignore the facts that I presented towards the unethical practice of the state. The state failed several times to follow the court orders. The state conducted contempt of Court A.R.S. § 12-861. Contempt of Court, defined: A person who willfully disobeys a lawful writ, process, order or judgment of a superior court by doing an act or thing therein or therein forbidden, shall be proceeded against for contempt. Ariz. R. Crim. P., Rule 35.1 Definition: A court may hold a person in contempt of court if the person: (a) willfully disobeys a lawful writ, process, order, or judgment of a court by doing or not doing an act or thing forbidden or required; or (b) willfully engages in any other unreasonable conduct that obstructs the administration of justice or lessens the court's dignity and authority.

Arizona Code of Judicial Conduct, Canon 1: Rule 1.2. Promoting Confidence in the Judiciary: A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

Comment:

4) Judges should participate in activities that promote

ethical conduct among judges and lawyers, support professionalism within the judiciary and the legal profession, and promote access to justice for all.

5) Actual improprieties include violations of law, court rules, or provisions of this code.

Rule 2.2. Impartiality and Fairness: A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

Rule 2.3. Bias, Prejudice, and Harassment: (A) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.

Comment

1) A judge who manifests bias or prejudice in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute.

2) A judge must avoid conduct that may reasonably be perceived as prejudiced or biased.

Rule 2.15. Responding to Judicial and Lawyer Misconduct: (1) A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct shall take appropriate action.

Comment

1. Ignoring or denying known misconduct among one's judicial colleagues or members of the legal profession undermines a judge's responsibility to participate in efforts to ensure public respect for the justice system. Taking action to address known misconduct is a judge's obligation.

Being that I brought forward the state's violations and the judge chose to ignore my facts and allow the state to continue with unethical practice several times without consequences, this shows bias against me and favors the state. With this, I find myself not only litigating against the state but also the judge that allows them to do what they want.

I respectfully ask that some action be taken against ^{for not holding up to his judicial} duties of being neutral in every matter and ^{not} taking action when presented with facts that a lawyer is practicing unethical conduct. Thank you for your time and I look forward to hearing back from you soon.

**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.**