

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 20-242

Judge:

Complainant:

ORDER

January 27, 2021

The Complainant alleged a superior court judge was biased against the prosecution, failed to control unethical conduct by the defense attorney, and failed to allow the prosecution to present rebuttal testimony.

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 Denise K. Aguilar, Louis Frank Dominguez and Delia R. Neal did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on January 27, 2021.

Comp

2020-242

Judicial Complaint

Hon.

Court

I INTRODUCTION

The allegations in this complaint arise out of a trial in the Court Cause Number was charged with Second Degree Murder, and 2 Counts of Aggravated Assault. The undisputed facts were that the defendant and victims were

The defendant,

He was under the influence of methamphetamine. He began to speak as though he was having delusions, and and threatened to kill him.

and the instantly killing the other

the defendant's girlfriend, was She

testified that the pointed at

The defendant was found guilty of the lesser offense of negligent homicide, and found not guilty of the aggravated assault counts.

The trial, conducted in lasted almost spanning almost

The State was represented by I

The defendant was

represented by court appointed attorney

This complaint alleges that Judge repeatedly allowed unethical, rude and harassing behavior by defense counsel and expressed no desire to stop or even attempt to control the misconduct. This complaint also alleges that Judge demonstrated clear bias against the State in numerous ways. Finally, this complaint

alleges that Judge _____ knowingly permitted defense counsel to make a false statement to the jury in closing argument.

II JUDGE _____ DID NOTHING TO STOP OR CONTROL REPEATED INCIDENTS OF UNETHICAL CONDUCT BY DEFENSE COUNSEL

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. CANON 1. Rule 1.2

A judge shall perform judicial and administrative duties competently, diligently, and promptly. CANON 2. Rule 2.5(A)

A judge shall require order and decorum in proceedings before the court. CANON 2. Rule 2.8(A)

The trial transcript documents _____ separate instances in which defense counsel interjected his personal beliefs into the proceeding, harassed victims and witnesses, raised his voice and made unprofessional remarks. In almost all of the instances Judge _____ sustained the State's objections and ordered the comments stricken. However, there were no consequences for the repeated misconduct: none.

In the first incident, during the questioning of _____ one of the victims of aggravated assault, counsel for the State was attempting to get clarification as to which statement _____ was referring to:

(Reporter's Transcript (hereinafter R.T.) of Proceedings, p. , L. attached hereto as Exhibit 1).

In the second incident, was questioning , wife to victim

She came upon the scene shortly after the incident.

contended she was very upset when she spoke with the police. While attempting to impeach her on that point, asked her if she wanted to listen to a recording.

The following exchange occurred:

(R.T. of proceedings, P. , L. attached hereto as Exhibit 2).

In the third instance, still with _____ defense counsel again offered his own personal conclusions regarding the witnesses' testimony and statements:

(R.T. of Proceedings, _____ P. _____, L. _____ attached hereto as Exhibit 3).

After three such instances, and no admonishments whatsoever from Judge _____ the State attempted to seek the court's assistance in controlling _____ already concerning pattern of unethical conduct, to no avail.

**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.**