

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 06-294

Complainant: No. 1143000026A

Judge: No. 1143000026B

ORDER

The commission reviewed the complaints filed in this matter and found no misconduct on the part of either judge. The issues raised in both complaints are essentially legal or appellate in nature. If judges make incorrect rulings or misinterpret the evidence in a case, the correct remedy would be to appeal on a timely basis to a court with appropriate jurisdiction. The commission is not an appellate court and cannot change judicial decisions. Moreover, the complaints involve allegations of misconduct that supposedly occurred more than three years ago, well outside of the commission's time limits for filing such complaints. Accordingly, the complaints are dismissed pursuant to Rules 16(a) and 23(a).

Amended: February 26, 2007.

FOR THE COMMISSION

/s/ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on February 26, 2007.

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

TO: COMMISSION ON JUDICIAL CONDUCT
1501 W. WASHINGTON
SUITE 229
PHOENIX, ARIZONA 85007

CJC-06-294

NOV 27 2006

FROM:



DATE: 11/01/06

COMMISSION ON JUDICIAL CONDUCT —

MY NAME [REDACTED] AND I BELIEVE THAT A JUDGE HAS ACTED UNETHICALLY. I WOULD LIKE FOR THE ARIZONA JUDGES COMMISSION ON JUDICIAL CONDUCT TO INVESTIGATE THE CHARGES OF UNETHICAL CONDUCT AGAINST JUDGE [REDACTED] WHO'S JUDICIAL ASSOCIATION NO# [REDACTED]. I AM UNCERTAIN OF. UNDER THE ARIZONA RULES OF PROCEDURE FOR JUDICIAL PERFORMANCE, ONCE JUDGES TAKE THE BOUCH, THE PUBLIC EXPECTS THEM TO BE GOOD JUDGES. THE COMMISSION ON JUDICIAL PERFORMANCE REVIEW HAS THE DUTY OF PROVIDING MEANINGFUL AND ACCURATE INFORMATION TO THE PUBLIC FOR ITS USE IN REACHING DECISIONS REGARDING RETENTION. THUS, A CAREFULLY DESIGNED METHOD OF DISSEMINATING CLEAR AND ACCURATE INFORMATION ABOUT EACH JUDGE TO THE VOTING PUBLIC IS NEEDED. AN INITIAL STEP, WHICH I HAVE CHOSEN TO TAKE, TO A WORKABLE DESCRIPTION OF TRIAL AND APPELLATE JUDGE STANDARDS MUST BE CONSIDERED WHILE REVIEWING MY COMPLAINT / CHARGE AGAINST JUDGE [REDACTED] PERFORMANCE.

MY COMPLAINT NEEDING INVESTIGATION AGAINST JUDGE [REDACTED] IS ON THE PERFORMANCE STANDARD FOR THIS TRIAL JUDGE, WHOM DID NOT ADMINISTER JUSTICE FAIRLY, ETHICALLY AND UNIFORMLY. THIS JUDGE WAS NOT FREE FROM PERSONAL BIAS IN DECISION MAKING, IN DECIDING ON PROPER APPLICATION OF LAW AND PROCEDURES TO THE FACTS (WHICH WAS NO MORE THAN A CLARIFICATION ISSUE). THIS JUDGE DID NOT EXERCISE DECISION WITHOUT AN ABUSE OF DISCRETION FORWHICH WOULD HAVE DEMONSTRATED A COMPETENT LEGAL ANALYSIS. THIS JUDGE DID NOT ISSUE EFFECTIVE MANAGEMENT OF THE COURTROOM AND COURTREPORTER WHILE DISCHARGING WHAT IS AND WAS

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EXPECTED FROM ONE DELEGATING ADMINISTRATIVE RESPONSIBILITIES OF THE OFFICE, TO FURTHER ADD TO THE FACTORS TO BE CONSIDERED BY THE COMMISSION ON JUDICIAL PERFORMANCE, IN YOUR OBTAINING OTHER INFORMATION IN YOUR REVIEW TO WHICH I HOPE WILL BE PUBLIC INFORMATION, I HAVE ALSO WRITTEN THE ARIZONA JUDGES ASSOCIATION AND THE BAR ASSOCIATION OF ARIZONA AS TO THE LAWYER WHOM TURNED AND SEEM TO HAVE LOOKED THE OTHER WAY AS TO THIS JUDGES MISCONDUCT AND THE OTHER JUDGES PROCEEDINGS AFTER JUDGES [REDACTED] DECISION.

I PRAY THAT YOU LOOK INTO THIS VERY DEEPLY WITH UNDERSTANDING OF THE INFORMATION FOR WHICH I'VE ATTEMPTED TO SUBMIT AS PROOFS.

MISCONDUCT IN GENERAL, MODEL RULE 8.4 CONTAINS A LIST OF LOOSELY RELATED CATEGORIES OF PROHIBITED BEHAVIOR UNDER THE GENERAL HEADING OF "MISCONDUCT." IT IS DERIVED PRIMARILY FROM THE MODEL CODE'S MISCONDUCT RULE IN DR1-102 (A), ADDING SUBSECTION (E) (SIMILAR TO THE CODE'S DR-9-101(C) AND TWO PROVISIONS ABSENT IN THE MODEL CODE, WHICH PROHIBIT A LAWYER, STATE ATTORNEY JUDGE (IN ITS JUDICIAL EQUIVALENT) FROM ATTEMPTING TO VIOLATE THE ETHICS RULE (SUBSECTION (A)) AND FROM ASSISTING A JUDGE IN VIOLATING CODES OF JUDICIAL CONDUCT (SUBSECTION (F)), MAINTAINING THE INTEGRITY OF THE PROFESSION UNDER RULE 8.4(D) MISCONDUCT STATES CLEARLY;

D) - ENGAGE IN CONDUCT THAT IS PREJUDICIAL TO ADMINISTRATION OF JUSTICE;

MY COMPLAINT AND CASE AT HAND, BEING THE FAILURE TO COMPLY WITH OBLIGATION OR PROHIBITION IMPOSED BY A RULE IS A BASIS FOR INVOKING DISCIPLINARY UPON INVESTIGATION OF SAID SITUATION. THE RULES PRESUPPOSE THAT DISCIPLINARY ASSESSMENTS OF A JUDGE'S CONDUCT WILL BE MADE ON THE BASIS OF THE FACTS AND CIRCUMSTANCES THAT I SUBMIT AS THEY EXISTED AT THE TIME OF THE CONDUCT IN QUESTION AND IN RECOGNITION OF THE FACTS I PRESENT, A DETERMINATION OF WHETHER A JUDGE OFTEN HAS ACTED UPON UNCERTAIN OR INCOMPLETE EVIDENCE OR INFORMATION OF THE SITUATION. MOREOVER, THE RULES PRESUPPOSE THAT WHETHER A LAWYER OFTEN INCOURAGES THE JUDGE TO CONDUCT THAT IS PREJUDICIAL, DISCIPLINE SHOULD BE IMPOSED FOR A VIOLATION, AND THE SEVERITY OF A SANCTION, IS DEPENDS ON ALL THE CIRCUMSTANCES, SUCH AS WILFULNESS AND SERIOUSNESS OF THE VIOLATION, EXTENUATING FACTORS AND WHETHER THERE HAVE BEEN PREVIOUS VIOLATIONS.

MY CLIENT RIGHTS AND RESPONSIBILITIES ARE OF THE UTMOST IN YOUR REVIEW OF MY COMPLAINT AGAINST JUDGE [REDACTED]. I BEGAN BY SUBMITTING

A COPY OF THE PRESENTENCE INVESTIGATION REPORT (IO AS EXHIBIT-A, CAUSE NO. [REDACTED] FOR REASONS THAT I MUST EXPLAIN, THE THINGS THAT HAPPENED FIRST, BEFORE I GET TO WHAT MY ACTUAL COMPLAINT IS ABOUT, A PRESENTENCE REPORT WAS PREPARED IN THE BEGINNING PURSUANT TO THE ARIZONA RULES OF CRIMINAL PROCEDURE, POSTVERDICT PROCEEDINGS UNDER RULE 26.4 PRE-SENTENCE REPORT; A) - WHEN PREPARED, [QUOTED]

"THE COURT SHALL REQUIRE A PRE-SENTENCE REPORT IN ALL CASES IN WHICH IT HAS DISCRETION OVER THE PENALTY TO BE IMPOSED, EXCEPT THAT REQUIRING SUCH A REPORT IS DISCRETIONARY IN THOSE CASES IN WHICH THE DEFENDANT CAN ONLY BE SENTENCED TO IMPRISONMENT FOR (LESS) THAN ONE YEAR, IN WHICH A REQUEST UNDER RULE 26.3(A) IS GRANTED, OR IN WHICH A PRESENTENCE REPORT CONCERNING THE DEFENDANT IS ALREADY AVAILABLE. A PRE-SENTENCE REPORT SHALL NOT BE PREPARED UNTIL AFTER THE DETERMINATION OF GUILT HAS BEEN MADE OR THE DEFENDANT HAS ENTERED A PLEA OF GUILTY OR NO CONTEST."

THIS PRE-SENTENCE REPORT WAS CLEARLY ESTABLISHED AND USED TO WORK AS A GUIDING FACTOR IN MY SENTENCING. PURSUANT TO ARIZONA RULES OF CRIMINAL PROCEDURE - POSTVERDICT PROCEEDINGS, RULE 26.10 PRONOUNCEMENT OF JUDGEMENT ON NON-CAPITAL COUNTS; [QUOTED]

"THE COURT SHALL SET FORTH THE DEFENDANT'S PLEA, THE OFFENSE OF WHICH THE DEFENDANT WAS CONVICTED OR FOUND GUILTY, AND A DETERMINATION OF WHETHER THE OFFENSE FALLS IN THE CATEGORIES OF DANGEROUS, NONDANGEROUS, AND REPETITIVE OR NON-REPETITIVE." IN PART OF SAME SAID RULE 26.10(A) - PRONOUNCEMENT OF SENTENCE, THE COURT SHALL: [QUOTED]

- "(1) - GIVE THE DEFENDANT AN OPPORTUNITY TO SPEAK ON HIS/HER OWN BEHALF;
- (2) - STATE THAT IT HAS CONSIDERED THE TIME THE DEFENDANT HAS SPENT IN CUSTODY ON THE PRESENT CHARGE;
- (3) - EXPLAIN TO THE DEFENDANT THE TERMS OF IMPRISONMENT AND A COMPUTATION OF TIME TO BE CREDITED AGAINST THE SENTENCE ALONG WITH THE EXPLANATION TO THE DEFENDANT ABOUT THE TERMS OF SENTENCE OR PROBATION;"

WHICH BRINGS US TO THE NEXT DOCUMENT SUBMITTED (IO AS EXHIBIT-B, DATED [REDACTED] WHICH IS THE PLEA AGREEMENT WITH SPECIFIC ATTENTION ADDRESSING THE COUNTS FOR WHICH THE AGREEMENT ENCOMPASSED, WHICH ARE FIRST (1ST) - COUNT 1; ATTEMPTED SEXUAL CONDUCT WITH A MINOR, CLASS 3 FELONY AND DANGEROUS

CRIME AGAINST CHILDREN, IN VIOLATION OF ARS. § 13-1401, 13-1405, 13-1001, 13-3821, 31-241, 13-604.01, 13-702 AND 13-801. SECOND (2ND) - COUNT-3; CHILD MOLESTATION, CLASS-2 FELONY AND A DANGEROUS CRIME AGAINST CHILDREN IN VIOLATION OF ARS § 13-1401, 13-1410, 13-3821, 31-281, 13-604.01, 13-702 AND 13-801. BOTH COUNTS ON THE PLEA AGREEMENT SAY "AMENDED". DEFINITION OF AMENDED FROM BLACK'S LAW DICTIONARY SAYS, [QUOTED.]

"A FORMAL REVISION OR ADDITION PURPOSED OR MADE TO A STATUTE, CONSTITUTION, OR OTHER INSTRUMENT. A CHANGE MADE BY ADDITION, DELETION, OR CORRECTION; AN ALTERATION IN WORDING."

KNOWING THAT THE ARIZONA RULES OF CRIMINAL PROCEDURE GENERAL PROVISION 15 TO PROVIDE GUIDANCE TO LAWYER'S, ATTORNEY'S FOR THE STATE, JUDGES AND EVEN THE PUBLIC AT LARGE, PURSUANT TO ARIZONA RULES OF CRIMINAL PROCEDURE, RULE 1.2 PURPOSE AND CONSTRUCTION, SAYS [QUOTED]

"THESE RULES ARE INTENDED TO PROVIDE FOR THE JUST, SPEEDY DETERMINATION OF EVERY CRIMINAL PROCEEDING. THEY SHALL BE CONSTRUED TO SECURE SIMPLICITY IN PROCEDURE, FAIRNESS IN ADMINISTRATION, THE ELIMINATION OF UNNECESSARY DELAY AND EXPENSE, AND TO PROTECT THE FUNDAMENTAL RIGHTS OF THE INDIVIDUAL WHILE PRESERVING THE PUBLIC WELFARE."

WHICH BRINGS US TO THE PETITION FOR POST-CONVICTION RELIEF (ID AS EXHIBIT-C, DATED 1/1) EXPRESSING THE ISSUES OF SPECIFICS IN THE SPECIAL CONDITIONS REGARDING PAROLE UNDER THE BELIEF THAT HE WAS TO SERVE 85% OF HIS TIME TO THE NORMAL PAROLE ELIGIBILITY (ID AS EXHIBIT-C, PAGES 3 & 4, LINES 11-26 AND LINES 1-19). THE STATE RESPONDED TO THE PETITION FOR POST-CONVICTION RELIEF WITH (ID AS EXHIBIT-D, DATED FILED [REDACTED]) RESPONSE TO PETITION FOR POST-CONVICTION RELIEF, OPPOSING THE PETITION ASKING THE COURT TO SUMMARILY DISMISS IT IN PART AND TO SET AN EVI-DENTIARY HEARING, (HEARING ON THE GROUNDS OF FURTHER INQUIRY INTO THE SPECIFICS). ON PAGE 2 OF SAID DOCUMENT (ID AS EXHIBIT-D), ARGUMENT II (A)(1) SAYS IN THE STATES OPINION, THAT THE STATE DOES NOT NEED TO EXPLAIN EACH SPECIAL CONDITION OF A SENTENCE. STATE THEN SAYS IT CONCLUSION TO ITS OPINION ON PAGE 3 OF (ID AS EXHIBIT-D).

DEFENSE COUNSEL ([REDACTED]) REPLIED TO RESPONSE TO PETITION FOR POST-CONVICTION RELIEF (ID AS EXHIBIT-E, DATED FILED [REDACTED]) FOR WHICH HE CLEARLY LAYED OUT WHAT THE STATE IS RESPONSIBLE FOR AND SHOULD CHECK INTO THE RECORD. UPON DOING SO THE STATE BECAME AWARE OF ITS ERROR AND THE COURT ORDERED (ID AS EXHIBIT-F, DATED [REDACTED]) THAT THE COURT HAS

CONSIDERED THE EVIDENCE AND ARGUMENT PRESENTED AT THE EVIDENTIARY HEARING, AND BASED ON SUCH CONSIDERATION, THE COURT MAKES THE FOLLOWING FINDINGS AND ORDERS: [QUOTED]

"(1) - THE EVIDENCE SUPPORTS DEFENDANT'S CLAIM THAT NEITHER THIS COURT NOR HIS TRIAL COUNSEL NOR ANYONE ELSE INFORMED THE DEFENDANT.

(2) - DEFENDANT REMAINED UNAWARE

(3) - THEREFORE, THE COURT FINDS THAT THE DEFENDANT HAS SATISFIED HIS BURDEN OF PROVING HIS CLAIM BY PRE-PONDERANCE OF THE EVIDENCE. THE STATE HAS NOT MET ITS BURDEN OF PROVING THAT THE DEFECT IN THE SENTENCING OF THE DEFENDANT FOR COUNT-3 AND COUNT-1 WAS HARMLESS BEYOND A REASONABLE DOUBT. THIS IS BECAUSE THE COURT FINDS THAT THE EVIDENCE SUPPORTS DEFENDANT'S CLAIM THAT HAD HE KNOWN ABOUT THE DAY FOR DAY REQUIREMENT AND THE COMMUNITY SUPERVISION TERMS IN THE SENTENCE FOR COUNT-3, HE WOULD NOT HAVE ENTERED HIS PLEA OF GUILTY FOR COUNT-3 OR FOR COUNT-1 FOR WHICH HE RECEIVED LIFETIME PROBATION.

(4) - THE COURT HAS ASSESSED THE CREDIBILITY OF THE DEFENDANT AND FINDS THAT THE EVIDENCE DOES SUPPORT HIS CLAIM THAT HE DID NOT KNOW AT THE TIME OF SENTENCING

[REDACTED] (THE COMPLAINANT) THIS RETURNS BACK TO TRIAL COURT ON THE GROUNDS OF HIS ISSUES PETITIONED IN HIS POST-CONVICTION RELIEF. HE IS THEN APPOINTED COUNSEL ([REDACTED]) FOR WHOM A COMPLAINT IS MADE DIRECTLY AGAINST AND SUBMITTED TO THE PROPER AUTHORITIES FOR A DETERMINATION. JUDGE ([REDACTED]) JUDICIAL ASSOCIATION # UNKNOWN) WAS THE JUDGE THAT PRESIDED OVER THE CASE WHEN [REDACTED] (COMPLAINANT) RETURNED BACK TO TRIAL COURT AND WHOM ALSO HAS A COMPLAINT FILED AGAINST HIM AND SUBMITTED TO PROPER AUTHORITIES FOR A DETERMINATION. LAST, BUT NOT IN THE LEAST AND JUST AS MUCH A PART OF THIS HARMFUL SITUATION, THE JUDGE WHO PRESIDED OVER THE PROCEEDING BEFORE POST-CONVICTION RELIEF (JUDGE [REDACTED] JUDICIAL ASSOCIATION NO. # UNKNOWN) - THIS BE THE COMPLAINT FOR WHICH I'M FILING DIRECTLY AGAINST HIM FOR THE ROLE FORWHICH HE PLAYED.

ARGUMENT / COMPLAINT

PLEA AGREEMENT WAS DEFECTIVE AND CAUSED [REDACTED] TO INCUR A SENTENCE INCREASE WHEN IN FACT IT WAS A CLARIFICATION ISSUE WHICH SHOULD HAVE BEEN ADDRESSED AT SENTENCING AS A MATTER OF RECORD. PLEA AGREEMENT WAS IMPOSED IN UNLAWFUL MANNER. A SENTENCE IMPOSED IN AN UNLAWFUL MANNER IS ONE IMPOSED WITHOUT DUE REGARD TO THE PROCEDURES REQUIRED BY STATUTE OR THE RULES OF CRIMINAL PROCEDURE. STATE-VS-HOUSE, 169 ARIZ. 572, 821 P.2D 233 (CT. APP. 1991).

RULE 27.1. THIS PROVISION IS BASED ON PRESENT PRACTICE AND ABA, STANDARDS RELATIVE TO PROBATION, AT §§ 3.1(a) AND 3.2(a). ARIZONA REVISED STATUTE ANNOTATED § 13-1657(A) (SUPPLEMENT 1992) PERMITS THE SENTENCING COURT TO IMPOSE "SUCH TERMS AND CONDITIONS AS IT DETERMINES" INCLUDING UP TO ONE (1) YEAR IN JAIL. THE USUAL PRACTICE IN THE SUPERIOR COURTS OF [REDACTED] COUNTIES IS FOR THE COURT TO IMPOSE A FEW CONDITIONS SUCH AS TO OBEY THE RULES OR REGULATIONS IMPOSED BY THE PROBATION OFFICER, TO LEAD A LAW ABIDING LIFE, AND OCCASIONALLY, TO CONSUME NO ALCOHOLIC BEVERAGES OR TO UNDERGO MENTAL OR MEDICAL TREATMENT. THE

PROBATION OFFICER THEN GIVES THE DEFENDANT A STANDARD SET OF REGULATIONS, EXPLAINS THEM, AND TAKES A STATEMENT ASKING THE DEFENDANT TO SIGN IT, SAYING THAT HE UNDERSTANDS THE CONDITIONS AND REGULATIONS AND THE POSSIBLE CONSEQUENCES OF A VIOLATION AND THAT HE AGREES TO ABIDE BY THE TERMS OF HIS PROBATION. THIS JUDGE, JUDGE [REDACTED] DID NOT DO THIS WHICH I'VE INDICATED BY (10-EXHIBITS C, D, E, AND F) CLEARLY CREATING A SITUATION CONTRADICTORY TO THE ARIZONA RULES OF CRIMINAL PROCEDURE. RULE 26.16 ENTRY OF JUDGEMENT AND SENTENCE MAKES JUDGEMENT OF CONVICTION AND THE SENTENCE THEREON ARE COMPLETE AND VALID AS OF THE TIME OF THEIR ORAL PRONOUNCEMENT IN OPEN COURT. REMAND IS WHEN THERE IS A DISCREPANCY BETWEEN THE ORAL PRONOUNCEMENT OF SENTENCE AND THE MINUTE ENTRY OR SUCH THAT REFERENCE TO THE RECORD CANNOT RESOLVE THE ISSUE, A REMAND FOR CLARIFICATION OF SENTENCE IS APPROPRIATE. STATE-VS-BOWLES, 173 ARIZONA 214, 841, P.2D 209 (CT. APP. 1992), THIS JUDGE, JUDGE [REDACTED] DID NOT DO THIS, THUS PLACING [REDACTED] IN A HARMFUL

SITUATION CONducive TO AN INCREASE IN SENTENCING.

ANOTHER COMPLAINT IS THE PLEA AGREEMENTS WRITTEN INFORMATION (ID AS EXHIBIT-B, DATED [REDACTED]) THE PLEA STATES THAT COUNT-1 IS AMENDED AND COUNT-3 IS AMENDED. BLACK'S LAW DICTIONARY DEFINES "AMENDED" - (TO MAKE RIGHT; TO CORRECT OR RECTIFY, TO CHANGE THE WORDING OF; SPECIF., TO ALTER (A STATUE, CONSTITUTION, ETC.) FORMALLY BY ADDING OR DELETING A PROVISION OR BY MODIFYING THE WORDING).

WHEN ONE BOUNCES (ID AS EXHIBIT-A, DATED [REDACTED]) AGAINST (ID AS EXHIBIT-G, DATED [REDACTED]) INDICTMENT, LOOKING CLOSELY AT COUNT-1 AND COUNT-3, ONE WILL SEE THAT COUNT-1 HAS BEEN "AMENDED FROM," SEXUAL CONDUCT WITH A MINOR, CLASS 2 FELONY" TO "ATTEMPTED SEXUAL CONDUCT WITH A MINOR, CLASS 3 FELONY" (ADDING THE WORD ATTEMPTED, THUS CHANGING THE CLASS FROM 2 TO 3, HAS SHOWN BY DEFINITION A CHANGE IN WORDING OF SPECIFIC TO ALTER") BUT, NOW WHEN ONE LOOKS AT COUNT-3, BOUNCING THE TWO EXHIBITS ID. TOGETHER, THE INDICTMENT SAYS, "MOLESTATION OF CHILD, A CLASS 2 FELONY," WHILE THE PLEA AGREEMENT ID. SAYS, AMENDED COUNT-3 "CHILD MOLESTATION CLASS 2 FELONY," WHICH IS NOT AMENDED ON ITS FACE BY DEFINITION. THIS JUDGE, JUDGE [REDACTED] ON RECORD (ID AS EXHIBIT-H, DATED [REDACTED]) PLEA AGREEMENT / CHANGE OF PLEA) AND (ID AS EXHIBIT-I, DATED [REDACTED]) SENTENCING) REPEATEDLY SAID COUNT-1 AMENDED "ATTEMPTED SEXUAL CONDUCT WITH MINOR, CLASS 3 FELONY AND COUNT-3 AMENDED "CHILD MOLESTATION CLASS 2 FELONY WHICH HAS NOT BEEN AMENDED, THUS MAKING IT UNETHICAL TO DECIEVE, FALSEFY, MISLEAD, MISREPRESENT THE PUBLIC FROM THE SEAT OF AUTHORITY.

ONE OTHER COMPLAINT I HAVE WITH THIS JUDGE, JUDGE [REDACTED] [REDACTED] IS, (ID AS EXHIBIT-J, DATED [REDACTED]) FILED IN COURT ON [REDACTED] IN REM. CASE NUMBER [REDACTED] VS- STATE OF ARIZONA. I HAVE FILED THIS DOCUMENT DISPIE MY LAYMAN APPROACH, SEEKING A RESPONSE FROM THIS JUDGE, WHO HAS OF THIS DATE NOT ANSWERED OR RESPONDED TO THIS INQUIRY. AS AN OBLIGATION TO THE PUBLIC WHEN A CIVILIAN TURNS TO A CIVIL SERVANT LOOKING FOR PROFESSIONALISM BUT DOES NOT RECEIVE THAT WHICH IS A PART OF THE DUTIES AND FUNCTION OF THIS CIVIL SERVANT, THEN IT BECOMES "UNETHICAL CONDUCT" THAT LEADS ONE TO QUESTION THIS INDIVIDUALS CAPACITY TO FUNCTION IN THE POSITION FOR WHICH HE WAS ELECTED AND APPOINTED.

I AM STILL LOOKING FORWARD TO A RESPONSE EVEN THOUGH IT HAS BEEN FOUR (4) MONTHS SINCE I'VE SUBMITTED THIS DOCUMENT.

I TRUST THROUGH AN INVESTIGATION INTO THESE CIRCUMSTANCES OF MY COMPLAINT YOU WILL UNCOVER AND EXPOSE SOME LIGHT TO THAT WHICH HAS BEEN IN THE DARK BUT EXISTING.

I RESPECTFULLY SUBMIT THIS FOR YOUR REVIEW AND DETERMINATION OF ITS ETHICS OF CONDUCT.

[Redacted Signature]

11-20-06
DATE

SWORN TO BEFORE ME ON THIS 20 DAY OF NOVEMBER, 2006

[Redacted Signature]

TO: COMMISSION ON JUDICIAL CONDUCT
1501 W. WASHINGTON
SUITE 229
PHOENIX, ARIZONA 85007

CJC-06-294

DEC 01 2006

FROM:



DATE: 11/01/06

COMMISSION ON JUDICIAL CONDUCT —

MY NAME IS [REDACTED] AND I BELIEVE THAT A JUDGE HAS ACTED UNETHICALLY. I WOULD LIKE FOR THE ARIZONA JUDGES COMMISSION ON JUDICIAL CONDUCT TO INVESTIGATE THE CHARGE OF UNETHICAL CONDUCT AGAINST JUDGE [REDACTED] WHO'S JUDICIAL ASSOCIATION NO. # [REDACTED]. I AM UNCERTAIN OF, UNDER THE ARIZONA RULES OF PROCEDURE FOR JUDICIAL PERFORMANCE, ONCE A JUDGE TAKES THE BENCH, THE PUBLIC EXPECTS THEM TO BE GOOD JUDGES. THE COMMISSION ON JUDICIAL PERFORMANCE REVIEW HAS THE DUTY OF PROVIDING MEANINGFUL AND ACCURATE INFORMATION TO THE PUBLIC FOR ITS USE IN REACHING DECISIONS REGARDING RETENTION. THUS, A CAREFULLY DESIGNED METHOD OF DISSEMINATING CLEAR AND ACCURATE INFORMATION ABOUT EACH JUDGE TO THE VOTING PUBLIC IS NEEDED. AN INITIAL STEP FOR WHICH I HAVE CHOSEN TO TAKE, TO A WORKABLE DESCRIPTION OF TRIAL AND APPELLATE JUDGE STANDARDS MUST BE CONSIDERED WHILE REVIEWING MY CHARGES AGAINST JUDGE [REDACTED] PERFORMANCE.

MY COMPLAINT NEEDING INVESTIGATION AGAINST JUDGE [REDACTED] IS ON THE PERFORMANCE STANDARD FOR THIS TRIAL JUDGE, WHOM DID NOT ADMINISTER JUSTICE FAIRLY, ETHICALLY, UNIFORMLY, PROMPTLY, AND EFFICIENTLY. THIS JUDGE WAS NOT FREE FROM PERSONAL BIAS IN HIS DECISION MAKING, IN DECIDING MY CASE BASED ON PROPER APPLICATION OF LAW AND PROCEDURE TO THE FACTS (WHICH WAS NO MORE THAN A CLARIFICATION ISSUE). THIS JUDGE DID NOT ISSUE A PROMPT, CLEAR RULING AND DECISION THAT DEMONSTRATED A COMPETENT LEGAL ANALYSIS. THIS JUDGE DID NOT EFFECTIVELY MANAGE THE COURTROOM WHILE DISCHARGING WHAT IS AND WAS

EXPECTED FROM ONE DELEGATING ADMINISTRATIVE RESPONSIBILITIES OF THE OFFICE. TO FURTHER ADD TO THE FACTORS TO BE CONSIDERED BY THE COMMISSION ON JUDICIAL PERFORMANCE REVIEW, I WOULD LIKE FOR THE INFORMATION OBTAINED FROM THE COMMISSION REVIEW TO BECOME PUBLIC INFORMATION, AND EXCHANGE YOUR FINDING WITH THE ARIZONA JUDGE ASSOCIATION, TO WHOM I'VE ALSO WRITTEN THIS COMPLAINT ON JUDGE [REDACTED] [REDACTED] TO.

MISCONDUCT IN GENERAL, MODEL RULE 8.4 CONTAINS A LIST OF LOOSELY RELATED CATEGORIES OF PROHIBITED BEHAVIOR UNDER THE GENERAL HEADING OF "MISCONDUCT." IT IS DERIVED PRIMARILY FROM THE MODEL CODES MISCONDUCT RULE IN DRI-102CA), ADDING SUBSECTION (E) (SIMILAR TO THE CODE'S DR-9-101(C) AND TWO PROVISIONS ABSENT IN THE MODEL CODE, WHICH PROHIBIT A LAWYER, STATE ATTORNEY FROM ATTEMPTING TO VIOLATE THE ETHICS RULE (SUBSECTION (A)) AND FROM ASSISTING A JUDGE IN VIOLATING CODES OF JUDICIAL CONDUCT (SUBSECTION (F)). MAINTAINING THE INTEGRITY OF THE PROFESSION UNDER RULE 8.4 MISCONDUCT STATES CLEARLY;

IT IS PROFESSIONAL MISCONDUCT FOR A LAWYER TO

- A) - VIOLATE OR ATTEMPT TO VIOLATE THE RULE OF PROFESSIONAL CONDUCT, KNOWINGLY ASSIST OR INDUCE ANOTHER TO DO SO, OR DO SO THROUGH THE ACTS OF ANOTHER;
- B) - COMMIT A CRIMINAL ACT THAT REFLECTS ADVERSELY ON THE LAWYER'S, STATE ATTORNEY'S HONESTY, TRUSTWORTHINESS OR FITNESS AS A LAWYER, STATE ATTORNEY IN OTHER RESPECTS;
- C) - ENGAGE IN CONDUCT THAT IS PREJUDICIAL INVOLVING DISHONESTY, FRAUD, DECEIT OR MISREPRESENTATION;
- D) - ENGAGE IN CONDUCT THAT IS PREJUDICIAL TO THE ADMINISTRATION OF JUSTICE;
- E) - STATE OR IMPLY AN ABILITY TO INFLUENCE IMPROPERLY A GOVERNMENT AGENCY OR OFFICIAL OR TO ACHIEVE RESULTS BY MEANS THAT VIOLATE THE RULES OF PROFESSIONAL CONDUCT OR OTHER LAW; OR
- F) - KNOWINGLY ASSIST A JUDGE OR JUDICIAL OFFICER IN CONDUCT THAT IS A VIOLATION OF APPLICABLE RULES OF JUDICIAL CONDUCT OR OTHER LAW.

SUBSECTION (F): ASSISTING JUDICIAL MISCONDUCT PROHIBITS A LAWYER, AND

STATE ATTORNEY FROM KNOWINGLY ASSISTING A JUDICIAL OFFICER IN CONDUCT THAT VIOLATES THE RULES OF JUDICIAL CONDUCT. SEE, E.G., *IN RE RILEY*, 691 P.2d 695 (ARIZ. 1984) (PROSECUTOR MADE IMPROPER EX PARTE COMMUNICATION TO JUDGE IN HOPE OF ENHANCING DEFENDANT'S PUNISHMENT); *IN RE WILDER*, 764 N.E.2d 617 (IND. 2002) (LAWYER OBTAINED EX PARTE INJUNCTION WITHOUT FOLLOWING PROPER PROCEDURES, FOR WHICH JUDGE ISSUING ORDER WAS SUSPENDED FOR VIOLATING CODE OF JUDICIAL CONDUCT); SEE ALSO MODEL CODE OF JUDICIAL CONDUCT CANON 2(B) (1990) (JUDGES SHALL NOT LEND PRESTIGE OF OFFICE TO ADVANCE PRIVATE INTERESTS OF OTHERS, NOR CONVEY OR PERMIT OTHERS TO CONVEY IMPRESSION THAT THEY ARE IN SPECIAL POSITION OF INFLUENCE). AS AN ADVOCATE, RULE 3.5 IMPARTIALITY AND DECORUM OF THE TRIBUNAL, A LAWYER SHALL NOT: A) - SEEK TO INFLUENCE A JUDGE, JUROR, PROSPECTIVE JUROR OR OTHER OFFICIAL BY MEAN PROHIBITED BY LAW; MANY FORMS OF IMPROPER INFLUENCE UPON A TRIBUNAL ARE PROSCRIBED BY CRIMINAL LAW. OTHERS ARE SPECIFIED IN THE ABA MODEL CODE OF JUDICIAL CONDUCT, WITH WHICH AN ADVOCATE SHOULD BE FAMILIAR. A LAWYER, AND STATE ATTORNEY IS REQUIRED TO AVOID CONTRIBUTING TO A VIOLATION OF SUCH PROVISIONS.

CODE OF JUDICIAL CONDUCT PARAGRAPH (1) OF THE COMMENT TO MODEL RULE 3.5 NOTES THAT A LAWYER IS REQUIRED TO AVOID CONTRIBUTING TO A VIOLATION OF THOSE PROVISIONS OF THE CODE OF JUDICIAL CONDUCT SPECIFYING FORMS OF IMPROPER INFLUENCE. "MEANS PROHIBITED BY LAW" WITHIN THE CONTEMPLATION OF RULE 3.5(A) REFERS NOT ONLY TO CRIMINAL LAW, BUT ALSO TO THE CODE OF JUDICIAL CONDUCT. *IN LOUISIANA STATE BAR ASS'N-VS-HARRINGTON*, 585 SO. 2d 514 (LA. 1990), WHICH HELD THAT "MEANS PROHIBITED BY LAW" SHOULD BE READ TO INCLUDE ANY ATTEMPT TO INDUCE A VIOLATION OF THE CODE OF JUDICIAL CONDUCT, INCLUDING ITS BROAD BAN ON EX PARTE COMMUNICATION.

RULE 3.5 IMPARTIALITY AND DECORUM OF THE TRIBUNAL; A LAWYER OR STATE ATTORNEY SHALL NOT: B) - COMMUNICATE EX PARTE WITH SUCH A PERSON DURING THE PROCEEDING UNLESS AUTHORIZED TO DO SO BY LAW OR COURT ORDER. SEE *IN RE BLACK*, 941 P.2d 1380 (KAN. 1997) (LAWYER'S EX PARTE COMMUNICATION WITH JUDGE REGARDING CHILD SUPPORT AND RESULTING ENTRY ORDER, ALONG WITH FAILURE TO INFORM OPPOSING COUNSEL OF COMMUNICATION, VIOLATED RULE 3.5); N.C. ETHICS OP. 97-3 (1997) (STATE ATTORNEY MAY NOT INITIATE EX PARTE CONTACT WITH JUDGE TO ASK IF JUDGE WILL RESCUE HIM/HERSELF FROM CASE).

UNDER RULE 3.5(b), EX PARTE COMMUNICATION IS BARRED EVEN IF THE

LAWYER'S, STATE ATTORNEY'S MOTIVATION FOR THE CONTACT IS LAUDABLE. SEE, EG., IN RE BEMIS, 938 P.2d 1120 (ARIZ. 1997) (LAWYER'S, STATE ATTORNEY'S ATTEMPT TO COMMUNICATE EX PARTE WITH JUDGE IMPROPER, EVEN IF LAWYER, STATE ATTORNEY IS NOT ATTEMPTING TO GAIN UNFAIR ADVANTAGE AND BELIEVED ACTION NECESSARY TO PROTECT CLIENT'S, STATE'S INTERESTS); IN RE ANONYMOUS, 929 N.E.2d 566 (IND. 2000) (LAWYER'S, STATE ATTORNEY'S GOOD-FAITH BELIEF THAT HE WAS ACTING IN BEST INTEREST AND GOOD CAUSE EXISTED) DID NOT JUSTIFY EX PARTE CONTACT WITH JUDGE).

THE POLICY AGAINST EX PARTE COMMUNICATION WITH JUDGES, RECOGNIZED BY BOTH STATE AND FEDERAL COURTS, IS DESIGNED TO PROTECT THE INTEGRITY OF THE LEGAL SYSTEM. IN RE PALMISANO, 70 F.3d 483 (7th Cir. 1995) (FEDERAL COURTS, NO LESS THAN STATE COURTS, FORBID EX PARTE CONTACTS AND FALSE ALLEGATIONS THAT BRING JUDICIAL SYSTEM INTO DISREPUTE); IN RE CARMICK, 48 P.3d 311 (WASH. 2002) ("RULES ARE DESIGNED TO PROTECT THE INTEGRITY OF THE LEGAL SYSTEM AND THE ABILITY OF COURTS TO FUNCTION AS COURTS"; LAWYERS, STATE ATTORNEY'S WHO MISREPRESENTED TO TRIAL JUDGE THAT ALL PARTIES KNEW ABOUT AND APPROVED REQUESTED EX PARTE ORDER SUSPENDED).

THE PROHIBITION AGAINST EX PARTE COMMUNICATION WITH JUDGES HAS CONSTITUTIONAL DIMENSIONS, AND ITS DISREGARD MAY HAVE A VARIETY OF CONSEQUENCES. SEE, EG., PEOPLE-VS-CHOI, 94 CAL RPT. 2d 982 (CT. APP. 2000) (AFFIRMING RECUSAL ORDER AGAINST ENTIRE SAN FRANCISCO AND COUNTY DISTRICT ATTORNEY'S OFFICE ON CONFLICTS GROUNDS WHEN DISTRICT ATTORNEY'S EX PARTE APPROACH TO COURT FOR APPROVAL OF PROPOSED LETTER TO EDITOR "TILT[ED] THE BALANCE" IN FAVOR OF RECUSAL); STATE-VS-MARKS, 758 So. 2d 1131 (FLA. DIST. CT. APP. 2000) (EXTENSIVE EX PARTE CONVERSATION BETWEEN JUDGE AND PROSECUTORS ABOUT CRIME-FRAUD EXCEPTION RESULTING IN STATE'S UNFETTERED ACCESS TO ALL DEFENDANT LAWYER'S CLIENT FILES CONSTITUTED DUE PROCESS VIOLATION AND WARRANTED DISMISSAL OF CHARGES); PORTER-VS-STATE, 732 So. 2d 899 (MISS. 1999) (ATTORNEY GENERAL'S OFFICE - CONSULTED BY PROSECUTOR IN CASE - MADE ARGUMENTS VIA TELEPHONE TO TRIAL JUDGE; CONTACT CONSTITUTED IMPERMISSIBLE EX PARTE COMMUNICATION WHEN DEFENSE COUNSEL WAS IN ROOM BUT COULD ONLY HEAR ONLY ONE END OF TELEPHONE CONVERSATION). SEE GENERALLY RESTATEMENT (THIRD) OF THE LAW GOVERNING LAWYERS §113 (2000) (PROHIBITION OF EX PARTE COMMUNICATION WITH JUDGE PROTECTS OPPOSING PARTY'S RIGHT TO FAIR HEARING); SHEPHARD, JUDICIAL PROFESSIONALISM AND THE RELATIONS BETWEEN JUDGES AND LAWYERS, 14 NOTRE DAME J.L. ETHICS & PUB. POL'Y 223 (2000) (DISCUSSING EX PARTE COMMUNICATION AND OTHER INTERACTIONS BETWEEN JUDGES AND LAWYERS; "TOUCHSTONES FOR THE GROUND RULES ON COMMUNICATIONS ARE EVEN-HANDEDNESS

AND DUE PROCESS").

⑤ DUTY TO DEFEND JUDGES WHO ARE CRITICIZED, ALTHOUGH AN AFFIRMATIVE DUTY TO DEFEND THE JUDICIARY SUCH AS THAT ARGUABLY IMPOSED UNDER EC 8-6 OF THE PREDECESSOR MODEL CODE HAS NOT BEEN INCORPORATED INTO RULE 8.2, THE COMMENT TO RULE 8.2 ENCOURAGES TO "CONTINUE TRADITIONAL EFFORTS TO DEFEND JUDGES AND COURTS UNJUSTLY CRITICIZED." MODEL RULES OF PROF'L CONDUCT R. 8.2 CMT. [3] (2002). SEE ALSO ARIZ. ETHICS OP. 86-8 (1986) (LAWYER'S ATTORNEY'S FOR STATE, JUDGES ALREADY ON THE BENCH ARE EXPECTED TO ENLIGHTEN PUBLIC ABOUT QUALITIES OF JUDICIAL MEMBERS); WASH. RULE OF PROFESSIONAL CONDUCT 8.2(c) (1995) (EXPRESSLY PROVIDE THAT LAWYER'S, STATE ATTORNEY'S, AND JUDGES ON THE BENCH ALREADY SHOULD SUPPORT EFFORTS TO DEFEND JUDICIARY FROM UNJUST CRITICISM). SEE GENERALLY CHAPMAN, CRITICISM - A LAWYER'S DUTY OR DOWNFALL?, 1981 5 ILL. U.L. J. 437; PALMER, THE JUDGE: MALIGNED, ATTACKED AND UNDEFENDED, 55 CHI. B. REC. 21 (1973).

THE ABA, IN A MODEL PLAN IMPLEMENTING THIS PORTION OF THE COMMENT TO RULE 8.2, STATES THAT THE BAR SHOULD RESPOND PUBLICLY TO ATTACKS UPON A JUDGE ONLY UPON THE OCCURRENCE OF THE FOLLOWING TWO INSTANCES:

- (1) - A PUBLIC UTTERANCE THAT IS UNWARRANTED OR AN UNJUST ATTACK ON A JUDGE IN A PENDING CASE, REGARDLESS OF THE SOURCE OF THE ATTACK; OR
- (2) - ANY "UNWARRANTED" OR "UNJUST" ATTACK OR SERIES OF ATTACKS ON A JUDGE OR COURT THAT MAY ADVERSELY AFFECT THE ADMINISTRATION OF JUSTICE.

ABA JUDICIAL ADMINISTRATION DIVISION, UNJUST CRITICISM OF JUDGES: MODEL PROGRAM OUTLINE FOR STATE AND LOCAL BAR ASSOCIATIONS, SUGGESTED PROGRAM TO MEET INACCURATE OR UNJUST CRITICISM OF JUDGES AND COURTS (1997). THE ABA HAS ALSO ISSUED A HANDBOOK FOR BAR ASSOCIATIONS, WHICH DESCRIBES HOW LAWYER'S, STATE ATTORNEY'S AND JUDGES SHOULD DEFEND JUDGES IN THE MEDIA SPOTLIGHT. IT ADVISES LAWYER'S, STATE ATTORNEY'S AND JUDGES TO EXPLAIN TO REPORTER'S THE ROLE OF THE JUDGE, THE LAW AT ISSUE, AND THE EXTENT OF JUDICIAL DISCRETION. ABA JUDICIAL DIVISION, SPECIAL COMMISSION ON JUDICIAL INDEPENDENCE, RESPONSE TO CRITICISM OF JUDGES (1998).

THERE IS A RECIPROCAL OBSERVATION. BECAUSE LAWYER'S, STATE ATTORNEY'S AND JUDGES ARE PERCEIVED TO HAVE SPECIAL COMPETENCE IN ASSESSING, THE PUBLIC TENDS TO BELIEVE WHAT LAWYER'S, STATE ATTORNEY'S AND JUDGES SAY EVEN WHEN THEY SPEAK INAPPROPRIATELY OR MAKE CLAIMS ABOUT WHICH THEY ARE UNCERTAIN. THEREFORE, IT IS ARGUED, MAINTENANCE OF PUBLIC CONFIDENCE IN THE JUDICIARY REQUIRES THAT LAWYER'S, STATE

ATTORNEYS AND JUDGES BE HELD TO A HIGHER STANDARD OF CONDUCT. ESSAY, THREE DISCUSSIONS OF LEGAL ETHICS, 126 U. PA. L. REV. 452 (1977). SEE, EG., STATE EX REL. OKLAHOMA BAR ASSOCIATION -VS- PORTER, 766 P.2D 958 (ORLA. 1988) ("MEMBERS OF THE BAR POSSESS, AND ARE PERCEIVED BY THE PUBLIC AS POSSESSING, SPECIAL KNOWLEDGE OF THE WORKINGS OF THE JUDICIAL BRANCH OF GOVERNMENT. CRITICAL REMARKS FROM THE BAR THUS HAVE MORE IMPACT ON JUDGEMENT OF THE CITIZEN THAN SIMILAR REMARKS BY A CAYMAN WOULD BE CALCULATED TO HAVE.")

THERE ARE THE SUBJECTIVE STANDARDS, AND THE OBJECTIVE STANDARDS. SUBJECTIVE STANDARD, REQUIRES THAT ACTUAL MALICE BE SHOWN TO DISCIPLINE FOR CRITICISM OF THE JUDICIARY. OBJECTIVE STANDARD, WOULD BE TO DETERMINE WHETHER A STATEMENT ABOUT A JUDICIAL OFFICIAL IS MADE WITH KNOWLEDGE OR RECKLESS DISREGARD. APPROPRIATE TEST IS "WHAT THE REASONABLE PERSON CONSIDERED IN LIGHT OF ALL HIS PROFESSIONAL FUNCTIONS, WOULD DO IN SAME OR SIMILAR CIRCUMSTANCES."

SEVERAL CASES SUGGEST THAT A LAWYER, STATE ATTORNEY, EVEN A JUDGE IS MORE LIKELY TO FIND REFUGE IN THE FIRST AMENDMENT IF THE CRITICISM IS SUBMITTED TO APPROPRIATE GRIEVANCE CHANNEL, RATHER THAN PUBLICLY AIRD. SEE, EG., OWEN-VS-CARR, 497 N.E 2D 1145 (ILL. 1986) (LAWYER'S LETTERS AND MEMORANDA TO JUDICIAL INQUIRY BOARD ACCUSING JUDGE OF MISCONDUCT WERE PROTECTED SPEECH, NEITHER LIBELOUS NOR GROUNDS FOR DISCIPLINE; COURT NOTED LAWYERS, STATE ATTORNEYS AND JUDGES HAVE "RIGHT AND DUTY" TO SUBMIT GRIEVANCES TO PROPER AUTHORITIES); IN RE BECKER, 620 N.E 2D 691 (IND. 1993) (LAWYER, STATE ATTORNEY, JUDGE VIOLATED RULE 8.2, "WHERE A LAWYER, STATE ATTORNEY, EVEN JUDGE IS CONFRONTED WITH WHAT APPEARS TO BE JUDICIAL MISCONDUCT, THE APPROPRIATE AVENUE IS THE JUDICIAL DISCIPLINARY PROCESS").

NEGLECT BY A MEMBER OF THE JUDICIAL SEAT OF RESPONSIBILITIES, COMPROMISES THE INDEPENDENCE OF THE PROFESSION AND THE PUBLIC'S INTEREST WHICH IT SERVES. A JUDGE'S ROLE PLAY VITAL IN THE PRESERVATION OF SOCIETY, WHEN FAILURE TO COMPLY WITH AN OBLIGATION OR PROHIBITION IMPOSED BY A RULE IS THE BASIS FOR MY COMPLAINT, THUS INVOKING THE DISCIPLINARY PROCESS. ASSESSMENT OF A JUDGE'S CONDUCT SHOULD BE MADE ON THE BASIS OF FACTS AND CIRCUMSTANCES THAT EXISTED AT THE TIME OF THE CONDUCT IN QUESTION.

MY RIGHTS AND RESPONSIBILITIES ARE OF THE UTMOST IN YOUR REVIEW OF MY COMPLAINT AGAINST THIS JUDGE [REDACTED] JUDICIAL ASSOCIATION NO. # UNKNOWN). I BEGIN BY SUBMITTING FIRST A COPY OF THE PRESENTENCE REPORT BY INVESTIGATOR (10 AS EXHIBIT-A, CAUSE NO. [REDACTED])

FOR REASONS THAT ONE WAS PREPARED PURSUANT TO THE ARIZONA RULES OF CRIMINAL PROCEDURE, POSTVERDICT PROCEEDINGS TO RULE 26.4 PRE-SENTENCE REPORT; A)- WHEN PREPARED. [QUOTED]

"THE COURT SHALL REQUIRE A PRE-SENTENCE REPORT IN ALL CASES IN WHICH IT HAS DISCRETION OVER THE PENALTY TO BE IMPOSED, EXCEPT THAT REQUIRING SUCH A REPORT IS DISCRETIONARY IN THOSE CASES IN WHICH THE DEFENDANT CAN ONLY BE SENTENCED TO IMPRISONMENT FOR LESS THAN ONE YEAR, IN WHICH A REQUEST UNDER RULE 26.3(A) IS GRANTED, OR IN WHICH A PRE-SENTENCE REPORT CONCERNING THE DEFENDANT IS ALREADY AVAILABLE. A PRE-SENTENCE REPORT SHALL NOT BE PREPARED UNTIL AFTER THE DETERMINATION OF GUILT HAS BEEN MADE OR THE DEFENDANT HAS ENTERED A PLEA OF GUILTY OR NO CONTEST.

THIS PRE-SENTENCE REPORT WAS CLEARLY ESTABLISHED USED TO WORK AS A GUIDING FACTOR IN MY SENTENCING. PURSUANT TO ARIZONA RULES OF CRIMINAL PROCEDURE- POSTVERDICT PROCEEDINGS, RULE 26.10 PRONOUNCEMENT OF JUDGEMENT ON NON-CAPITAL COUNTS; [QUOTED]

"THE COURT SHALL SET FORTH THE DEFENDANT'S PLEA, THE OFFENSE OF WHICH THE DEFENDANT WAS CONVICTED OR FOUND GUILTY, AND A DETERMINATION OF WHETHER THE OFFENSE FALLS IN THE CATEGORIES OF DANGEROUS, NON-DANGEROUS, AND REPETITIVE OR NON-REPETITIVE.

IN PART OF SAME SAID RULE 26.10(b) - PRONOUNCEMENT OF SENTENCE.

THE COURT SHALL: [QUOTED]

- "(1) - GIVE THE DEFENDANT AN OPPORTUNITY TO SPEAK ON HIS/HER ON BEHALF;
- (2) - STATE THAT IT HAS CONSIDERED THE TIME THE DEFENDANT HAS SPENT IN CUSTODY ON THE PRESENT CHARGE;
- (3) - EXPLAIN TO DEFENDANT THE TERMS OF SENTENCE OR PROBATION."

WHICH BRINGS US TO THE NEXT DOCUMENT SUBMITTED (10 AS EXHIBIT-B, DATED [] WHICH IS THE PLEA AGREEMENT WITH SPECIFIC ATTENTION ADDRESSING THE COUNTS FOR WHICH THE AGREEMENT ENCOMPASSED, WHICH ARE FIRST (12) - COUNT 1, ATTEMPTED SEXUAL CONDUCT WITH A MINOR, CLASS 3 FELONY AND DANGEROUS CRIME AGAINST CHILDREN, IN VIOLATION OF ARS § 13-1401, 13-1405, 13-1401.

13-3621, 31-281, 13-604.01, 13-702, AND 13-801. SECOND (2ND) - COUNT 3: CHILD MOLESTATION, CLASS 2 FELONY AND A DANGEROUS CRIME AGAINST CHILDREN, IN VIOLATION OF ARS § 13-1401, 13-1410, 13-3821, 31-281, 13-604.01, 13-702 AND 13-801. BOTH COUNTS ON PLEA AGREEMENT SAY "AMENDED". DEFINITION OF AMENDED FROM BLACK'S LAW DICTIONARY SAYS, [QUOTED]

"A FORMAL REVISION OR ADDITION PROPOSED OR MADE TO A STATUTE, CONSTITUTION, OR OTHER INSTRUMENT. A CHANGE MADE BY ADDITION, DELETION, OR CORRECTION; AN ALTERATION IN WORDING."

KNOWING THAT THE ARIZONA RULES OF CRIMINAL PROCEDURES GENERAL PROVISION IS TO PROVIDE GUIDANCE TO LAWYERS, ATTORNEY'S FOR THE STATE, JUDGES AND EVEN THE PUBLIC, PURSUANT TO ARIZONA RULES OF CRIMINAL PROCEDURE, RULE 1-2 PURPOSE AND CONSTRUCTION, SAYS [QUOTED]

THESE RULES ARE INTENDED TO PROVIDE FOR THE JUST, SPEEDY DETERMINATION OF EVERY CRIMINAL PROCEEDING. THEY SHALL BE CONSTRUED TO SECURE SIMPLICITY IN PROCEDURE, FAIRNESS IN ADMINISTRATION, THE ELIMINATION OF UNNECESSARY DELAY AND EXPENSE, AND TO PROTECT THE FUNDAMENTAL RIGHTS OF THE INDIVIDUAL WHILE PRESERVING THE PUBLIC WELFARE."

WHICH BRINGS US TO THE PETITION FOR POST-CONVICTION RELIEF (ID AS EXHIBIT C, DATED 1/1), EXPRESSING THE ISSUES OF SPECIFIC'S IN THE SPECIAL CONDITIONS REGARDING PAROLE UNDER THE BELIEF THAT HE WAS TO SERVE 85% OF HIS TIME TO THE NORMAL PAROLE ELIGIBILITY (ID AS EXHIBIT-C, PAGE 314, LINES 11-26 AND LINES 1-19). THE STATE RESPONDED TO THE PETITION ASKING THE COURT TO SUMMARILY DISMISS IT IN PART AND TO SET AN EVIDENTIARY HEARING, (HEARING TO FURTHER INQUIRY INTO THE SPECIFIC'S). ON PAGE 2 OF SAID (ID AS EXHIBIT-D) DOCUMENT, ARGUMENT II (A)(1) SAYS IN THE STATES OPINION, THAT THE STATE DOES NOT NEED TO EXPLAIN EACH SPECIAL CONDITION OF A SENTENCE (LEADING INTO ID. AS EXHIBIT-D) PAGE-3, A CONCLUSION TO STATES OPINION.

DEFENSE COUNSEL [REDACTED] REPLIED TO RESPONSE TO PETITION FOR POST-CONVICTION RELIEF (ID AS EXHIBIT-E, DATED FILED [REDACTED]) FOR WHICH HE CLEARLY LAYED OUT WHAT THE STATE IS RESPONSIBLE FOR AND SHOULD CHARGE INTO THE RECORD. UPON DOING SO THE STATE BECAME AWARE OF ITS ERROR AND THE COURT ORDERED (ID AS EXHIBIT-E, DATED [REDACTED]) THAT THE COURT HAS CONSIDERED THE EVIDENCE AND AGREEMENT PRESENTED AT THE EVIDENTIARY HEARING, AND BASED ON SUCH CONSIDERATION, THE COURT MAKES

THE FOLLOWING FINDINGS AND ORDERS: [QUOTED]

- " (1) - THE EVIDENCE SUPPORTS DEFENDANT'S CLAIM THAT NEITHER THIS NOR HIS TRIAL COUNSEL NOR ANYONE ELSE INFORMED THE DEFENDANT
- (2) - THE DEFENDANT REMAINED UNAWARE
- (3) - THEREFORE, THE COURT FINDS THAT THE DEFENDANT HAS SATISFIED HIS BURDEN OF PROVING HIS CLAIM BY PREPONDERANCE OF THE EVIDENCE. THE COURT FURTHER FINDS THAT BASED ON THE EVIDENCE, THE STATE HAS NOT MET ITS BURDEN OF PROVING THAT THE DEFECT IN THE SENTENCES OF THE DEFENDANT FOR COUNT-3 AND COUNT-1 WAS HARMLESS BEYOND A REASONABLE DOUBT. THIS IS BECAUSE THE COURT FINDS THAT THE EVIDENCE SUPPORTS DEFENDANT'S CLAIM THAT HAD HE KNOWN ABOUT THE DAY FOR DAY REQUIREMENT AND THE COMMUNITY SUPERVISION TERMS IN THE SENTENCE FOR COUNT-3 OR FOR COUNT-1 FOR WHICH HE RECEIVED LIFETIME PROBATION.
- (4) - THE COURT HAS ASSESSED THE CREDIBILITY OF THE DEFENDANT AND FINDS THAT THE EVIDENCE DOES SUPPORT HIS CLAIM THAT HE DID NOT KNOW AT THE TIME OF SENTENCING

[REDACTED] (THE COMPLAINANT) THUS RETURNS BACK TO TRIAL COURT ON THE GROUNDS OF HIS ISSUES PETITIONED IN HIS POST-CONVICTION RELIEF. HE IS APPOINTED COUNSEL ([REDACTED]) FOR WHOM A COMPLAINT IS MADE DIRECTLY AGAINST AND SUBMITTED TO THE PROPER AUTHORITIES FOR A DETERMINATION. THE PROSECUTOR FOR THE STATE [REDACTED] [REDACTED] ALSO HAS A COMPLAINT DIRECTLY FILED AGAINST HER AND IT IS SUBMITTED TO THE PROPER AUTHORITIES FOR DETERMINATION. JUDGE ([REDACTED] JUDICIAL ASSOCIATION # [REDACTED] UNKNOWN) WAS THE JUDGE THAT PRESIDED OVER THE CASE WHEN [REDACTED] (COMPLAINANT) RETURNED BACK TO TRIAL COURT AND WHOM ALSO THERE HAS BEEN A COMPLAINT FILED AGAINST HIM AND SUBMITTED TO THE PROPER AUTHORITIES FOR A DETERMINATION. LAST, BUT NOT IN THE LEAST JUST AS MUCH APART OF THIS HARMFUL SITUATION, THE JUDGE WHO PRESIDED OVER THE PROCEEDING BEFORE POST-CONVICTION RELIEF (JUDGE [REDACTED] JUDICIAL ASSOCIATION NO. # [REDACTED] UNKNOWN). THERE IS ALSO A COMPLAINT FILED DIRECTLY AGAINST HIM THAT HAS BEEN SUBMITTED TO THE PROPER AUTHORITIES FOR A DETERMINATION. ALL OF THESE INDIVIDUALS ROLES HAD SIGNIFICANT BEARING ON THE

HARMFUL SITUATION THUS CREATED, AS STATED, [REDACTED] (COMPLAINANT) RETURNS BACK TO TRIAL COURT ON ISSUES PREPARED BY HIRED COUNSEL [REDACTED] WHOM SUBSEQUENTLY HAD TO DROP FROM CASE DUE TO PERSONAL REASONS AMICABLY UNDERSTOOD BY BOTH [REDACTED] (CLIENT (COMPLAINANT)) AND HIRED POST-CONVICTION RELIEF COUNSEL [REDACTED] TRIAL COURT THEN APPOINTED [REDACTED] (COMPLAINANT) COUNSEL [REDACTED]

TO FURTHER PROCEED IN PRESENTING THE DOCUMENTS FOR WHICH, THE BASIS FOR MY COMPLAINT IS THE FOUNDATION OF THE FACTS TO ESTABLISH THE CONDUCT OF THE PARTIES, WHILE CIRCUMSTANCES DICTATE THE ASSESSMENT, THE POST-CONVICTION RELIEF TRIAL JUDGE [REDACTED] ORDERED A SECOND PRE-SENTENCE SUPPLEMENTAL REPORT (ID AS EXHIBIT-G, DATED FILED [REDACTED] WHICH WAS LONG AFTER [REDACTED] SIGNED WHAT APPEARED TO BE SAME PLEA AGREEMENT (ID AS EXHIBIT-H, DATED FILED [REDACTED] THE PLEA AGREEMENT (ID AS EXHIBIT-H, THE SECOND ONE) WAS SAID BY [REDACTED] (COUNSEL) FOR [REDACTED] TO BE THE SAME PLEA, SO [REDACTED] VIEW IN HIS LAY-MAN PERSPECTIVE MOVED HIM TO SIGN DOCUMENT WITH TOTAL CONFIDENCE IN THE INFORMATION FROM HIS COURT APPOINTED COUNSEL. WHEN ONE ENDOWED WITH THE UNDERSTANDING OF THE JUDICIAL LANGUAGE TAKES A CLOSER LOOK AT BOTH DOCUMENTS (ID AS EXHIBIT-B, DATED FILED [REDACTED] AND (ID AS EXHIBIT-H, DATED FILED [REDACTED] AND BOUNCE THE TWO TOGETHER, IN YOUR REVIEW YOU WILL SEE THAT THE EARLIER PLEA AGREEMENT READS THAT COUNT-1 AND COUNT-3 ARE "AMENDED". THE LATER DOCUMENT DOES NOT READ "AMENDED" THUS MAKING THE DOCUMENTS APPEARANCES ON THEIR FACE DIFFERENT, WHICH WILL ALLOW A DIFFERENT INTERPRETATION.

ONCE [REDACTED] NOTICED THE ATTITUDE FOR WHICH HIS COUNSEL WAS SET AND BENT WITH PURSUING, [REDACTED] SUBMITTED A MOTION FOR CHANGE OF COUNSEL (ID AS EXHIBIT-I, DATED [REDACTED] WHICH WAS NOT RECEIVED BY THE COURT TO FILE BECAUSE IT REMAINED IN COUNSEL'S POSSESSION IN THE CAPACITY OF MATERIAL FACT AND IN HIS AWARENESS BY MEANS OF COUNSEL'S KNOWLEDGE; WHICH LATER BECAME UNDERSTOOD AND OPEN KNOWLEDGE TO ALL IN OPEN COURT, ONLY AFTER COUNSEL'S COMMUNICATION IN JUDGES CHAMBERS (ID AS EXHIBIT-J, DATED [REDACTED] SENTENCING TRANSCRIPT), [REDACTED] CLEARLY EXPRESSED HIS DISPLEASURES. ALTHOUGH, NEXT DOCUMENT ESTABLISHES THAT COUNSEL [REDACTED] HAS LIED (ID AS EXHIBIT-K, DATED [REDACTED] TO MANY PEOPLE INVOLVED IN [REDACTED] CASE, GOOD CAUSE EXISTED ESTABLISHING A REASON CLEAR

FOR COUNSEL'S REMOVAL FROM REPRESENTING [REDACTED] IN HIS TRIAL COURT CASE, FOR WHICH HE SOUGHT POST-CONVICTION RELIEF. TO FURTHER ESTABLISH AS A MATTER OF RECORD THERE ARE MANY MENTIONS OF COUNSEL TALKING EX PARTE COMMUNICATIONS IN THE JUDGES CHAMBERS.

ARGUMENT / COMPLAINT

PLEA AGREEMENT WAS DEFECTIVE AND CAUSED [REDACTED] TO INCUR A SENTENCE INCREASE WHEN IN FACT IT WAS A "CLARIFICATION ISSUE" WHICH SHOULD HAVE BEEN ADDRESSED AT SENTENCING AS A MATTER OF RECORD. PLEA AGREEMENT WAS IMPOSED IN UNLAWFUL MANNER. A SENTENCE IMPOSED IN AN UNLAWFUL MANNER IS ONE IMPOSED WITHOUT DUE REGARD TO THE PROCEDURES REQUIRED BY STATUTE OR THE RULES OF CRIMINAL PROCEDURE. STATE-VS-HOUSE, 167 ARIZ. 572, 821 P.2d 233 (CT. APP. 1991).

RULE 27.1. THIS PROVISION IS BASED ON PRESENT PRACTICE AND ABA, STANDARDS RELATING TO PROBATION, AT §§ 3.1(c) AND 3.2(a). ARIZONA REVISED STATUTE ANNOTATED §13-1657 (a) (SUPPLEMENT 1972) PERMITS THE SENTENCING COURT TO IMPOSE "SUCH TERMS AND CONDITIONS AS IT DETERMINES" INCLUDING UP TO ONE (1) YEAR IN JAIL. THE USUAL PRACTICE IN THE SUPERIOR COURTS OF [REDACTED] COUNTIES IS FOR THE COURT TO IMPOSE A FEW CONDITIONS SUCH AS TO OBEY THE RULES OR REGULATIONS IMPOSED BY THE PROBATION OFFICER, TO LEAD A LAW ABIDING LIFE, AND OCCASIONALLY, TO CONSUME NO ALCOHOLIC BEVERAGES OR TO UNDERGO MENTAL OR MEDICAL TREATMENT. THE PROBATION OFFICER THEN GIVES THE DEFENDANT A STANDARD SET OF REGULATIONS, EXPLAINS THEM, AND TAKES A STATEMENT ASKING THE DEFENDANT TO SIGN IT, SAYING THAT HE UNDERSTANDS THE CONDITIONS AND REGULATIONS AND THE POSSIBLE CONSEQUENCES OF A VIOLATION AND THAT HE AGREES TO ABIDE BY THE TERMS OF HIS PROBATION. JUDGE [REDACTED] DID NOT DO THIS WHICH HAS BEEN INDICATED BY (10 AS EXHIBITS C, D, E, AND F) WHOM CLEARLY CREATED THIS SITUATION CONTRADICTORY TO THE ARIZONA RULES OF CRIMINAL PROCEDURE, AND WHOM JUDGE [REDACTED] FOLLOWED WITH HIS CONTINUING TO DETERIORATE THE SITUATION WITH HIS UNETHICAL CONDUCT ADVERSE TO THE RULES OF ARIZONA'S CRIMINAL PROCEDURES. RULE 26-16 ENTRY OF JUDGEMENT AND SENTENCE MAKES JUDGEMENT OF CONVICTION AND THE SENTENCE THEREON ARE COMPLETE AND VALID AS OF THE TIME OF THEIR ORAL PRONOUNCEMENT IN OPEN COURT. REMAND IS WHEN THERE IS A DISCREPANCY BETWEEN THE ORAL PRONOUNCEMENT OF SENTENCE AND THE

MINUTE ENTRY OR SUCH THAT REFERENCE TO THE RECORD CANNOT RESOLVE THE ISSUE, A REMAND FOR CLARIFICATION OF SENTENCE IS APPROPRIATE. STATES- BOWLES, 173 ARIZONA 214, 841, P.2D 209 (CT. APP. 1992). JUDGE [] DID NOT DO THIS, THUS PLACING [] IN A HARMFUL SITUATION, CONDUCTIVE TO AN INCREASE IN SENTENCING (ID AS EXHIBIT-L, DATED [] WHERE JUDGE [] SAYS THAT THE JUDGE PRIOR (BEING JUDGE []) DID NOT SENTENCE [] APPROPRIATELY THUS SHOWING AN AIR OF PREJUDICE IN HIS DECISION MAKING.

ANOTHER COMPLAINT IS THE PLEA AGREEMENTS WRITTEN INFORMATION (ID AS EXHIBIT-B, DATED []). THE PLEA STATES THAT COUNT-1 IS AMENDED AND COUNT-3 IS AMENDED. BLACK'S LAW DICTIONARY DEFINES "AMENDED" (TO MAKE RIGHT; TO CORRECT OR RECTIFY. TO CHANGE THE WORDING OF; SPECIF., TO ALTER (A STATUTE, CONSTITUTION, ETC.) FORMALLY BY ADDING OR DELETING A PROVISION OR BY MODIFYING THE WORDING). WHEN ONE BOUNCES ONE AGREEMENT (ID AS EXHIBIT-B, DATED []) AGAINST (ID AS EXHIBIT-M, DATED []) THE INDICTMENT, LOOKING CLOSELY AT COUNT-1 AND COUNT-3, ONE WILL SEE THAT COUNT-1 HAS BEEN "AMENDED" FROM, "SEXUAL CONDUCT WITH A MINOR, CLASS 3 FELONY" ("ADDINE THE WORD ATTEMPTED, THUS CHANGING THE CLASS FROM 2 TO 3, HAS SHOWN BY DEFINITION A CHANGE IN WORDING OF SPECIFIC TO ALTER") BUT, NOW WHEN ONE LOOKS AT COUNT-3, BOUNCING THESE TWO EXHIBITS ID TOGETHER, THE INDICTMENT SAYS, "MOLESTATION OF CHILD, A CLASS 2 FELONY," WHILE THE FIRST PLEA AGREEMENT ID. SAYS, AMENDED COUNT-3 "CHILD MOLESTATION CLASS 2 FELONY," WHICH IS NOT AMENDED ON ITS FACE BY DEFINITION. JUDGE [] ON RECORD (ID AS EXHIBIT-IV, DATED []) PLEA AGREEMENT (CHANGE OF PLEA) AND (ID AS EXHIBIT-D, DATED []) SENTENCING) REPEATEDLY SAID COUNT-1 AMENDED "ATTEMPT SEXUAL CONDUCT WITH MINOR, CLASS 3 FELONY AND COUNT-3 AMENDED "CHILD MOLESTATION CLASS 2 FELONY WHICH HAS NOT BEEN AMENDED, THUS MAKING IT UNETHICAL TO DECEIVE, FALSELY, MISLEAD, MISREPRESENT THE PUBLIC FROM THE SEAT OF AUTHORITY. JUDGE [] THE JUDGE OF POST-CONVICTION RELIEF TURNS RIGHT AROUND AND DOES THE SAME UNETHICAL THING (ID AS EXHIBIT-H, DATED []) BY MAKING IT APPEAR THAT THE PLEA AGREEMENT WHICH THE STATE OFFERED TO [] IS THOUGHT TO BE SAME A FIRST PLEA AGREEMENT OFFERED BY STATE AND ACCEPTED BY THE TRIBUNAL UNDER JUDGE []

THE ABA JUDICIAL ADMINISTRATION DIVISION, THE COMMISSION ON JUDICIAL CONDUCT, THE ARIZONA JUDGES ASSOCIATION, ON UNJUST CRITICISM OF JUDGES; MODEL PROGRAM OUTLINE FOR STATE AND LOCAL BAR ASSOCIATIONS; SUGGESTED PROGRAM TO MEET INACCURATE OR UNJUST CRITICISM OF JUDGES AND COURTS (1997). THE ABA HAS ALSO ISSUED A HANDBOOK FOR BAR ASSOCIATIONS, WHICH DESCRIBES HOW LAWYER'S, STATE ATTORNEY'S AND JUDGES SHOULD DEFEND JUDGES IN THE SPOTLIGHT. THERE IS A RECIPROCAL OBSERVATION, BECAUSE LAWYER'S STATE ATTORNEY'S AND JUDGES ARE PERCEIVED TO HAVE SPECIAL COMPETENCE IN ASSESSING, THE PUBLIC TENDS TO BELIEVE WHAT LAWYER'S, STATE ATTORNEY'S AND JUDGES SAY WHEN THEY SPEAK (10 AS EXHIBIT-P, DATED [REDACTED] SENTENCING TRANSCRIPT). THEREFORE, IT IS ARGUED, MAINTENANCE OF PUBLIC CONFIDENCE IN THE JUDICIARY REQUIRES THAT LAWYER'S, STATE ATTORNEY'S AND JUDGES BE HELD TO A HIGHER STANDARD OF CONDUCT. ESSAY, THREE DISCUSSIONS OF LEGAL ETHICS, 126, U. PA. L. REV. 452 (1977). THE COMPETENT ANALYSIS GIVEN BY THE HONORABLE [REDACTED] (10 AS EXHIBIT-Q, DATED [REDACTED] SENTENCING TRANSCRIPT) OF AN ORATORY OBJECTIVE TO SENTENCE WAS UNDERMINED BY JUDGE [REDACTED] (10 AS EXHIBIT-L, DATED [REDACTED] SENTENCING TRANSCRIPT) WHOM SHOULD HAVE DEFENDED JUDGE [REDACTED] DECISION, THUS, A NEGLECT BY A MEMBER OF THE JUDICIAL SEAT OF RESPONSIBILITIES, COMPROMISES THE INDEPENDENCE OF THE PROFESSION AND THE PUBLICS INTEREST WHICH IT SERVES. A JUDGE'S ROLE PLAY VITAL IN THE PRESERVATION OF SOCIETY, WHEN FAILURE TO COMPLY WITH AN OBLIGATION OR PROHIBITION IMPOSED BY A RULE, INVOKE OF DISCIPLINARY PROCESS IS A MUST. THE ASSESSMENT OF JUDGE [REDACTED] CONDUCT SHOULD BE THE CIRCUMSTANCE AND FACT OF THE CONDUCT IN QUESTION AS IT EXISTED AT THE TIME.

THERE ARE THE SUBJECTIVE STANDARDS AND THE OBJECTIVE STANDARDS. SUBJECTIVE STANDARD, REQUIRES THAT ACTUAL MALICE BE SHOWN TO DISCIPLINE FOR CRITICISM. OBJECTIVE STANDARD, WOULD BE TO DETERMINE WHETHER A STATEMENT ABOUT A JUDICIAL MEMBER IS MADE WITH KNOWLEDGE OF THE RULE OR RECKLESS DISREGARD TO THE RULE, THE APPROPRIATE TEST IS "WHAT THE REASONABLE PERSON WOULD DO CONSIDERING IN THE LIGHT OF ALL HIS EXPERIENCES (PROFESSIONAL OR OTHERWISE) WOULD DICTATE THAT HE DO IN SAME OR SIMILAR CIRCUMSTANCES. IN THE CASE OF JUDGE [REDACTED] POSITION "A REASONABLE PERSON" SHOULD HAVE SUBMITTED HIS DISTASTE FOR JUDGE [REDACTED]

TO PROPER AUTHORITIES; IN RE BECKER, 620 N.E. 2d 691 (INO. 1993)
 (VIOLATION OF RULE "WHERE THERE APPEARS TO BE JUDICIAL MISCONDUCT,
 THE APPROPRIATE AVENUE IS THE JUDICIAL DISCIPLINARY PROCESS"). IN
 [REDACTED] (REASONABLE PERSON'S POSITION) WOULD BE OF COURSE
 (ID AS EXHIBIT-R, DATED [REDACTED] SENTENCING TRANSCRIPT) TO CHANGE
 JUDGES AND GO BACK TO THE ORIGINAL ONE WHO CAUSED THE POST-
 CONVICTION RELIEF TO BE FILED FOR A "DETERMINATION BY CLARIFICATION."

THE ACCUMULATIVE CONDUCT OF JUDGE [REDACTED] VIOLATING
 RULES OF ETHICS ESTABLISHED IN THE BODY OF THIS COMPLAINT, SUPPORTED
 BY EXHIBITS TO SET THE EXISTENCE OF CIRCUMSTANCE AS THEY
 WERE AT THAT PARTICULAR TIME, EX PARTE COMMUNICATION WITH
 STATE ATTORNEY & DEFENSE COUNSEL, UNJUST CRITICISM OF
 JUDICIAL OFFICIAL WITH DISREGARDS TO THE RULE KNOWINGLY
 THUS ALLOWING THE MAINTENANCE OF INTEGRITY TO DETERIORATE, SPIRALING
 THE JUDICIAL SYSTEM INTO DISREPUTE.

I RESPECTFULLY SUBMIT THIS TO INVOKE A THOROUGH AND PROPER
 INVESTIGATION AS TO JUDGE [REDACTED] CONDUCT AS IT
 EXISTED. A DETERMINATION FOR JUDICIARY DISCIPLINE IS REQUIRED
 AND REQUESTED.

[REDACTED] 11-27-06
 DATE

SWORN BEFORE ME ON THIS 27th DAY OF NOVEMBER, 2006. *FILE*

