

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 07-052

Complainant: No. 1304010009A

Judge: No. 1304010009B

ORDER

The commission reviewed the complaint filed in this matter and found no ethical misconduct on the part of the judge. The issue raised is legal or appellate in nature, and the more appropriate remedy would have been to appeal the judge's decision to a court with proper jurisdiction.

The commission is not an appellate court and cannot change a judge's decisions; therefore, the complaint is dismissed pursuant to Rules 16(a) and 23(a).

Dated: April 11, 2007.

FOR THE COMMISSION

/s/ Keith Stott
Executive Director

Copies of this order were mailed
to the complainant and the judge
on April 11, 2007.

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

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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.

1. WILLFUL MISCONDUCT IN OFFICE:

JUDGE KNOWINGLY AND INTENTIONALLY

→ "INTIMIDATES" THE COURT APPOINTED DEFENSE ATTORNEYS.

DEFENDANT'S JURY TRIAL WAS HELD

→ REFER TO COURT TRANSCRIPT - DAY TWO, PAGE (79) (THE JURY INSTRUCTIONS WERE FOR THE CHARGES OF "ENDANGERMENT" AND "AGGRESSIVE DRIVING") LINE (25)

→ PROSECUTOR: "AT THIS POINT I WANT TO GET RID OF IT" - PAGE (80) - LINE (1-7)

→ THE COURT: DO YOU OBJECT TO HIM DISMISSING THAT CHARGE? I →
→ WILL OVERRULE YOUR OBJECTION, BUT IF YOU WANT TO OBJECT." ← ← ←

NO ← ← ←

→ THE COURT: "ALL RIGHT. IT'S ORDERED IN THE INTEREST OF KEEPING THE JUDGE HAPPY, THAT THE AGG. DRIVING CHARGE IS DISMISSED." ← ← ←

NOTE: ENDANGERMENT = CL. 6 DANGEROUS FEL.
AGG. DRIVING = CL. 1 MISDEMEANOR.

→ JURY HAD ALREADY HEARD TESTIMONY ON AGG. DR. ← ← ←

(Attach additional sheets as needed)

COMPLAINT AGAINST A JUDGE

CONT.

WILLFUL MISCONDUCT IN OFFICE

SEE JURY TRIAL TRANSCRIPT:

DAY ONE - PAGE (51) (CROSS EXAM.)

LINE

2) Q. "WAS YOUR CAR STRUCK?"

3) A. "NO"

4) Q. "WAS YOUR DEATH TO HAPPEN SOON?"

NOTE: THE "ENDANGERMENT" CHARGE =

→ ORA) RISK OF IMMINENT DEATH = FELONY
→ B) RISK " " INJURY = MISDEMEANORTHE PROSECUTOR "ARBITRARILY" →
CHOSE "A" AND LEFT "B" OFF THE JURY →
→ INSTRUCTION. →→ THEREFORE, THE DEFENSE WAS REQUIR-
ED TO "CONCENTRATE" ON THE DEATH →
→ DEFENSE.

5) * [] : "OBJECTION" →

7) *** THE COURT: → "SUSTAINED" →

CONT.

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LINE

8)* []: "JUDGE, COULD I BE HEARD?"

9)*** THE COURT: "I HEARD THE QUESTION.
→ I SUSTAINED THE OBJECTION."

PAGE: (68) WITNESS No. 3

LINE:

7) - Q - "WAS YOUR CAR STRUCK?"

8) - A - "NO"

9) - Q - "WAS YOUR DEATH ABOUT TO OCCUR?"

10)* []: "OBJECTION, JUDGE."

11)*** THE COURT: "SUSTAINED?"

PAGE: (73)

LINE:

3) []: "YOUR HONOR, THAT LAST QUESTION
EXCEEDED, I THOUGHT, A LITTLE BIT
OF THE SCOPE. MAY I ASK A FOLLOW-
UP QUESTION?"

6) - THE COURT: "SURE. GO AHEAD."

CONT.

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LINE:

9) * [] : "JUDGE, I DON'T BELIEVE
IT DID."

10) *** "THE COURT: "BUT I SAID GO
→ AHEAD. SO HAVE A SEAT." ???

PAGE: ⑧ WITNESS No. 4.

6) "mm I THOUGHT HE WAS BUMPING
THE CADILLAC."

7) * [] : " (A SOUND "LEGAL" OBJECTION)
OBJECTION ←

8) *** THE COURT: "OVERRULED" ???

RE-CAP

THE DEFENSE WAS PROHIBITED FROM PRESE-
NTING A VIABLE DEFENSE AGAINST THE CHARGE
OF ENDANGERMENT. THE CHARGE IS TOTAL
SPECULATION - RISK OF IMMINENT
DEATH. THIS SPECULATION WAS ENHANCED

CONT.BY A BIAS JUDGE [] THE JUDGE

PORTRAYED THE PART OF AN ENABLER TO
THE PROSECUTOR. (ENABLE: TO
"SUPPORT" THE DYSFUNCTIONAL BEHAVIOR
OF, AS BY "COMPENSATING" FOR IT.)

THE RESULT IS THAT DEFENSE WAS ALLOWED
ONLY TO MENTION THE WORD "DEATH" TO
TWO OF THE FIVE WITNESSES. TO PRO-
PERLY ADMINISTER EQUAL JUSTICE, THE
JUDGE MUST BE IMPARTIAL. I SUB-
MIT THAT JUDGE [] UTTERLY FAIL-
ED TO MEET THAT ESSENTIAL CRITERIA. THE
RESULT: A LIFE SENTENCE FOR A MISDEMEANOR.

CONT.

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⑥

WILLFUL FAILURE TO PERFORM DUTIES.

ON [REDACTED] DEFENDANT WAS ARRESTED BY D.P.S. ON THE CHARGE ARS § 28-695 "AGGRESSIVE DRIVING," (SIMPLE-NO ACCIDENT-NO ALCOHOL OR DRUGS) A CIVIL CHARGE, (NON-CUSTODIAL), IF JUDGE ORDERS, = MAX. 6 Mo. IN THE EARLY DISPOSITION COURT, [REDACTED] DEFENSE ATTORNEY, [REDACTED] DID TELL DEFENDANT, [REDACTED] THAT THE COURT'S SOLUTION TO MY SITUATION WAS FOR 6 Mo. INCARCERATION, (THE MAX. FOR A CL. ① MISDEMEANOR).

CONT.

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⑦

AT THAT TIME THE PROSECUTOR, (AND COURT),
COMMITTED TO THE FACT THAT MY CHARGE
WAS A "MISDEMEANOR". ON [REDACTED]
I WAS SENTENCED TO 6.75 YRS
(SIX AND THREE QUARTERS
YEARS) IN D.O.C.?? JUSTICE??
I KNOW THE LAW'S PROVIDE FOR ADD-
ITIONAL CHARGES, HOWEVER, THAT ACT
REQUIRES A DETAILED LEGAL PRO
CESS. THE "DOCUMENTS VERIFY" THAT
PROSECUTOR, [REDACTED] "IGNORED"
THAT PROCESS, AND THAT JUDGE
[REDACTED] WILLFULLY FAILED TO

CONT.

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⑧

PERFORM HIS DUTY!" ANY NEW
CHARGE REQUIRES - A COMPLAINT,
AN INFORMATION - A SUMMONS - AN
INITIAL APPEARANCE (TO PLEA TO NEW
CHARGES) - ALL UNDER A NEW CASE
NUMBER. THEN A MOTION TO CONSO-
LIDATE MUST BE FILED, AND APPROVED.
RULE 13.3(a), A.R.C.P. PERMITS TWO (2)
OR MORE OFFENSES TO BE JOINED, WHERE
THE ENDS OF JUSTICE WILL NOT BE
DEFEATED THEREBY. ^{SEE} RULE 13.3(c) AND
STATE VS. MARTINEZ-VILLAREAL, 145 ARIZ.
441, 446, 702 P.2d, 670, 675, (APP. 1998.)

CONT.

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JOINDER OF OFFENSES ALLEGED

IN C/R 2005 - "NEW No." IS SOUGHT

WITH OFFENSES PENDING IN

BASED ON THE FOLLOWING CIRCUMSTANCES:

"NEW No." IS DIRECTLY INTERTWINED

WITH

NEXT AN "AFFIDAVIT" (TRUE FACTS)

THE ORDER GRANTING STATES

REQUEST TO CONSOLIDATE AND JOIN

FURTHER ORDER - ALL CHARGES SHALL

BEAR THE CASE NO.

THE RECORDS VERIFY JUDGE WILLFUL

FAILURE TO PERFORM ^{THESE} DUTIES.

CONT.

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⑩

DEFENDANT STATES THAT, "HIS ENDS
OF JUSTICE WERE DEFEATED
BY JUDGE [REDACTED] WILLFUL
MISCONDUCT IN PROPER
ADMINISTRATION OF EQUAL
JUSTICE.

→ [REDACTED] (YRS OLD)
→ A LIFE SENTENCE IN D.O.C.

FOR A CIVIL TRAFFIC VIOL-
ATION IS NOT JUSTICE. ←

JUDGE [REDACTED] ALSO KNEW [REDACTED]

LACKED JURISDICTION, AS THE
INCIDENT AND A.T.L. OCCURRED IN

→ [REDACTED]

" [REDACTED]

DEFENDANT

RE: [REDACTED]

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(11)
PROSECUTOR
BROUGHT IT UP
AS PRIOR

A VIOLATION OF THE CODE OF
JUDICIAL CONDUCT

JUDGE [REDACTED]

(AND MY RIGHTS)
ENTERED INTO MY REC-

ORDS AN OBSCENE "LIE"

[REDACTED] JURY TRIAL TRANSCRIPT,

DAY TWO - PAGE (43) LINE (6-9) [REDACTED]:

"my STATEMENTS YOU MADE IN THE PRE-

SENTENCE REPORT WHERE YOU SAID THAT

YOU WERE TRYING TO (KILL) YOURSELF

AND THAT'S WHY YOU HIT THOSE TWO CARS ~

my "I NEVER NEVER SAID THAT!" [REDACTED]

I HAVE REQUESTED JUDGE [REDACTED] TO SEND

ME A COPY OF THAT REPORT,
BUT NO REPLY!! [REDACTED]