

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 09-079

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Complainant: No. 1359210336A

Judge: No. 1359210336B

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**ORDER**

The commission reviewed the complaint filed in this matter and found no misconduct on the part of any of the named judges, therefore, the complaint is dismissed pursuant to Rules 16(a).

Dated: April 30, 2009.

FOR THE COMMISSION

\s\ Keith Stott  
Executive Director

Copies of this order were mailed to the complainant and the judge on April 30, 2009.

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

RECEIVED

MAR 27 2009

CLERK SUPREME COURT

In The Supreme Court  
State of Arizona  
Commission On Judicial Conduct

Case# \_\_\_\_\_

Petitioner;  
— Vs. —

Defendants.

Civil and Constitutional Rights  
Complaint  
State Court Complaint

Jurisdiction

The Commission On Judicial Conduct has jurisdiction over this action pursuant to:

- (A) Article 6.1, of the Arizona State Constitution, [Section 1. A and B]; [Section 5]; and, [Section 6], and;
- (B) Article 6, of the Arizona State Constitution, [Section 5, part 1,

and part 6], and;

- (C) pursuant to Section 1985, of Title 42 - United States Code, "--- because of the deprivation of any right, or privilege, of a citizen of the United States, by any act in the furtherance of any conspiracy mentioned in, or by, Section 1985, of Title 42; and, to recover damages from any person who fails to prevent, or aid in preventing, any wrong mentioned in, or by, Section 1985, Title 42," and;
- (D.) pursuant to Section 1983, of Title 42 - United States Code, because, "Intentional obstruction of an inmate's access to the courts is precisely the sort of oppression Section 1983, and the 14<sup>th</sup> Amendment, are intended to remedy. The right of access is substantive, rather than procedural." Morello Vs. James, 810 F.2d 344, (2<sup>nd</sup> Cir. 1987), and;
- (E) Rule 81, Cannon 2, and Cannon 3, Rules Of The Supreme Court, because, "--- public manifestation by a judge of the judge's knowing approval of invidious discrimination, on any basis, gives the appearance of impropriety under Cannon 2, and diminishes public confidence in the judge's integrity, and impartiality of the judiciary ---," and;
- (F) 17 B R.R. S., Special Action Rules of Procedure.

(G) A cause of action based upon a conspiracy to interfere with civil rights requires a plaintiff to allege a conspiracy for the purpose of depriving a person, or class of persons, of the equal protection of the laws; or the equal privileges and immunities under the laws; or an overt act in the furtherance of the conspiracy; and injury to the Plaintiff's person, and/or, property right due process, and/or, a deprivation of a right, and/or, privilege, of a citizen of the United States.

Furthermore, the conspiracy must also be motivated by some racial, or perhaps otherwise, class-based, invidiously discriminatory, amicus behind the conspirators' actions.

Class-based amicus:

a. prejudice, bias, and vigilante discrimination against alleged convicted sex-offenders.

b. The 5<sup>th</sup> Amendment.

c. The 14<sup>th</sup> Amendment.

Parties

1. Plaintiff:

2. Defendants:

Defendant, , is employed as a judge at the County Superior Court, , Arizona, and is being charged in his official, and individual, capacity for acts of facilitation of conspiracy, pursuant to acts in the furtherance of any conspiracy to deprive a U.S. citizen of rights, and privileges, as mentioned in, and by, Section 1985, of Title 42, United States Code; and, to recover damages from his person for his failure to prevent, or aid in preventing, conspiracy to unlawfully conceal acts of fraud, and defraudment, by private party conspirators, Attorney and against the victim/plaintiff, (an alleged convicted sex-offender) after Judge was solicited by private party Attorney who was solicited, and hired, by , to conceal his felonious actions.

Furthermore.

Defendant, Judge, is being charged in his official, and individual, capacity for his actions of facilitation of conspiracy, encouragement of vigilante harassment and retaliations, and conspiracy to conceal these acts, pursuant to acts in the furtherance of a conspiracy to deny inmates access to the courts as agreed upon, and in compliance with, the doctrine of Lewis Vs. Casey, 518 U.S. 343, (1996); and, acts in the furtherance of a conspiracy to deprive a U.S. citizen of rights, and privileges, as mentioned in, and by, 42 U.S.C. § 1985, (2) and (3); and, to recover for damages, and injuries, caused by Judge conspiracy with state employee actors

Assistant Attorney General

and, to conceal their failure to prevent, or aid in preventing,

out-of-control, vigilante, harassment and retaliations against certain class-based inmates; to include the Petitioner, . And, for Judge

failure to prevent, report the attorney misconduct, and his failure to act in preventing the manifest injuries and wrongs mentioned in, or by, 42 U.S.C. § 1985

Defendant,

, is employed as a

at the

Arizona, and is being charged in her official, and individual, capacity for acts of facilitation of conspiracy, and knowing joinder in a conspiracy, pursuant to acts in the furtherance of two (2) conspiracies (as previously mentioned), and acts in the furtherance of a conspiracy to deprive a U.S. citizen of rights, and privileges, as mentioned in, or by, Section 1985, of Title 42; and for damages from her, personally, for her failure to prevent, or act in preventing, wrongs as mentioned in, or by, 42 U.S.C. § 1985.

Defendant,

, is employed as a

at

the

Arizona,

and is "being charged in his official capacity as a senior respondent superior, and his individual capacity, for his deliberate support of Defendant

; and, acts in the furtherance of a conspiracy to deprive a U.S. citizen of rights, and privileges, as mentioned in, or by, Section 1985, of Title 42, U.S.C.; and damages from him, personally, for his failure to prevent, or act in preventing, wrongs as mentioned in, or by, 42 U.S.C. § 1985(2), (3).

Defendant, \_\_\_\_\_, is employed as a judge of the County Superior Court, at \_\_\_\_\_ Arizona, and is being charged in his official, and individual, capacity for acts in the furtherance, and facilitation, of a conspiracy, pursuant to acts in the furtherance of conspiracy to deprive a U.S. citizen of rights, and his privileges, as mentioned in, and by, Section 1985, of Title 42, U.S.C., and to recover damages from him, personally, for his failure to prevent, or aid in the prevention of wrongs, as mentioned in, and by, 42 U.S.C. § 1985.

Respectfully submitted, March 26<sup>th</sup>, 2009,

\_\_\_\_\_, Petitioner, pro-se



Plaintiff, respectfully moves the Court grant consideration, review, and the relief sought.

Memorandum of Facts  
And Law

1. In his original attempt to reopen this case, submitted and addressed to the \_\_\_\_\_, on October 17, 2008, the Plaintiff, \_\_\_\_\_, offered \_\_\_\_\_ the opportunity to correct his errors and mistakes, which he committed previously, by and through review and reconsideration; or, in the alternative, of treating the case as an entirely new entry submission, raising new claims, against new defendants. Therefore, since \_\_\_\_\_ was already familiar with \_\_\_\_\_, the old case number was utilized — to ensure it went back to Judge \_\_\_\_\_ — and for no other reason.

Whereupon, the Court has no justification for taking unfair advantage of a good faith offer made to another officer of the court, to justify its — lax and lazy — cheap-shot — easy-way-out. Therefore, the Court cannot rely upon the prior Court's rulings due to the fact that when the Plaintiff realized that Judge \_\_\_\_\_ was not presiding over the case, a new addition (amendment) was submitted (December 12, 2008) entering claims of conspiracy against Judge \_\_\_\_\_. As thus, the Court

should have recused itself under provisions of 28 U.S.C. § 455 (a), or Section 455(b)(1). Section 455(a) provides that a judge, or magistrate judge, shall disqualify him/herself in any proceeding in which his/her impartiality might reasonably be questioned. Section 455(b)(1) provides that a judge must disqualify him/herself, "--- where he/she has a personal bias, or prejudice, concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding." Although the records do not indicate that Judge \_\_\_\_\_ recused himself, the evidence is substantial enough to support the conclusion that \_\_\_\_\_ did, in fact, recuse pursuant to Section 455(b)(1); and, recusal pursuant to Section 455(b) is allowed only if the bias, or prejudice stems from an extra-judicial source; not from conduct, or rulings, during the course of the proceedings. (See, Hasbrouck Vs. Texaco, Inc., 842 F.2d 1034, at 1046, (9<sup>th</sup> Cir., 1987); affirmed, 496 U.S. 543 (1990); U.S. Vs. Studley, 783 F.2d 934, at 939, (9<sup>th</sup> Cir., 1986) (--- judge's prior adverse rulings are insufficient cause for recusal). And that is why the Plaintiff, \_\_\_\_\_, did not submit a motion for Judge \_\_\_\_\_ recusal; and, why \_\_\_\_\_ cannot recuse in favor of letting another (fellow) judge, "clean-up," the mess he made out of \_\_\_\_\_. Also, "[J]udicial rulings alone almost never constitute [a] valid basis for a bias, or partiality, motion." Liteky

Vs. U.S., 114 S.Ct. 1147, at 1157, (1994). Adverse rulings should be appealed; (which is exactly what the Plaintiff did, only to have the appeal, "blocked," as untimely) they do not form the basis for a bias, or partiality motion. Further, where the judge forms opinions in the courtroom, either in a current proceeding, or in a prior proceeding, these opinions "do not constitute a basis for a bias, or partiality motion — unless, they display a deep-seated favoritism, or antagonism, that makes fair judgement impossible." *Id.*

The Plaintiff, \_\_\_\_\_, has clearly asserted a basis upon which to enter a new complaint, because his efforts to appeal have all been maliciously denied, under pure frivolous legal, "jargon," color of law, and Judge \_\_\_\_\_ cannot, "pass the buck," to escape liability for his criminal conspiracy, because a fellow judge cannot rule against him. Whereupon, judgement in favor of the Plaintiff is in order; or, Judge \_\_\_\_\_ can recuse himself under the provisions of Section 455(a), to avoid bringing his own integrity and impartiality under close scrutiny and question; while ordering a change of venue in the decision of the case against \_\_\_\_\_. (See also, Rule 81, Arizona Supreme Court Rules of Judicial Conduct, Canons § 2, and § 3.)

Canon 2. A judge shall avoid impropriety, and the

appearance of impropriety, in the judge's activities.

§2B. --- nor shall a judge convey, or permit others to convey, the impression that they are in a special position to influence the judge. And, a judge shall not lend the prestige of judicial office to advance the private interest of the judge; or, others.

2. Judge statement in the second paragraph of the, "Order," that, "---the Defendants need not respond, as these motions are denied," clearly conveys the message (impression) that the named State parties are in a special position to receive personal favoritism and consideration from Your Honor, and the Plaintiff's, "01' Motions For Default," have been taken care of; as a personal favor of the judge.

3. Likewise, Judge statement in the third paragraph that the, "BFFB," defendant's request for a court order, saying, "That request is denied at this time in order to avoid additional litigation," clearly conveys the message (impression) for Attorney to shut his big mouth; if he expects to receive any more favoritism in the future.

4. And, finally, Judge , "order to the

County Clerk of Court to, "--- reject any additional pleadings filed by this Plaintiff," is not only in violation of my First Amendment right, (See, Hooper Vs. Harris, 236 Ga. App. 651; 512 S.E.2d 312, (1999), over-ruling lower court order directing that all past, and future, pleadings by the inmate be treated as null, and order that have all adequate, effective, and meaningful access to the courts — is unconstitutional. Lewis Vs. Casey, 518 U.S. 343, at 368, (1996), Any system that frustrates the ability of prisoners to identify, articulate, and present to the courts injuries is suspect. Whether, or not, actual, tangible, prejudice is demonstrated in a particular case. And, it is a question of whether, or not, the blockage of the right to access of the courts prevented the inmate from litigating his claim. Thus, even if the inmate cannot necessarily show that he lost his case. He can still suffer actual injury, if he can show he was impeded by the deficiencies in presenting his case. Lewis Vs. Casey, 518 U.S. 343, (1996). The right to meaningful access to the courts prohibits state officials — (judges) — from actively interfering with an inmate's attempt to prepare, or to file, legal documents; thus, this case is far from over. And, this is only the, "Tip of the Iceberg," in respect to the number of cases that the Plaintiff, can cite in support of his claim.

In The  
Supreme Court Of Arizona

Petitioner;  
-Vs.-

et al.,  
Defendants.

Case #: \_\_\_\_\_  
Petition And Affidavit Accompanying  
Application To Proceed In Forma Pauperis  
As An Exempt Veteran

Petitioner, \_\_\_\_\_, hereby respectfully submits his  
application, and affidavit of military service in support  
for consideration, and prays the Court will grant leave to  
proceed as an exempt veteran, in respect to paying the  
filing fees, and other costs, in the above named case,  
for the attached just and good cause reasons.

Respectfully submitted, March 26, 2009,

\_\_\_\_\_, Petitioner, pro-se.

## Memorandum Of Facts

### 1. Rule 40, U.S. Supreme Court Rules Of Procedure Veterans

1. Veterans suing under any provision of law exempting veterans from payment of fees or court cost, may proceed without payment of fees, or costs, or furnishing security therefore, and may file a motion for leave to proceed on papers as prepared as required by Rule 33.2. The motion shall ask leave to proceed as a veteran, and be accompanied by an affidavit, or declaration, setting out the moving party's veteran status. A copy of the motion shall precede, and be attached to, each copy of the petition for a writ of certiorari, or other substantive document, filed by the veteran.

(Emphasis added.)

### 2. Arizona Constitution - Article 2, Declaration of Rights

#### A. § 3. Supreme Law of the Land

Section 3. The Constitution of the United States is the supreme law of the land.

#### B. § 4. Due Process of Law

Section 4. No person shall be deprived of life, liberty, or property without due process of law.

#### C. § 7. Oaths and Affirmations

Section 7. The mode of administering an oath, or an

affirmation, shall be such as shall be consistent with, and binding, upon the conscience of the person to whom such oath, or affirmation, may be administered.

D. § 11. Administration of Justice

Section 11. Justice in all cases shall be administered openly, and without delay.

E. § 13. Equal Privileges and Immunities

Section 13. No law shall be enacted granting to any citizen, class of citizens, or corporation, other than municipal, privileges, or immunities, which, upon the same terms, shall not equally belong to all citizens, or corporations.

F. § 32. Constitutional Provisions Mandatory

Section 32. The provisions of this Constitution are mandatory, unless, by express words, they are declared to be otherwise.

G. § 33. Reservation of Rights

Section 33. The enumeration in this Constitution of certain rights, shall not be construed to deny other rights retained by the people.

3. Duties of the Court

I. Protecting life and property by enforcement of local, state, and federal laws, while safeguarding the state constitutional, and federal constitutional rights of all



citizens.

And, the Court Judge shall perform these duties through his core values of:

(i) Integrity --- the ability to distinguish between right, and wrong, and the courage to always choose what is right, even in the face of adversity.

(ii) Fairness --- treating all citizens with equality, and unbiased service, with open-minded, courteous devotion to the law and rules of procedure.

(iii) Professionalism --- the incorporation of integrity, fairness, knowledge, and ability to perform the job functions of a jurist, and officer of the court, in the highest standards, and most impartial image, of the Arizona Judicial System, and in the highest degree of personal pride and achievement.

Affidavitt of Veteran Status  
And Inmate Indigency

On my oath, I, \_\_\_\_\_ declare in support of my motion to proceed as an exempt veteran, that I am a war-time veteran having served on active duty in Vietnam with the \_\_\_\_\_ Infantry Division, Company \_\_\_\_\_, Squadron \_\_\_\_\_, U. S. Air Calvary, based at \_\_\_\_\_, South Vietnam, from 1968, to 1969.

Afterwards, I served another seven (7) years in the U.S. Army, attaining the rank of Sgt., E-5, for a total of just over eight (8) years honorable service (April, 1968, to June, 1976,) before chronic post traumatic stress disorder, and a failing marriage, combined to compel me to seek a hardship discharge, and end my military career, prematurely.

Whereupon, I swear, or affirm, under penalty of perjury that the foregoing is true and accurate; and can be supported and authenticated by official, certified true military records.

Executed on March 26, 2009,  
\_\_\_\_\_, Affiant.

Further more

I swear, or affirm, under penalty of perjury, that because

of my compelled, false, and malicious incarceration, that is causing my destitute poverty, and unavoidable, undue, and unwarranted handicap, I am unable to prepay the docketing fee; nor, the costs of service and process of the summons and complaint; nor, can I pay the costs of a lawyer's legal services to file a proper complaint; nor can I post a security bond in this petition action.

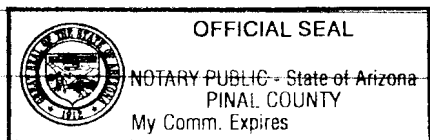
As a matter of due process of law, and a bit of respect for my time and sacrifices as a veteran, I believe that I have earned the entitlement, right, privilege, and consideration of redress and relief in this action.

Respectfully executed and submitted,

State of Arizona }  
County of }

Subscribed and sworn to be true &  
before me, by \_\_\_\_\_, Affiant,  
March 24, 2009, Notary Public.

My commission expires on \_\_\_\_\_.



Application And  
Consent To Collection Of Fees From Trust Account

I, \_\_\_\_\_, hereby consent to having the designated correctional officials at this institution release to the Court my trust account information. I further consent to having the designated correctional officials at this institution withdraw from my trust account the funds required to comply with the order of this Court for the payment of fees in accordance with 28 U.S.C. § 1915(b).

My consent includes withdrawal from my account by correctional officials of partial payments to this Court equal to 20% of the greater of:

- (A) the average monthly deposits to my account for the six-month period preceding the filing of this action, or
- (B) the average monthly balance in my account for the past six-month period preceding the filing of this action.

My consent also includes monthly withdrawals from my account an amount equal to 20% of each month's income.

Whenever the amount in my account reaches \$10.<sup>00</sup>, prison officials will withdraw that amount, and forward it to the Court, until the required filing fee is paid in full. I also understand that I am liable for paying the fee, even if my case is dismissed by the Court before the fee is fully paid.

Date March 26, 2009