

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 09-175

Complainant: No. 1366710307A

Judge: No. 1366710307B

ORDER

The commission reviewed the complaint filed in this matter and found no evidence of ethical misconduct on the part of the judge. The issues raised involve legal and procedural matters outside the jurisdiction of the commission and within the judge's discretion. Therefore, the complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: November 24, 2009.

FOR THE COMMISSION

\s\ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on November 24, 2009.

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

COMPLAINT AGAINST JUDGE

On June 18th, Judge _____ presided over a sentencing hearing for _____, CR _____. Two days prior to the hearing, the prosecution provided our attorney, _____ with the sentencing recommendations for this case. In their memorandum they stated that _____ had been sending money overseas to hide it for the organization he worked with, that he was taking payments for his services in cash, and that he was responsible for hiding the \$18 million dollars in income that they have falsely claimed the business that contracted him had earned. They offered no proof of these accusations.

We received this document on the evening of June 16th, at approximately 7pm. We were shocked to see this, as it had nothing to do with the original plea, and what he had pleaded guilty to. It even stated that they had not subpoenaed any of our bank records to confirm any of these statements, and that he had to have been hiding money and getting paid in cash as they could find no record of payments made to him. The prosecution recommended 2.5 years in prison, 7 years probation on two other charges, and a \$100k fine.

We responded to this document paragraph by paragraph, addressing all the claims made by the prosecution. In all cases, based on their claims, these accusations should have been overlooked by the judge, as they had nothing to do with the original plea that _____ agreed to, nor was there any evidence provided to back up the prosecution's claims.

During the mitigation part of the hearing, I stated to the judge that the prosecution had overstated _____ role in this organization, that there was no money hidden, that the money in question that was sent outside the US was money for maintenance and mortgage payments on property we have owned since 1998 and the year 2000, many years before _____ association with this organization, and that the money in question actually was money that was gifted to me by my mother for investment in a Limited Partnership that was a real estate development company. This money had nothing to do with the organization that he had worked with, and we had these funds long before _____ met anyone associated with the business in question.

During this explanation, the judge interrupted me, and told me if I was going to say he was innocent that he was going to call for a trial and throw out the plea. If we had gone to trial we already knew that other defendants had been forced to lie to take pleas, and that they were told if they did not say _____ was a manager in the operation, then they would not get their deals. We had been told this by the prosecution and the persons who were offered the deals. The actual management did not agree to this, and at the eleventh hour, just before going before the judge on March 23, they changed his role on the plea from manager to accountant, as well as dropping other charges. In addition he was told that if he went to trial that each bank deposit he made for this company would be considered a felony, therefore if he lost, he would be looking at something close to life in prison. _____ felt he could not afford to take that risk as there were many who would be willing to lie on the witness stand to save themselves.

Continuously throughout the hearing the judge threatened rescinding the plea and going to trial, both to his attorney and those who came to speak up for _____. _____ volunteered to be sworn in and under oath and verified that he was paid by the organization through his LLC, Consulting Services International, which is why there were no checks made out to his personal name. He confirmed the houses were purchased long before any association with this company, that no money was ever transferred offshore on the behalf of this client or any other. The judge refused to look at the picture of one of the homes we purchased outside the US. That picture is in the prosecution's recommendations doc enclosed here.

The prosecution asked if my business was successful, he was only offered a yes or no answer, so he said yes. My business is successful in name only, I am well known for the work I have done in my field, but I have made little more than \$5000.00 in the two years I have been in business. This made it look as if the loss of income from him not working would not affect us. He is the only steady source of income we have, and I am under a great hardship at the moment, hoping we will be able to make ends meet until he is free again.

was not allowed the opportunity to redirect and question again to clear any of this up, which made things look even worse for He was never given a fair chance to show that the prosecution was lying about all of this. said that has never happened in all of his experience.

When the other people stood up for during the mitigation process, the judge continued to threaten anyone who defended in anyway with rescinding the plea. Many of these people were clients, good, honest, hard-working people, and they stated how he had helped them with their small businesses, to minimize taxation and protect their assets. teaches small business how to take the same deductions that large corporations are allowed, thus enabling many of them to stay in business. All of this is completely legal, although the IRS probably does not like it, because he tells the clients the truth about what they are and are not allowed to do.

During his closing remarks, the judge insinuated that all these good, upstanding citizens that came to his defense were no better than the organization had pleaded guilty to working with, and that he was an "incredible" witness, that he did not believe anything or anyone else had to say about him, and even insinuated that any business using LLC's was guilty of money laundering and tax evasion.

The judge added aggravation to the charges, disallowed any of the mitigation circumstances, and did not believe anything anyone said. He completely believed the prosecution, even though they offered no evidence of what they were saying was true, and we could prove none of it was true. He added an extra 6 months onto his recommended sentence, and upheld all the other penalties. So has been sentenced for 3 years based on no evidence of claims made against him.

After the hearing, azcentral.com ran a video interview with We were afraid that he would be misrepresented by the prosecution, and he wanted to get his side of the story out if that happened. The blog that resulted from that interview exposed the fact that there is an ongoing investigation into our past and current finances and businesses. They are basically trying to prove we have been money laundering for years, which is totally not true. There were other unfounded accusations made in the blog against as well, you can read it all at

<http://www.azcentral.com/12news/news/articles/2009/06/18/20090618desertdivasinterview06182009-CR.html>

I will not accept these ridiculous accusations, there is no evidence they are true. I believe that Judge was informed of this investigation in advance of the hearing, without the knowledge of our attorney, and that he knew that there might be other charges levied against him. I believe that he went into the courtroom with his mind made up to make sure that Peter did not go anywhere for a while so this witch hunt that is called "justice" could continue.

I also believe that there is a political reason for the harshness in this judgment. We have found out that the Republican County Attorney will be resigning this year to run for governor. This judge is a Republican appointee, and it is to his benefit to give a harsh sentence in this case to ensure his future appointment.

In this package, I have included the list of witnesses, the application, the supporting documents to these claims, and I have ordered the transcripts of the hearing which I should receive this week. I will forward those when I receive them. I have a durable power of attorney for _____ and he has agreed to all of these statements, I have included a copy of this as well. We have also retained a forensic accounting firm to do a complete audit of our bank accounts and the accounts of the organization he was contracted with to prove there was no money hidden, illegally transferred, or used in any way improperly.

Please let me know if you need any further information, and if there is anything else I can do.

I thank you in advance for consideration of this complaint, I pray there will be justice served and is given a fair shake.