

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 10-059

Complainant: No. 1374410321A

Judge: No. 1374410321B

ORDER

The complainants alleged that one judge altered a court transcript and another judge with a conflict of interest issued a ruling. The commission reviewed the complaint and the transcript of the hearing and found no evidence of ethical misconduct on the part of either judge. The complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: April 29, 2010.

FOR THE COMMISSION

\s\ Keith Stott

Executive Director

Copies of this order were mailed to the complainant and the judge on April 29, 2010.

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

STATE OF ARIZONA

COMMISSION ON JUDICIAL CONDUCT

In Re:

Complainants:

Judge:

COMPLAINT

Division 5

Coconino County Superior Court

On Jan 19, 2010, at 3:00PM a hearing occurred in Division 5 of the Coconino County Superior Court, in Judge court, relative to case No. CV 2005- consolidated with CV 2008- , of which complainants are a party to the litigation as Defendants/Counterclaimants.

On Jan 25, 2010 complainants moved the court to recuse from further adjudication in this matter relative to the hearing of Jan 19, 2010.

On Feb 17, 2010 Complainants received a copy of the transcript for same hearing from court reporter Patricia Yerkes. Upon reviewing the transcript, complainants discovered that it appeared to have been altered. The transcript contained omissions, was rife with errors and included statements, that to the best of complainants' recollection, simply did not occur.

On Feb 18, 2010 complainants inquired with the clerk of the Coconino County Superior court, Deborah Young, about obtaining a copy of the court's

1 Audio Recording for the proceeding in question, in order to prove the accuracy of
2 the transcript in question.

3 On Feb 20, 2010 complainants were informed by the clerk Young and an
4 assistant court administrator Janet Krcmarik that no audio recordings exist. *Exhibit*
5 *1 - Emails.*

6 Subsequently, complainants served court administrator Gary Krcmarik and
7 court reporter Patricia Yerkes with a subpoena requesting *inter alia* copies of their
8 respective Audio Recordings of the proceeding that took place on Jan 19, 2010.

9 *Exhibit 2 - Subpoena.*

10 On March 2, 2010 at the rendezvous time to be provided with the documents
11 requested by subpoena, both Krcmarik and Yerkes failed to provide the records
12 requested, thus disobeying a subpoena.

13 Instead of providing the documentation requested, Krcmarik gave
14 complainants a letter indicating that they were not required to provide
15 complainants with copies of the court's and court's Audio Recordings. *Exhibit 3 -*
16 *Letter and Order.*

17 Attached to same letter was an apparent administrative order signed by
18 Judge Newton in 2007, stating that the court's Audio Recordings are not subject to
19 public access. Complainants subsequently searched the internet for Newton's 2007
20 apparent order, and were unable to access any information relating to Coconino
21 County Superior Court's administrative orders.

22 Complainants subsequently requested of Krcmark where public access might
23 be found regarding the Coconino County Superior Court's administrative orders.
24 He has refused to provide this information. *Exhibit 4 - Email.*

25 The court administrator, Gary Krcmarik, his wife and assistant court
26 administrator Janet Krcmarik, the clerk of the court Deborah Young and the court

1 reporter Patricia Yerkes have engaged in evasive tactics to avert complainants
2 access to the Audio Recordings in question in order to prove their suspicions that
3 the transcript in question has been altered.

4 Upon information and belief, it appears Judge requested that court
5 reporter Patricia Yerkes alter the transcript of the proceeding in question.

6 When persons engage in corrupt actions, they will go to any length to
7 conceal their wrongdoing.

8 Due to the evasive statements and actions of the persons surrounding this
9 matter, probable cause exists for the commission to investigate complainants
10 allegation that Judge instigated and propelled the altering of the
11 court's the transcript of the proceeding in question.

12 Complainants request the commission examine the transcript against the
13 court's Audio Recordings to verify if the transcript has been altered.

14 Additionally, upon information and belief, complainants believe that Judge
15 Newton's Order of 2007 has been falsified. Therefore, complainants request the
16 commission investigate this matter also.

17 Complainants request the commission exercise its jurisdiction to investigate
18 this matter of falsification of an official court transcript and falsification of an
19 administrative order as herein described.

20 **RESPECTFULLY submitted:**

21 **DATED: March 9, 2010.**

22

23

24

25

26

ORIGINAL of the forgoing sent via U.S. Certified mail to:

THE COMMISSION ON JUDICIAL CONDUCT
1501 E. Washington, Suite 228

1 Phoenix, Az 86007

2

3 COPIES of the foregoing to:

4 Rebecca White Berch

Chief Justice

5 ARIZONA SUPREME COURT

6 1501 W. Washington

Phoenix, Az 85007-3231

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26