

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 10-086

Complainant: No. 1373800214A

Judge: No. 1373800214B

ORDER

The complainant alleged that a justice of the peace issued incorrect rulings and joined in a criminal conspiracy by removing his file from the courtroom and using it to engage in ex parte meetings with the county attorney. The commission reviewed the complaint and investigated the allegations but found no evidence of ethical misconduct on the part of the judge. The primary issues involve legal arguments outside the jurisdiction of the commission. The complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: June 18, 2010.

FOR THE COMMISSION

\s\ Keith Stott

Executive Director

Copies of this order were mailed to the complainant and the judge on June 18, 2010.

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

Complaint Against a Judge.

As per instructions from the **Commission on Judicial Conduct** the undersigned, to the best of his knowledge and belief, hereby directs this complaint to the attention of the commission against the Hon. Justice of the Peace at Yarnell, AZ.

1. continues to hear cases involving accused violations of ARS 28 when at ARS 28-332 it plainly states the Arizona Department of Transportation has primary and exclusive jurisdiction to enforce the traffic statutes.
2. No where in state law gives jurisdiction of ARS 28 to Justice Courts.
3. continues to extort fines and fees from unsuspecting defendants in her court
4. has been informed via defendant's motion to dismiss for lack of subject matter jurisdiction that the Justice Court lacks jurisdiction.
5. over ruled motion to dismiss for lack of subject matter jurisdiction.
6. denied defendant's constitutional right to discovery via court order.
7. denied via court order defendant's due process right to appeal her court's ruling, contrary to the law and due process.
8. denied, via court order, defendant's right to discovery as guaranteed by Supreme Court decisions including:
9. denied defendant's motion to dismiss for illegal or improper traffic stop when evidence clearly showed deputy was not affected by alleged failure to signal a turn as per ARS 28-754.
10. denied defendant's right to a *Frey* hearing to test junk science entered as evidence by deputy.
11. denied defendant's motion to subpoena records which are freely available to anyone via a freedom of information act. Instead would have the defendant pay \$450 to receive them via FOIA.
12. denied defendant's motion to produce exculpable evidence including deputy's cell phone records for the one hour period just prior to defendant's arrest which would prove deputy was acting without legal authority but instead was acting in bad faith motivated by his own vendetta.
13. denied defendant's motion to suppress illegally obtained and tainted evidence.
14. forced defendant, via court order, to needlessly attend a "show cause" hearing to explain his absence at a hearing postponed by when it was herself who missed the regularly scheduled hearing while defendant was at the courthouse at the scheduled time and place.
15. has repeatedly denied defendant his due process right to an administrative hearing as proscribed in ARS 41-1006 and ARS 41-1061

16. has shown willful disregard for controlling Supreme Court decisions including: *Goldberg v Kelly*; 397 U. S. 254, *Melo v U. S.* 505 52d 1026., *Farmers Investment Co. v. Arizona State Land Dept.* 666 P2d 469 & 136 Ariz. 369, *Jonathan Neil & Assoc., Inc v Jones* 33 Cal 4th 917, The Arizona Administrative Procedures Act at 41-1002, *Gospel Army v Municipal Court of Los Angeles*; 171 P2d 549, *Southwest Ambulance v Superior Court*, 187 ARIZ 290, 293 and 298 P2d 714,et, al.
17. has shown willful disregard to state law including: ARS 28-332, ARS 12-904, 41-1006, 41-1061 where it shows ADOT has “primary and exclusive jurisdiction in matters pertaining to Title 28.
18. To the best of my knowledge and belief removed defendant’s case file from the court house and transported it to the office of the State’s attorney and there held ex-parte hearings demonstrating bias and possibly collusion with state’s attorney.

To the best of my knowledge and belief this judge is an “associate in fact” to an “enterprise” which includes the Yavapai County Attorney’s office, the assistant prosecutors in that office, the Yavapai County deputies, and the Sheriff of Yavapai County, who are actively engaged in a RICO style enterprise including predicate cases of civil conspiracy, mail fraud, wire fraud, extortion under color of authority, and obstruction of justice as well as other indictable crimes.

- To the best of my knowledge and belief if this Commission does a diligent investigation it will find:
 - The existence of an enterprise;
- The Enterprise has utilized both formal and informal organization.
- The enterprise was engaged in or its activities affected interstate or foreign commerce.
 - Each of the accused was employed in or associated with the enterprise;
 - Each of the accused conducted or participated, directly or indirectly, in the conduct of the affairs of the enterprise;
 - Each of the accused committed, or aided and abetted the commission of, at least two acts of racketeering;

- The racketeering acts constitute a pattern of racketeering activity.

All the alleged predicate racketeering acts in this case involve mail or wire fraud offenses, in violation of 18 U.S.C. § 1341 or § 1343. Other predicate acts include: civil conspiracy, criminal conspiracy, obstruction of justice, extortion under color of authority,

The RICO statute provides that an 'enterprise' includes 'any individual, partnership, corporation, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity.' 18 U.S.C. § 1961(4). The Supreme Court has held that an enterprise 'is proved by evidence of an ongoing organization, formal or informal, and by evidence that the various associates function as a continuing unit.' United States v. Turkette, 452 U.S. 576, 583 (1981). In accordance with Turkette, the Court of Appeals for the District of Columbia Circuit has consistently held that an association-in-fact 'enterprise is established by (1) a common purpose among the participants, (2) organization, and (3) continuity," and that the enterprise only need 'some structure to distinguish an enterprise from a mere conspiracy. As the District of Columbia Circuit further explained: 'It is not necessary that the enterprise ... have any particular or formal structure but it must have sufficient organization that its members function and operated together in a coordinated manner in order to carry out the common purpose alleged.'

"Establishing that the members of the enterprise worked together in a coordinated manner in furtherance of a common purpose may be proven by a wide variety of direct and circumstantial evidence including, but not limited to, inferences from the members' commission of similar racketeering acts in furtherance of a shared objective, financial ties, coordination of activities, community of interests and objectives, interlocking nature of the schemes, and overlapping nature of the wrongful conduct. Moreover, 'it is not essential that each and every person named [as a member of the enterprise] be proven to be a part of the enterprise. The enterprise may exist even if its membership changes over time ... or if certain defendants are found by the [fact finder] not to have been members at any time.' Perholtz, 842 F.2d at 364. Likewise, it is not necessary to prove 'that every member of the enterprise participated in or knew about all its activities....'

Even if the enterprise alleged here were limited to a group of corporations - and it is not - every federal court of appeals that has considered the issue has held that a RICO enterprise may consist of a group of corporations or other legal entities associated-in-fact.

An unbiased and diligent investigation will show:

The accused formed an Enterprise"

Members of the Enterprise had a common purpose"

The Enterprise has utilized both formal and informal organization."

Each of the accused is associated with the RICO Enterprise"

Each of the accused participated in the affairs of the Enterprise"

All of the accused executed a scheme to defraud with a devastating impact on the financial affairs of the motorist in Yavapai and surrounding counties and states, causing excessive and illegal fines, excessive increases in insurance premiums and tainted records for years to come. The totality of the evidence proving the accused's scheme to defraud demonstrates its sheer pervasiveness and the compelling need for a comprehensive remedial order to prevent and restrain future wrongful conduct.

Respectfully submitted this 7th day of April, 2010

Private Attorney General (42 U.S.C 1988)

Cc: Federal Bureau of Investigation