

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 11-244

Complainant: No. 1427910696A

Judge: No. 1427910696B

ORDER

The complainant alleged that a pro tem municipal court judge acted unethically because she failed to disqualify herself when she had access to a victim impact statement before hearing the merits of his case.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the judge engaged in conduct that violated the provisions of Article 6.1 of the Arizona Constitution or the Code of Judicial Conduct and, if so, to take appropriate disciplinary action. The purpose and authority of the commission is limited to this mission.

After reviewing the information provided by the complainant and the electronic court records, the members of the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. Accordingly, the complaint is dismissed in its entirety pursuant to Rules 16(a) and 23.

Dated: November 10, 2011.

FOR THE COMMISSION

/s/ George Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on November 10, 2011.

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

SEP 26 2011

AFFIDAVIT

This Affidavit is written for the benefit of, and use by the State of Arizona Commission on Judicial Conduct, in support of a complaint against a judge.

I, _____, being over the age of 18 and competent to testify, having first hand knowledge of the facts herein, duly testify under penalties of perjury, by choice, that the following is true, correct, complete and not meant to mislead, to the best of my knowledge, information and belief.

It is a fact that:

1. _____ (hereinafter referred to as "I") was charged by the State of Arizona of a Misdemeanor, of which records are kept in Docket No. 10CR _____, Kingman Municipal

Court.

2. I was tried and convicted in Kingman Municipal Court by Pro Tem acting Judge _____, and my court appointed attorney was Bryan Whitney and Andraya Whitney (Whitney & Whitney, PLLC.)
3. The following are facts, occurrences and information explaining the mismanagement, omissions, errors, violation of Court Rule, State Law and violation of Oath of Office, by Pro Tem acting judge
4. Two different judges have been assigned to this case, at different times. The first judge, Kathy McCoy of Kingman Municipal Court, recused herself after having been given, and had the opportunity to read, the Victim Impact Statement provided to her by the Prosecuting Attorney Duncan Rose.
5. The second judge assigned to the case was Pro Tem acting judge

6. I have no knowledge of Pro Tem acting judge ever identifying herself as a Pro Tem judge. If she had done so, I would have opposed her jurisdiction to act as judge in my case. It is common knowledge that an acting Pro Tem judge normally does not have the experience a "real" judge have.
7. Pro Tem judge also was given the Victim Impact Statement by the Prosecuting Attorney Rose. It was in her file. She had a perfect opportunity to read it. In open court, with everyone present, she called the Prosecuting Attorney to the Bench and gave him back the Victim Impact Statement as she stated; "I can not have this Victim Impact Statement until after the trial is over." Mr. Rose took it and walked back to his desk.
8. After having read, or having possession of and the opportunity to read, the Victim Impact Statement Pro Tem acting judge did not recuse herself but continued as acting judge over the case, contrary to Law and Court Rule.

9. The old U.S. Supreme Court Case; Boyd vs. U.S., 116 US 616, states the following: "In a court, the judge is the guardian of justice. A court's primary objective is to render justice." This is still good today.
10. When ~~st~~ Pro Tem judge knew of violation of Court Rule, and State Law, she should have intervened and stopped this internal violation from going any further. That was her job, as guaranteed by her Oath of Office.
11. The Supreme Court of the United States of America have ruled that when a judge violates the Law or Court Rule in a case, they lose jurisdiction. If the judge allow the case to carry on without jurisdiction, Please be reminded of: U. S. vs. Will, 449 US 200 in which it states; "We, the judges, have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would be treason to the Constitution." She lost jurisdiction by her own action, by violating the Law. She did carry on with the case. This could be

interpreted as violation of her Oath of Office and treason to the Constitution.

VERIFICATION

I, _____, hereby solemnly makes Declaration and Affirm that the foregoing is true and correct to the best of my knowledge, information and belief, and Affirms that same is done in good faith and is not ment to mislead.

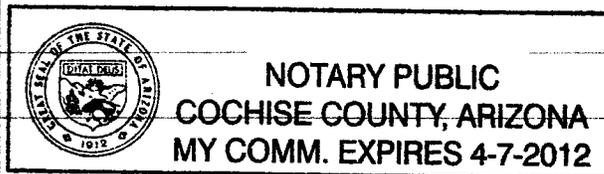
Dated and Affirmed on this day: 9-22-11

Notary Statement:

State of Arizona
County of Cochise

Subscribed and Sworn to (or Affirmed) before me on this 22nd day of September, 2011

by: _____



Notary Public