

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 12-219

Complainant: No. 1449100246A

Judge: No. 1449100246B

ORDER

The complainant alleged a superior court judge treated her son discourteously in his criminal case and was biased in favor of the alleged victims.

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 judge's response, 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: January 11, 2013

FOR THE COMMISSION

/s/ George Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on January 11, 2013.

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

To: The Commission on Judicial conduct
From:

August 9, 2012

My son _____ is a victim of judicial misconduct and prejudice. He was arrested almost 2 years ago and has been sitting in jail all this time, **an innocent man**. In May, 2012, he went to trial and it resulted in a hung jury (6 to 6). To my horror, the judge is acting aggressive and antagonistic toward my son. His behavior displays disrespect and abuse of judicial power. I contacted Governor Jan Brewer's office with my concern, and they referred me to your committee for help.

My son was taken hostage by an armed gunman at the scene of an armed robbery in 2010, which made him a victim as well. He went there looking for some marijuana, as he heard he could get some there. (Due to attorney instruction, he did not mention going to look for Marijuana during his testimony). He had spent all day (the day of the robbery) at the hospital, with his fiancée _____, as her oldest daughter had just tried to commit suicide. (She can attest to the fact he was with her all day). He left in the evening because they had a huge fight, and due to a very poor decision on his part, he walked right into the biggest nightmare of his life. He had to be put on anti-anxiety medication due to panic attacks that he was suffering. Besides being wrongfully locked up, he was terribly upset being taken away from his happy family. He had just recently gotten custody of his three children, from his Ex, and was so happy to have a chance to be a real father to them. Of course, they went back to their mother's house in Phoenix. Besides the fear of a wrongful conviction, he felt he was a total failure as a father.

The gunman had my son face down on the concrete with a gun to his head. All of a sudden, the police showed up, so the gunman fled. My son did not flee, because he was not guilty. However, since he was on the premises when the police rushed in, he was arrested. The police caught 2 other men who were convicted of 14 counts of armed robbery/assault etc...They were sentenced to 27 and 30 years. There were 7-10 robbers that jumped the fence and fled the scene. The police did not give chase, and only arrested the three men found on or near the property. (One was caught in the ally with a gun and items he stole, and one was hiding under a tree and pled guilty) My son does not know either of these men and they also swore under oath that they did not know him. There was absolutely no evidence, no DNA-(they tested for hair, sweat, saliva etc), and no witnesses against my son. After a hung jury, the state offered a plea agreement of 1 class 4 Felony count w/ 2 yrs presumptive, and my son was told he would probably be release for "time served" in view of how long he has been in jail. He finally agreed to accept it as his atty. adv him what a GREAT offer it was and he could "move on with his life". He did not like being listed on the plea with the two men he did not know; besides the fact he did not commit the crime. When he kept mentioning that, he was told not to say anything and let the Atty. do the talking, or the judge might not accept the plea. Unfortunately, I also encouraged him to accept the deal (out of panic for fear of a bad jury finding him guilty and getting 30 years like the other men). I am going to be 60 this November, and feared if he got 30 years, I would never be able to hug him again, or see him as a free man. Oh, how I regret telling him that.

He finally agreed to sign it and did. The problem is that the judge refused to accept this plea-stating he wanted to see him serve "REAL PRISON TIME!!" and has had a court hearing every 2 weeks for the past 2 months, trying to strong arm the prosecution into making a harsher and harsher plea agreement. He yelled at the state to contact the victims for input. Later, after a couple more demands for a harsher sentence (and every hearing the Judge yelled and carried on about demanding "REAL PRISON time", the state made a second plea offer. This time it was changed to class 3 felony, with 3.5 yrs presumptive/max 5 yrs. My son was confused as the offer was given to him in the court room with no time to think about it prior to his appearance. Judge _____ looked at my son and asked, well, do you agree with this plea? (He actually did not yell this time and acted as if he would agree to it) My son was confused so he asked for time to review the offer. He was given another 2 weeks to think about it. The next hearing, my son did sign the plea, at the urgency of his Atty. The judge again began yelling "what the heck is going on? He again stated that they did not make the sentence any harsher...he claimed it was exactly the same offer as the first one. He asked if they got a hold of the "victims". The State had both called and written to them, with no response. He yelled at every one again, and ordered the state to go in person to the victims' house. If they agreed with the sentence, he would consider accepting the plea agreement at that time.

The Defense Attorney is stumped, the State Prosecutors are stumped, and I am stumped. Me (defense atty.) initially assured me there was no way the judge could refuse to agree to a plea agreement signed between the state and the victim. But, he did and has repeatedly. The so called "victims" are **known drug dealers** (as brought out by the other 2 defense attys. at the first few status hearings involving this case. Last week, the judge ordered a second trial be held and set trial date for late November 2012. **WHAT is going on?** Can't anyone see that he has an axe to grind-**or has decided that my son is guilty, when a jury of his peers could not make this determination?** All the police reports and statements say my son was cooperative and found on the back porch getting up-no contraband-no witnesses-NO DNA....nothing. He is **NOT GUILTY** of this crime! The only good thing about all this is that my son has been able to find some peace through the Lord.

Can you please help my son? I looked up judicial authority on the internet, and judges seem to be able to do just about anything they want. Do you have the power to stop a corrupt judge, who is obviously prejudiced against my son? He was beaten up (or jumped) recently as jail house talk is that he snitched on the other two men. He does not even know them and said nothing against them. Again, he is being victimized. Please help him!!

P.S. The judges nick name in the jail is _____ or _____ How can justice be served, if the judge is out to hang them all high? Everyone knows there are innocent men behind bars. (What a **truly shameful statistic!**) Please don't let my son be another one of them! Thank you.

Note: I have attached a copy of an email, from his attorney. You will see it gives credence to my concerns.

Judge: Howard Hantman
 Case # CR-2010-4338-002
 ATTY: Douglas Taylor

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