

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 12-276

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Complainant: No. 1453010972A

Judge: No. 1453010972B

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**ORDER**

The complainant alleged a justice of the peace denied him the right to hire an attorney. He further alleged the judge was biased against him because she has a relationship with his estranged wife.

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, the judge's response, and listening to all three court recordings, the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. The commission does not have jurisdiction to review the legal sufficiency of the judge's rulings. 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

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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.*

**CONFIDENTIAL**

State of Arizona  
Commission on Judicial Conduct  
1501 W. Washington Street, Suite 229  
Phoenix, Arizona 85007

**FOR OFFICE USE ONLY****2012-276****COMPLAINT AGAINST A JUDGE****Your name:** \_\_\_\_\_**Judge's name:** \_\_\_\_\_**Date:** Oct. 3, 2012

**Instructions:** You can use this form or plain paper of the same size to file a complaint. Please describe in your own words what the judge did that you believe constitutes judicial misconduct. Be specific and list all of the names, dates, times and places that will help us understand your concerns. You may attach additional pages but not original court documents. Print or type on one side of the paper only, and keep a copy of the complaint for your files.

Mr. \_\_\_\_\_ previously a defendant in \_\_\_\_\_  
CR2009 \_\_\_\_\_ (Probation Revocation), and \_\_\_\_\_  
before Judge \_\_\_\_\_ County Superior Court Div.  
2, files this complaint believing Judge \_\_\_\_\_ prior employment  
with the \_\_\_\_\_ County Attorney's Office (Y.C.A.O.), past actions,  
failure to notify the parties on record, and rulings in Mr.  
case amount to violations of ACJC Preamble; CANON 1 Rule  
1.1, Rule 1.2 and comments 1 and 3; CANON 2 Rule 2.2, 2.3 (A), (B)  
and (C); Rule 2.4 (B), (C) and comment; Rule 2.7 with comment 1;  
Rule 2.11 (A)(1), (6)(a) and (b), (C), with comments 1, 2, 5, and 7.  
(A)(6)(a)

After a Motion For Change of Judge, Rule 10.1, heard June 13, 2011  
Mr. \_\_\_\_\_ was moved from Judge \_\_\_\_\_ courtroom to Judge  
\_\_\_\_\_ courtroom. Unknown to Mr. \_\_\_\_\_ at that time Mr.  
was placed in the same circumstances which were the cause  
of the Rule 10.1 Motion to begin with.

Judge \_\_\_\_\_ is a former employee of the Y.C.A.O. and was  
an attorney within the Y.C.A.O. within the previous four  
years. Mr. \_\_\_\_\_ contends Judge \_\_\_\_\_ was employed by  
the Y.C.A.O. when Mr. \_\_\_\_\_ picked up the charges in the  
cases. Further, Chief Prosecutor \_\_\_\_\_  
was one of \_\_\_\_\_ supervisors within the Y.C.A.O.  
and \_\_\_\_\_ worked alongside and maintains relations with  
Deputy County Attorneys \_\_\_\_\_ (and his family),  
and P.A.N.T. Detectives including \_\_\_\_\_

*(Attach additional sheets as needed)*

## COMPLAINT AGAINST A JUDGE

Mr. believes that as late as September 2010, while a candidate, Judge felt she had and exercised some form of influence with law enforcement in the Prescott area and Y.C.A.O. as evidenced by EXHIBIT A,

Mr. believes that prior to becoming a Judge, used her Tea Party status to influence the elevation of Judge to the Arizona Supreme Court and ultimately Judge herself, appointed as a Superior Court Judge, as evidenced by EXHIBIT B.

It is well known in the Prescott area both Judge and had relations and it is no coincidence Judge is elevated and sworn in. Also, both EXHIBIT A and B reflect the lack of trust and confidence the community has in the Yavapai County Judicial system. The attached articles are scathing and stink of impropriety, exactly what the ACJC discourages. And in the center of everything Judge is manipulating the appointment of Judges, her own appointment, her domestic partners and criminal investigators and prosecutors. Not an isolated incident with regard. The Fear Mr. has is that those who operate this way are those who conduct business in this manner.



## COMPLAINT AGAINST A JUDGE

Mr. believes, pursuant to ACJC Rule 2.7, Judge had a duty to consider her own disqualification. And under Rule 2.11 (A) (1) and 2.11 (A) (6) (a) and (b), due to Judge recent employment with Y.C.A.O., Mr cases coming through that office, and Judge relation-ships and friendships with prosecutors and detectives involved in Mr. cases, Judge was required to disqualify herself. At the very minimum ACJC Rule 2.11 comments 1, 2, 5, and 7. required Judge to disclose on the record for all parties to consider - if was not going to disqualify herself.

The Arizona Supreme Court made reference to the ACJC in STATE v. ELLISON, 213 Ariz 116, 140 P.3d 899, cert. den., 549 U.S. 1000, 127 S.Ct. 506, 166 L.Ed. 2d 377 (2006). The court stated in footnote 5:

Independent of Rule 10.1, under the Judicial Code of Conduct, a judge ethically must avoid impropriety and the appearance of impropriety... A judge must disqualify himself if his "impartiality might reasonably be questioned" for reasons such as "personal bias or prejudice".

In STATE ex rel CORBIN v SUPERIOR COURT, 155 Ariz 560, 748 P.2d 1184, 1186 (1987) the court held: "... the impartiality of the judge

## COMPLAINT AGAINST A JUDGE

may reasonably be questioned when adversarial proceedings in a criminal case are assigned to a judge who was a member of the staff of the prosecuting attorney at the time prosecution commenced. In such situations, the judge to whom the case is assigned should recuse himself and take appropriate steps to have the case assigned to another judge.

It should be noted, in STATE v SASAK, 178 Ariz 182, 871 P.2d 729 (App. 1993) the court found the judge was not required to disqualify himself because of prior associations with several lawyers in the U.S. Attorney's Office - mainly because the judge had disclosed the association on the record.

"The right to a Fair trial is the foundation of our judicial system. Necessarily included in this right is the right to have the trial presided over by a judge who is completely impartial and free of bias or prejudice" STATE v CARVER 160 Ariz 167, 172. "Bias or prejudice means a hostile feeling, ill will, undue friendship, or favoritism towards one of the litigants" CARVER 160 Ariz. at 172.

Mr. \_\_\_\_\_ experienced bias and prejudice as defined by CARVER in his encounters with Judge \_\_\_\_\_ in her courtroom and in her rulings and prosecutorial favoritism.



## COMPLAINT AGAINST A JUDGE

Mr. brought numerous claims of misconduct to Judge on the conduct of Y.C.S.O., Y.C.A.O. and refused to address any of the issues.

On September 22, 2011 during the Probation Revocation Hearing in CR2009 in violation based solely on uncorroborated hearsay testimony in the 3rd degree by Det. McClain claiming Mr. confessed, though Det. McClain was not even in the State at the time of alleged violation. Mr. attorney, Failed to object, granted, that's another issue. However, Judge ruling is no less controversial.

On October 25, 2011 in sentencing Mr. on the CR violations, where Judge had found mitigation Judge Found aggravation and sentenced Mr. in extreme aggravation across the board for a total of 17.5 yrs.

On May 2, 2012 Judge accepted Detective's Pereda's testimony of 'exigent circumstances' in Mr. Motion to Suppress Warrantless Search of Cell-Phone in CR2010. In this case, on July 30, 2010 before the Grand Jury Detective Pereda testified "he had an active warrant for that cell phone."

## COMPLAINT AGAINST A JUDGE

Det. Pereda changed his testimony before Judge \_\_\_\_\_ and Det. Pereda testified he read a manual to the type of phone Mr. \_\_\_\_\_ owned and Det. Pereda learned the phone had settings that erased text messages after (30)thirty and (60)sixty days. Det. Pereda did not have a warrant for Mr. \_\_\_\_\_ phone. By Det. Pereda's testimony a person would reason if Mr. \_\_\_\_\_ phone remained 'on' Det. Pereda would have up to about (29) twenty-nine days to obtain a warrant - hardly "exigent".

On May 2, 2012 Judge \_\_\_\_\_ found a 'Factual Basis' for Attempted Transportation of Methamphetamines for Sale when the actual indictment, charge and information was actual Transportation for Sale and Sales. Mr. \_\_\_\_\_ believes there's no "Factual Basis" for Attempted Sales - that it is not the lesser offense. FOR EXAMPLE:

A person accused of Theft of Means of Transportation, caught driving a stolen vehicle, would not plea to an Attempted Theft. The plea could be Joy Riding.

A person accused of Aggravated Murder cannot plea to Attempted Murder. The plea could be Manslaughter, or Negligent Homicide.

Mr. \_\_\_\_\_ is actually innocent of Attempted Transportation of Methamphetamines for Sale. It is not even an element of a crime charged to Mr. \_\_\_\_\_



## COMPLAINT AGAINST A JUDGE

Mr.        is not a lawyer (obviously) and knows very little of law and what is improper. Mr.        does know the Judge has the right of responsibility to rule, find and sentence. Mr.        untrained eye does not see all. However, what Mr.        has seen and felt from Judge        taken as a whole, is wrong.

Thank you for your patience in reading and considering my complaint.

Most Sincerely,