

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 13-002

Judge:	No. 1459110426A
Complainant:	No. 1459110426B

ORDER

The complainant alleged a superior court judge failed to rule on all of his post-conviction claims. He further alleged the judge perpetuated a fraud in the filing of his plea agreement and engaged in fraud during his re-sentencing.

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 various court records, 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 any of the judge's rulings. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: February 20, 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 February 20, 2013.

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

AFFIDAVIT AND COMPLAINT

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STATE OF ARIZONA)
) Scilicet
 COUNTY OF MARICOPA)

I, _____, duly sworn upon oath, state that the following facts are within my personal knowledge and are correct to the best of my knowledge, information, and belief:

I believe that a judge (_____) has committed misconduct which seriously interferes with the performance of judicial duties and present this affidavit, to be filed as a complaint, to the Commission on Judicial Conduct.

This complaint does allege the proper grounds for judicial discipline and does contain the signature and stamp of a notary.

On October 16th, 2012 Judge _____ denied a Petition for Post-Conviction Relief as to all issues raised except for the sentencing error relating to omitting to state the aggravating factors on the record that supported the imposition of the stipulated aggravated sentence. In that decision the Court, under Judge _____ acknowledged Seven (7) claims asserted by defendant for relief. In that Petition the defendant raised Nine (9) separate Claims. In this decision Judge _____ ruled on Eight (8)

of the Nine (9) claims, but failed to acknowledge or rule on Claim (B) of the Petition. The Court ordered setting the case for resentencing as requested by, non-movant, the State of Arizona.

On Friday November 9th, 2012 attention was directed to the fact that a forgery/fraud had taken place in the filing of the Plea-Agreement/Contract of which the sentence in that matter was based. Her attention was also directed to the fact that if the Court failed to give proper consideration to the actions taken in filing that Plea-Agreement and proceeded to resentence the defendant the Court would be perpetuating that Fraud. During that proceeding no less than four (4) Sheriffs rushed out from behind the bench. They ran to where I was standing and surrounded me. I was in handcuffs and leg restraints and made no suggestion of being disruptfull or violent. The sheriffs did not touch me but only surrounded and stared at me. I admit I was afraid for my safety when this occured. During this time Judge admitted not being aware of any discrepancies between the plea-agreement I signed and the one filed in that matter. Judge stated that she took all things said into consideration and still resented me in that matter. At the close of the hearing Judge in Court and on the record ordered the removal of defendant's fingerprint from the previous sentencing order and attaching it to the new one. That action is described in the Arizona Revised Statutes as forgery the very same as pointed out

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to the Court previously in that same hearing.

I believe that as a Judge, should have more closely examined the allegation of forgery/fraud and acted in a manner more consistent with the integrity of the administration of justice.

In this case I ask that a more severe sanction be imposed. Such as taking educational courses to become more familiar with judicial and legal procedures, if not removal from the position of Judge, because the judge is an arbiter of facts and law for the resolution of disputes and a highly visible symbol of government under the rule of law, and because taking and perpetuating actions described as felony violations by the legislature are not only an abuse of authority but conduct unbecoming a judge.

I believe that the actions taken by constitute violations of Canons 1; 2(A); 3(B)(3); 3(8); 3(E)(A); also willful and persistent failure to perform duties; and conduct prejudicial to the administration of justice that brings the judicial office into disrepute.

Further Affiant saith not.

Done this 19 day of December, 2012.

ACKNOWLEDGEMENT

Subscribed and sworn before me this
day of December, 2012.

Notary Public

My Commission expires: 11/5/2014

