

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 14-134

Judge:

Complainant:

ORDER

The complainant alleged a superior court judge improperly failed to order his release on his own recognizance.

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 review, 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: June 5, 2014.

FOR THE COMMISSION

/s/ George A. Riemer

George A. Riemer
Executive Director

Copies of this order were mailed
to the complainant and the judge
on June 5, 2014.

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

CONFIDENTIAL

AZ

COMPLAINT AGAINST A JUDGE

Name:

Judge's Name:

On _____ I was sentenced to _____ years prison, (probation was originally agreed) I filed a timely petition for post-conviction relief _____. I was given an evidentiary on _____, originally set for _____, but the court failed to include my attorney or myself in the distribution list (my attorney and myself were always included on all the many court documents but this one). My attorney was made aware there was a hearing on _____, but it was too late to prepare, so my attorney filed a motion to reset.

_____, Judge _____ vacated my conviction and sentence and granted a new trial, yet not addressing the issue of my release conditions (prior to my _____, sentence to prison I was out on my own recognizance). In that same ruling Judges _____ stated his recusal. I was held in prison and not released until _____, due to Judge _____ only partially fulfilling Rule 32.8 d. Decision, of the Ariz. _____ which clearly states, "If the court finds in favor of the defendant, it shall enter an appropriate order with respect to the conviction, sentence or detention, any further proceedings, including a new trial and **conditions of release**, and other matters that may be necessary and proper."

Furthermore, by Judge _____ choosing to not fulfill his duty and address my conditions of release, I was held for _____ days without the court issuing my original release conditions or the opportunity to post bond. My attorney filed motions to resolve this issue from _____ thru _____. By the actions of Judge _____ my United State Constitutional Right under the Eight Amendment as well as my Arizona Constitutional Right under Article 2, Section 15, was violated. I feel this was no accident (due to all the prior delays throughout my post conviction process).

Therefore, this judicial complaint about Judge _____ conduct in its entirety is as follows:

1. Judge _____ is in violation of the Arizona Code of Judicial Conduct, Canon 2, Rule 2.5 Competence, Diligence, and Cooperation.

(A) A judge shall perform judicial and administrative duties competently, diligently, and "promptly"

Comment 4. In disposing of matters promptly and efficiently, a judge must demonstrate due regard for the rights of parties to be heard and to have issues resolved without unnecessary cost or delay.

COMPLAINT AGAINST A JUDGE

Name:

Judge's Name:

2. Judge _____ is in violation of the Arizona Constitution Article 2, Section 11, Administration of Justice.

Justice in all cases shall be administered openly, and without unnecessary delay.

In conclusion, the actions of Judge _____ caused undue hardship. His recusal could have been made after fulfilling his obligation to my rule 32 post conviction process was complete. Judge _____ felt the need to carry out his duty up until the point of vacating my sentence and conviction, why not finalize the process? Better yet, if he felt such a strong need to recuse himself, why not do so at the very beginning? Whatever the reasons Judge _____ had for recusal, the timing I my opinion constitute "cruel and unusual punishment."

I affirm, under penalty of perjury, that the foregoing information and the allegations contained in this complaint are true.

Date