

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 14-274

Judge:

Complainant:

ORDER

The complainant alleged a superior court commissioner had a rude and abusive demeanor, a conflict of interest, and engaged in other misconduct in handling his probation violation case.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the commissioner 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.

The commission does not have jurisdiction to review the legal sufficiency of the judicial officer's ruling. In addition, the commission found no evidence of ethical misconduct and concluded that the commissioner did not violate the Code in this case. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: October 8, 2014

FOR THE COMMISSION

/s/ George A. Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the commissioner on October 8, 2014.

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

Complaint Against A Judge
Judicial Misconduct

2014-274

Judicial misconduct involves conduct that violates the standards set forth in the Arizona Code of Judicial Conduct. Some examples of judicial misconduct are: rude or abusive demeanor; a conflict of interest; abuse of the contempt power; communicating improperly with only one side to a proceeding; unreasonable delay in decision-making; commenting publicly on a pending case; and prohibited political activity. Judicial misconduct can involve conduct that occurred off the bench as well as conduct that occurred while a judge is serving in his or her official capacity.

Information.

1) Name: _____

2) Mailing Address: _____

City: _____

3) Phone: NA

4) Judge's Name: Commissioner

Location: _____

Court of

County,

5) Court: _____

6) Did you have a case before this judge: Yes. If Yes, is the case still pending: Yes

A) Case Name and Number: Cent. Probation violation F3, Rule 32 Post-conviction relief, CS. NO: _____

B) List Any Attorney who appeared in the case: _____ (Former)
Present: Rule 32

C) List Any Names and phone numbers of witnesses who observed the judge's conduct: Name: _____ Ph# _____
Name: _____ Ph# _____

7) I understand the commission cannot reverse court orders or assign a new Judge to a case: Yes

8) Please read the following statement and sign on the line below:

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

Signature: _____

Date: _____

Complaint Against A Judge

Name:

Judges Name:

In re

CJC Case No.

The Court ordered the removal of a, adopting the Findings and recommendation of a commission hearing panel. The court's order allowed the judge to seek judicial office again after years. The hearing panel found that the judge violated a number of provisions of the Code of Judicial Conduct, including Rule 1.2 ("A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety"); Rule 1.3 ("A judge shall not abuse the prestige of judicial office to advance the personal or economic interest of the Judge"); Rule 2.4(B) ("A judge shall not permit family... interests or other relationship to influence the judge's judicial conduct or judgment") Rule 2.11 ("A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned") Rule 2.12(A) ("A judge shall require court staff... to act in a manner consistent with the judge's obligations under this Code"); Rule 2.16(A) ("A judge shall cooperate and be candid and honest with judicial and lawyer disciplinary agencies"); and Rule 3.1(D) ("A judge shall not engage in conduct that would appear to a reasonable person to be coercive"). The Factual findings included that the judge had intentionally evaded service of process, had abused the prestige of his office in his personal encounters with law enforcement related to his personal divorce, and had failed to be candid with the Commission. The Court also

ordered the respondent to pay various costs associated with the proceeding.

On or about the _____ day of _____,
_____ was sentenced to _____ in the Department
with Credit of _____ back-time. Mr. _____ was on probation
and the Hearing, and Judgement and Sentencing was for Revoking
his probation for Failing to participate in _____ Treatment
Program, which Consisted of him answering questions that could possibly
incriminate him, which Violate's his 5th Amendment against self-
incrimination. No person shall be compelled in any criminal case to be a
witness against himself, nor be deprived of life, liberty, or property, without
due process of law; Also, for having in his possession a C.D. Titled ("How
To Pass A Polygraph.") During the Revocation Hearing and Sentencing
the Court Violated Mr. _____ 1st Amendment, which state, Congress
shall make no law respecting an establishment of religion, or prohibiting
the free exercise thereof; or abridging the Freedom of Speech or the press.

Mr. [redacted] had taken several polygraph through a number of years in which he passed the majority of the testing. Authored, Legal Match Law Library Managing Editor and Attorney at law of the Book titled "Admissability of Polygraph Tests in Court" stated that it has been proved that the Polygraph is extreme unreliable indicators of lying, their use has lessened in recent years (usually because of Courts prohibiting their use, and in no state can anyone be forced by police or anyone else to take a polygraph examination Judge [redacted] possibly acknowledge that the polygraph was inadmissable and started to yell at Mr. [redacted] stating that he feel that Mr. [redacted] is trying to manipulate the judicial

system and started calling Mr. [redacted] a liar and voicing his personal opinion about Mr. [redacted] in opened Court. Judge [redacted] refused to consider the State's Recommendation by stating, "that he doesn't have to accept any recommendation from the state. The Judge, showed extreme prejudice toward Mr. [redacted] throughout the Sentencing Hearing and proved with his words, actions and conduct that the actual Charges against Mr. [redacted] were offense and showed a conflict of interest and abuse of Judicial power by sentencing Mr. [redacted] with extreme prejudice. The Judge [redacted], showed he had no regard to Mr. [redacted] case by sentencing him with a cruel and unusual punishment.

The Judge failed to recuse himself, due to the conflict of interest; Improper judicial demeanor; engaged in ex-parte communication in this case; denied the defendant his full right to be heard; failed to recuse himself in which he was personally involved; and was repeatedly losing his temper and shouting in anger at the Attorney, litigants and court staff inside the Court room and tended to show bias against the defendant Mr. [redacted]. 1st, 5th, 6th, and 14th Amendments were violated through out the Judgement and Sentencing. Mr. [redacted] request this Commission to properly investigate these allegations and question the witness who is credible and attended every hearing and the misconduct and prejudice the Judge had toward Mr. [redacted].

Mr. [redacted] statement as it was presented in a complaint against Attorney [redacted] with the State Bar Association of Arizona. On [redacted] Mr. [redacted] contacted [redacted] to represent him on a Probation violation Hearing, via telephone from the County Jail. Mr. [redacted] agreed to pay the Attorney [redacted] with the

understanding that he will visit him the following _____, and for Mr. _____ to sign the Check that was given to him by Mr. _____ friend _____ and to discuss his case. In their discussion Mr. _____ and the attorney agreed that the Judge who would be hearing the probation Violation was known to be bias and discriminate against anyone whos charged with a _____ offense. Attorney told Mr. _____ he will Notice the judge before his court date, so that he would be able to get a Fair hearing.

When Mr. _____ returned to Court on _____ Mr. _____ notice that Mr. _____ failed to notice the Judge, in which Mr. _____ was face to face with the same Judge that he had spoken to Mr. _____ about. Judge _____ who is known to be extremely tough against _____ offense, in which was evidence, after watching and witnessing what had happened to the defendant who was before him. The judge gave that defendant _____ in prison, even though the prosecutor and the Probation Department was recommending intense Probation, and it was the defendant's first Probation Violation. My Hearing was postponed because the probation Office failed to Submit a recommendation report or _____ Report in time for the hearing

When I got back to the jail, I contacted Attorney _____ and asked him why is it that he never Notice the Judge and Mr. _____ stated that he did not think that Judge _____ who sees over Probation Violations, would be any different, and now it's too late to Notice the Judge. Mr. _____ witness the Judge's misconduct and unethical behavioral. During the next _____ I had three more Hearings to which Mr. _____ showed up late each time, which angered the judge. And Mr. _____ was reprimanded by the Judge. After getting

Mr. _____ enough evidence to get the Probation Department and the Prosecutor to agree to certain terms, in which the Judge violated his judicial duties by involving his self in the plea stages. I then witness the Judge telling the Probation officer, Prosecutor and my attorney that he does not have to agree to their recommendation. At that point I knew the judge was going to hit me hard on my next hearing and there was nothing I could do.

Mr. _____ asked to postpone the sentencing for _____ weeks, so he could go on vacation. The judge allowed Mr. _____ to postpone my sentencing with no regard to ineffectiveness, and the incompetence of my Attorney. I believe the judge was fully aware of the conflict between Mr. _____ and myself and failed to acknowledge the extreme hardship with his Court. He allowed Mr. _____ to go on vacation without further investigation, and not allowing me review the Report properly, and left my case in the unfinished stages.

On _____ my sentencing date, the judge did not show any caring, or consideration to the things my friend Ms. _____ and I had to say about my case. After being on Probation for _____ without any new charges, the Judge sentenced me to _____ in prison in which is cruel and unusual punishment for a probation violation. I believe the judge should have recuse himself when he first notice that there is the possibility that he realized the conflict of interest with my case.

I therefore request that this Commission thoroughly investigate this judge who violated the Arizona Code of Judicial Conduct, and for abuse of power.

Signed this _____ day of _____