

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 16-129

Judge:

Complainant:

ORDER

The complainant alleged a superior court judge had not properly handled his petitions for post-conviction relief.

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.

The commission does not have jurisdiction to review the legal sufficiency of the judge's rulings. In addition, 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(a).

Commission member Gus Aragón did not participate in the consideration of this matter.

Dated: June 29, 2016

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 29, 2016.

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**2016-129****COMPLAINT AGAINST A JUDGE**

Name: _____ Judge's Name: _____

Instructions: Use this form or plain paper of the same size to file a complaint. Describe in your own words what you believe the judge did that constitutes judicial misconduct. Be specific and list all of the names, dates, times, and places that will help the commission understand your concerns. Additional pages may be attached along with copies (not originals) of relevant court documents. Please complete one side of the paper only, and keep a copy of the complaint for your records.

Filing a Complaint withARIZONA. I have Attached both rulings from Judge MYMY offense dates are
and per Plea agreement, Per indictment dates to

This case is very complex and really long to explain. I will ask the
Court to transfer my file to you to better explain in whole everything
going on. First, I have not had counsel to help me in any of these filings.

Police dept. is trying to state that the first complaint about
me came in , Indictment on , and sentenced I moved to

in to then moved to in to I have proof of
several other notification to Police Dept. when Restraint order

was filed sometime in to , Another Complaint by Accuser in to ,
and nothing was followed up, under reasonable diligence of statute of limitation

it has expired, second, I should be under , and sentencing Rules
and laws. Under Rule 32 of and , there is no time limit or Amount of

filing you can do, it is also under statute also, only under , is the days
stated, but under Rule 32.4 (c) , or the first notice in a non-capital

case which, for the first time, raises a claim of ineffective assistance of
counsel, the presiding judge shall appoint counsel for the defendant within

days if requested and the defendant is determined to be indigent, (I have
always been indigent, I had a third party paid attorney) My first notice

of P.C.R. I filed I.A.C. on Sentencing Attorney and the court assigned
him as my PCR attorney (which he never answered to) then dismissed it as

Complaint (Extra pages)

untimely filed, nothing was done with I.A.C. • I have been trying to get my file from my Attorney for over years as Indigent, but keep being denied or told to pay attorney for file, Even though I am Indigent and court has several proofs of it, they keep asking for proof of Indigency from me.

now, Let's start with Minute Entry (M.E), Judge states I filed under Rule 32.1(a), (b), and (c), which I never did, deemed my filings were under these ^{Rules} ~~Rules~~ even though I stated my filing was under E, F, G. These are the grounds I filed under, "Specifically, he maintains that counsel provided ineffective assistance; the prosecutor engaged in misconduct; the Statute of limitation expired; and a detective committed perjury." On the prosecutor ~~misconduct~~ ^{misconduct} and perjury of detective, I did not file the motion for it because I needed more information to complete it, the right way and make no mistakes. so it can't not be blocked as already raised.

Then you have the next paragraph, "Notwithstanding the preclusive effect of Rule 32.1(b) for claims that a court was 'without jurisdiction to render judgment or impose sentence,' Defendant contends that he is entitled jurisdictional relief based upon the alleged failure to charge within the limitations periods. Some authorities suggest that a challenge to subject matter jurisdiction, in this case based upon an untimely indictment, can never be waived or forfeited.

expressly recognizes preclusion, however, and defects in indictment "do not deprive the court of its power to adjudicate a case."

As a result,

Defendant fails to state a claim for which relief that can be granted in an untimely Rule 32 proceeding, see *Striz. R. Crim*

" Let's start with what was said, statute of limitation expired, to untimely indictment, to defects in indictment. does not match up. Also the statement "based upon alleged failure" this whole case is "based on alleged statements" but the prosecutor, detectives and court took it as true. ~~Is~~ Is the court implying I am lying? Because all the information comes from the same police ^{and reports,} narrative they used. Please read , no where does it talk about statute of limitation or untimely indictment. Also how can you get an untimely indictment when the statute of limitation even on the last count of at years expired on and indictment came years over time expired, Under statute of limitation it is only months after expired. () Also under Domestic Relationship prior to statute^{change}, we were married ~~before~~ that change, so the count is invalid. The indictment doesn't have defects it is invalid. (Count was not brought in front of Grand Jury, Count 8 is multiplicity and Count has no offense. There is even more errors than that, explained below)

Now, ^{Look at next statement} ~~read these case~~ " Some authorities suggest ", what about the ones that ^{don't} suggest this authorities? I was only some! now, read these case laws,

Criminal Statute of limitations puts time limitations in which state has jurisdiction to act against accused; such ~~statutes~~^{statutes} are to be liberally construed in favor of accused and against

prosecution. Criminal statutes of limitation are jurisdictional, constituting a limitation upon the power of the sovereign to act against the accused. Once a defendant presents reasonable evidence that a criminal statutory period has expired, the state bears the burden of establishing by a preponderance of the evidence that it has not. (the state bears the burden, not the court) Then you have the conflict between Rule 32.4

(a) within days and Rule 16.1 (b). ... Lack of jurisdiction may be raised at any time, (a). Rules 16.1 and 16.2 shall apply to criminal

proceedings in all courts. See ^{illegals have no jurisdiction to impose} illegal sentence and claims of lack of subject matter jurisdiction can be raised at anytime.

Now go back to front, "The court has reviewed the following documents filed by Defendant on

(1) Request for transcripts; (2) notice to change Judge and Request Appointment of Counsel; (3) Motion to ^{my notes:} revise (^{my notes:} I wrote "Review") accomplices and conflicting statements of

(which was not stated or answered); (4) Motion to Dismiss for Lack of subject Matter Jurisdiction; ~~and~~ and (5) motion to Amend and Change Plea Agreement. The Court construes these documents as notice of Post-Conviction Relief." How can

the Court construe something that was not filed? On Number (3) I wrote "Motion for Review on Accomplices and Conflicting statements of Ronda and Complaint for Charges", on Number (4) I wrote "Motion to Dismiss for Lack of subject Matter Jurisdiction and A criminal prosecution on Statute of limitation grounds and Amendment and Supplement to Post conviction Relief (

()). I stated Rules 32 for and , this is the courts answer " Pursuant to Rule 32.4(a) of the Arizona Rules of Criminal Procedure, the notice of Post-Conviction Relief (PCR) must be filed within days of the entry

of judgment and sentencing.

Last part, "directing his prior counsel to provide Defendant with his case file", which never happen, ^{motion} it was not in the file I got in from Attorney.

Now M.E.,

"The Court has reviewed the

following documents filed by Defendant on

(1) Notice of Post-Conviction Relief, (2) Motion for Evidentiary Hearing, (3) Reply to Minute Entry to motion to Compel Performance, and (4) Request for Preparation of the Post-Conviction Relief Records. The Court deems the first two documents a single Notice of Post-Conviction Relief." Again, the court changes my motions and what I have wrote. Number (4) said, Request for Preparation of post-Conviction Relief and Evidentiary Hearing Records.

How can JUDGE

Do this?

First paragraph, States "Defendant argues, however, that the delay in obtaining documents is without fault on his part. As explained in a minute entry filed on Defendant may obtain copies of transcripts and other documents within days of paying the fees. If Defendant wishes to obtain copies without charge, he must file an affidavit of indigency in conjunction with a pending Rule 32 proceeding. The Court finds no such affidavit in his submissions, and concludes that Defendant is not without fault in this matter." (my notes: Read lines 2 and 3 above.) now M.E. which is Re Ruling on some of this motions, look at prior M.E., "IT IS FURTHER ORDERED Defendant's Motion for Transcripts Under Indigency Filed on is Denied." M.E. on "Defendant also requests appointment of Counsel as well as several transcripts.

**THE COMMISSION'S POLICY IS
TO POST ONLY THE FIRST FIVE
PAGES OF ANY DISMISSED
COMPLAINT ON ITS WEBSITE.**

**FOR ACCESS TO THE
REMAINDER OF THE
COMPLAINT IN THIS MATTER,
PLEASE MAKE YOUR REQUEST
IN WRITING TO THE
COMMISSION ON JUDICIAL
CONDUCT AND REFERENCE
THE COMMISSION CASE
NUMBER IN YOUR REQUEST.**