

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 18-005

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Judge:

Complainant:

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**ORDER**

The complainant alleged a superior court judge gave improper jury instructions and allowed prejudicial evidence in a criminal trial.

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).

Dated: February 21, 2018

FOR THE COMMISSION

/s/ Margaret H. Downie

Margaret H. Downie  
Executive Director

Copies of this order were distributed to all appropriate persons on February 21, 2018.

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

**CONFIDENTIAL**

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

**FOR OFFICE USE ONLY**

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## 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.

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(1)

Working in concert with the prosecution, in  
The State of

abused his discretion when he  
improperly refused a jury (Willits) instruction  
and failed to offer a contemporaneous limiting  
instruction and/or striking from the record  
cumulative and egregious testimony  
elicited by the prosecution  
in violation of the Arizona Rules of  
Evidence, Due Process and the United States  
Constitution.

In case a pellet gun was not  
preserved that was found under the victim's  
seat. His entire claim of self-defense  
rested upon this item never preserved by  
police for DNA and/or latent prints. A  
Willits instruction was requested and denied  
by - depriving the jury of  
making an inference unfavorable to the  
State even though the defendant easily  
satisfied the burden required for issuance of  
instruction. The police's negligence and  
the judicial abuse of discretion deprived  
the jury of weighing the evidence pertaining  
to material facts at trial thereby  
rendering trial fundamentally unfair.  
Being that the Judge's primary task

②

is ensuring a fair and impartial trial is rendered and being a guarantor of a defendant's Constitutional rights, his lack of due diligence and oversight effectively deprived of a fair trial when he failed to call a mistrial subsequent to prosecution's cumulative and egregious prosecutorial misconduct. On day 4 of trial, (prosecution) violated AZ rules of evidence 404(b), 608(a), 803(8)(b), 803(24)(c) and/or 804(5)(c), the U.S. Constitution's 6th Amendment right to Confront witnesses and finally a Brady violation under the Constitution's Fifth and Fourteenth Amendments.

On day 4 of trial, the prosecutor, on cross-examination of defendant's father, elicited prejudicial testimony of 'other bad acts' that was pure hearsay because the incident was something defendant was not only never charged and convicted of but, these instances were, never admitted into evidence.

overruling of defense counsel's objection and negligent failure of exercising due-diligence resulted in a deprivation of defendant's Constitutional



(3)

right to confront adverse witnesses (compulsory process) and additionally violated the government's disclosure duties when this police report was impeaching, willfully or inadvertently suppressed and resulted in prejudice.

These matters are demonstrable instances that occurred during the course of trial in

I hereby implore the AZ Commission on Judicial Conduct to investigate this matter because, I took an oath upon entering military service to support and defend the Constitution of the United States and I cannot sit idly by as my rights as a free citizen are trampled upon in an effort to obtain an invalid and fraudulent conviction. Thank you.

Sincerely,