

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 18-030

Judge:

Complainant:

ORDER

The complainant alleged a justice of the peace improperly ordered her to have a behavioral health evaluation and giggled in court.

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 Paul J. Eckerstrom did not participate in the consideration of this matter.

Dated: March 28, 2018

FOR THE COMMISSION

/s/ Margaret H. Downie

Margaret H. Downie
Executive Director

Copies of this order were distributed to all appropriate persons on March 28, 2018.

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

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

FOR OFFICE USE ONLY

2018-030

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.

The original case number _____ filed _____ was dismissed after 2 months, for what I had been told was because the police report was never filed, nor was there any other disclosure. See case minute entries in original case, _____ noted No Disclosure to Date, on one and Still No Disclosure whatsoever on another. This case has been on going since being re-filed in _____ under a new case number, _____. The original case still shows was dismissed.

Originally, _____ was the Presiding Judge, which I previously filed a complaint against for making comments that showed bias motive and prejudice, giggling with prosecution after I requested the first attorney be withdrawn for failing to investigate any of the many things that would justify a dismissal, nor would even listen to my side. I requested to proceed "In Pro Per". _____ withdrew _____ also denied my right to self represent, which also left me with no attorney. At the next court date, I filed a motion to plead guilty, I just wanted to be done with the stress, which also was denied, however he said he would give me another attorney. _____ was like the first one, failing to do anything except tell me I was going to lose if I took it to trial, then when she hadn't heard my side or investigated anything for my defense, she told _____ we were ready for trial. After setting a motion deadline, _____ under his breath said he was just going to deny them if she did file them, they both giggled and made jokes between themselves. when she hadn't heard my side or investigated anything for my defense. I also filed a formal complaint against her and she filed a motion to withdraw. I was told my motion to represent myself was being granted, but sent me to a _____ the following morning, to determine if I was competent or if I should be referred to _____ under _____ said I was more then competent to proceed. After that, I filed the complaint, and he recused himself. The case went to _____ At my first court date with _____ she offered to appoint another attorney, which was _____ which was attorney for original case. who had made it apparent then that she was bias, telling me, _____ I wasn't looking for sympathy, nor do I have a social worker, I was simply trying to tell her my side of story, so I declined, however accepted advisory council. During that time I filed a Motion to Suppress, and after filing a Reply to the States Motion, _____ again offered to appoint another attorney, pretty much scaring me into thinking I needed one. I accepted the appointment of _____ I thought I must have just had a string of bad luck with the other attorneys. I told _____ I had drafted a list of questions I intended to use to show that the police report contained false allegations alleging an _____ told him at a later time that I was a convicted felon prohibited from having a gun, without bothering to check that it was not true, but added to support the part where I allegedly "lunge" for my gun, leading a stop for a plate lamp on a vehicle that was pulling a trailer, and exempt from the obstructed light being needed, pursuant ARS 28-934. _____ was the only attorney who has even listened to my side and pursued anything in my defense, which he had interviewed the officer. During the interview, the officer admitted to being familiar to lamps not being required if do to the location of another vehicle caused an obstruction, but could not remember if he stopped me for my truck or trailer, and the State failed to disclose the repair order, as well. However, i still had a copy proving it was the truck. In the interview, he also was asked about the plate number, as not one place in any of the disclosure, is it correct. in fact the exact mistake is made by a separate officer that filled out the request for the tow truck. _____ asked if he called in the wrong plate, which would have caused the officer to think the plate or truck was stolen, and the -cont'd

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COMPLAINT AGAINST A JUDGE

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officer said he had not noted anything and agreed when _____ asked if we could infer that he ran the correct plate since it was not noted to having that issue. The officer stated that he made the stop due to inoperable plate lamp a illegibility of the plate, however the repair order was only issued for the plate lamp. _____ set a date for an Evidentiary Hearing, based on the Motion I drafted. At the Hearing, _____ asked what the reason was for the stop, and the officer changed his story stating that he "tried to look at the license plate...as I'm driving, and I couldn't see -- the plate was illegible". When asked if it was the plate itself that was not legible, he agreed. He was asked if anything was in the way of the view and his story contradicts what he stated in the interview, stating nothing was in the way and then "once I determined I couldn't see -- well, the plate, we identify it and (indiscernible) said they didn't have the plate, so they decided to make the stop. Then was shown a picture of the license plate taken 3 days after the stop and had not problem to read a poor quality, blurry picture in court. _____ failed to ask about the actual issue related to invalidating the stop, however when prosecution brought up the obstructed lamp issue, _____ explained how myself and the officer, which admitted in the interview, both understood it, which _____ the prosecutor answered claiming the law meant a truck thats pulling another vehicle, the other vehicle does not need its front lights to be lit. (See ARS 28-934). _____ also withheld the transcript of the interview from being submitted into evidence or disclosed. However, _____ still granted my Motion, commenting on how well my Motion had been written. The State filed a timely Notice of Intent to Appeal, as well as the Designation of Record. I originally asked if _____ would stay on the case and he told me he "would be happy" to keep my case. I had second thoughts and informed Mr. _____ I wanted to handle the appeal myself, with him possibly staying on as advisory. The deadline for the Opening Brief was _____. Originally they filed it on _____ which I was emailed by secretary a copy of the brief. I already had drafted a Reply when I saw a Motion had been granted by the court on _____, and the filing of the brief was removed, which still shows no appellant memorandum filed. I emailed _____ secretary, _____ asking about the motion filed and the other disappearing, and attached a copy of my Reply to the Opening brief. She replied telling me _____ had filed a Motion to have an attorney appointed for the appeal. I replied demanding he withdraw the request. _____ was still counsel as well, not withdrawing, and also failing to send any info as to new attorney, so a few weeks later, I went to the court to file my brief and told I could not file it because the State had not filed their Brief. (Court records made a note to file _____) I was never contacted by either _____ or the new attorney again. In _____, almost a year later, I get notified my case is back in Court. At the first date, both attorneys were withdrawn, as I filed complaints against them as well, using the tactics they had to prevent my Reply being used. _____ was now on the case and appointed another attorney, who again did absolutely noting but tell me I would lose at trial, and that I can not raise the issue again that was lost in the appeal, telling me "that ship has sailed", and doing his best to talk me into just signing the plea. He was withdrawn at court this morning. I had drafted my own Motion which I submitted as well, to allow evidence that was withheld by prior counsel to be admitted, and also evidence to prove inconsistent statements that were made, in addition to the invalid stop and unreasonable search. The Judge said she was hesitant to let me defend myself, because I have had problems when I was representing myself, and the amount of time this dragged on, and sent me to _____ for a behavior health arraignment. I tried explaining the only positive progress I had was off my motion. I have Court _____ next with

...Continued from complaint.

And told _____ that he would review the motion but said that he was probably just planning to object to the motion completely. The Judge wouldn't let me finish explaining as to why there has been so many different attorneys throughout my case. I started to tell her that none of the attorneys had bothered to investigate anything to benefit my defense, and the only one who even bothered to interview the officer, failed to disclose or submit the transcript, in which the officer also mentioned that he had not observed any defects in my driving, nor any of the 24 NHTSA DUI cues, and avoided every one of the questions at the Evidentiary Hearing. I tried to tell that to the Judge, but she didn't care to listen to anything I had to say, and did not even look at the Motion I had submitted whatsoever. I don't see how any of this has been aloud to continue. And why she sent me to a behavioral health arraignment scheduled _____, with _____. It is in my file that I was already sent for a Rule 11 screening, and the doctor said that I was more then competent, and was totally normal for being upset over a situation, that he, also agreed, sounded like an abuse of court power. She mentioned something about _____ as she set the date, I could not make out details, but her and the prosecutor giggled as I heard her say something about marking it as Evidentiary Hearing pending, and again the prosecutor said we probably won't need the Hearing if he objects to the motion. This case has dragged on in total since I was arrested _____. I raised my right to a a speedy trial with _____, and _____, because she kept asking for continuances to do such and such, and every time actually didn't do a thing, but ask the Judge to Waive time for the following continuance. I tried getting _____ and _____ to look into whether my speedy trial right has been violated and they both told me they refused to file a frivolous motion and did not look into it at all. This whole ordeal is a huge disgrace to the legal system. I am entitled to a fair hearing. How is this fair when both the attorneys and the judges all seem to be on the prosecutors side. I filed a complaint with the _____ regarding a few prosecutors and a few attorneys last _____ and they have completely ignored my complaint. I have not even got a response to tell me they have, haven't or won't review my complaint, not one word. You would think I was some dangerous criminal they were trying to get rid of, which if I were, that I could at least understand, but I am a nobody, with only one moving violation on my record from around _____, and a couple misdemeanors from also around _____ and non moving violation, mostly from _____. The prosecutors plea that they are offering me is for a jail term of _____ suspended if I can pay all my fines on time, which I could hardly afford the bills I have now, while I still have my license. They want to take my license for a year, send me to alcohol treatment, and also prevent me from receiving food stamps or other assistance. This is well beyond what the sentence defined for DUI calls for (See ARS 28-1381) which is 10 days. How are they giving me a plea for the maximum aggravated sentence for a misdemeanor with only mitigating factors. Instead the Judge is acting like I am insane also for not just signing the plea. I told her that if I couldn't have an Evidence Hearing that I was ready to set a Trial as soon as possible, because I wanted to finish this. I believe that was the point she referred me to _____. Please look into this matter as promptly as possible. I also understand that a Judge is not required to recuse, and am aware that my case will not be dismissed because of this complaint. All I am hoping to get out of this, is a fair hearing as I deserve. I am attaching also a copy of the motion I submitted today, and the complaint to the _____ however I will not send the evidence I refer to in the motion or complaint, unless I am requested to, as that probably is not relevant for an investigation. Thank you, feel free to notify me of any other information that may be useful.