

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 18-319

Judge:

Complainant:

ORDER

The complainant alleged a superior court commissioner violated the attorney-client privilege, was biased in favor of the prosecution, coerced him into a plea agreement, and denied him a mitigated sentence.

The responsibility of the Commission on Judicial Conduct is to impartially determine if a judicial officer 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 a judicial officer's rulings. In addition, the commission found no evidence of ethical misconduct and concluded that the judicial officer 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 Christopher P. Staring did not participate in the consideration of this matter.

Dated: February 13, 2019

Copies of this order were distributed to all appropriate persons on February 13, 2019.

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

Case:

subject of complaint:

18-319

complainant:

The basis for this complaint alleges that County Commissioner engaged in a conspiracy to commit obstruction of justice over the course of nearly years by:

shared in violating my attorney-client privilege with to obtain defense strategy and then rule in favor of the prosecution.

Portrayed herself as the trial judge and openly discussed violating my constitutional rights as an intimidation tactic to scare me into signing a plea.

Once the plea was signed, denied me a mitigation hearing, a mitigated sentence and a pre-sentence report review sentencing me to an illegal prison sentence instead of mandated prison.

Case Background

I was charged with agg DUI and possession of marijuana after my half-brother and his friend, and driven got falling down drunk at some bar in in

as I was just leaving the parking lot, I was stopped for making a and after a series of tests including a single Breathalyzer with an

alleged bad reading of , I was taken into custody. At some point a warrant was supposedly obtained for a blood draw by the arresting officer, police officer. He then placed me under arrest and transported me to county Jail where I was booked and then housed in the veteran's pod for former military service members.

During the days I spent there before being bonded out, one of the other vets was having a tough time of it with frequent stressful phone calls which were near my cell. a few later, he disassembled a and slit his throat committing suicide, reminiscent of a similar incident in the while on deployment in whereas a marine, after receiving a ' letter from home also committed suicide, but with an M-16 assault weapon. The incident in the jail acted as a stressor and initiated what can only be described as a mental breakdown. Following that, I got myself into treatment at the VA with medications and therapy for PTSD. In , I filed a VA claim for benefits and in was approved at a disability rating for service-connected PTSD. I have been receiving therapy from the VA since except for periods of incarceration related to this case and recently when I was imprisoned for marijuana possession, which I very rarely smoked to help with the effects of, ironically, PTSD.

at some point during the I remember being
 in a pre-trial conference ^{with} ~~when~~ my then defense attorney
 , prosecutor and I believe
 Comm. , when the subject of ' ' came up
 and I remember Ms. saying something about
 ' ' . But it was also at that meeting Mr.
 requested and granted a Rule 11 hearing shortly before
 withdrawing from the case. Shortly after that meeting
 I did reach out to Mr. and he confirmed that
 the blood evidence had indeed gone missing - either by
 having been misplaced or thrown out - he wasn't sure. Either
 way, the only evidence disappeared while in the
 custody of the arresting officer supposedly while
 being transported for a trial that
 had not been scheduled. It was not confirmed to me
 for more than years.

Rule 11 Hearings

Following the withdrawal of Mr.
 was then assigned as defense counsel but because of
 some obscure rule, she could not represent me while
 in Rule 11 Court. In , my half-brother, frustrated
 at the case taking so long, pulled his tools being used
 as collateral and my bond vacated. Since I was in
 Rule 11, I was given ' ' and sent to the
 Jail psych ward where I remained

for ; half of that on suicide watch and subjected to ' and ' ' and ' ' Return To Competency (RTC)

sessions. After finally convincing the RTC therapists that mental illness doesn't make me incompetent, I was finally released to pre-trial services with an

and on house arrest although I was homeless after being evicted with no job, no money and suffering acute anxiety attacks. Because of military service I was fortunate to be accepted into a veterans transitional program where I remained as a resident and front

. I was also referred back to Rule 11 ~~et~~ for

Round Two of competency proceedings. This while I continued to question the status of the hood to no avail. I also again entered treatment at the VA and in officially diagnosed with service-connected

PTSD with a disability rating. Throughout this time period I was placing my attention more on getting myself better and less on the case

Blood Evidence

There came a time in during a status conference it was revealed to me for the first time that the blood evidence had indeed been lost, but now found in a drawer or cabinet somewhere, but contaminated. This was the first admission by

anyone the status of the blood for years. I feel that instead of being locked up in a psych ward at the jail playing, 'I should have been in court. The only person who didn't know about the missing blood evidence is now in prison for it.

Tainted Blood Evidence

Following the revelation of the now found but tainted blood and over the next , ms. and I engaged in several attorney-client privileged conversations using instant messaging (text) or email.

My strategy was simple: submit a motion to dismiss based on the contamination of the evidence citing, v * which I had emailed to ms.

for her to write the argument. At first she claimed it would do no good because, :

. Then, she claimed to have never received it; and then at sentencing, didn't know what I was talking about. Instead, the court would be issuing a ' instruction. At a hearing shortly after,

Comm. wearing a robe but seated at the table and off the record explained to me how, although the blood was severely degraded, there was still a way

* I believe this is correct. Court ruling that a trial with bad blood is prejudicial.

**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.**