

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

---

Disposition of Complaint 06-036

---

Complainant: No. 1278110203A

Judge: No. 1278110203B

---

**ORDER**

The commission on judicial conduct reviewed the complaint and the response filed in this matter and found no ethical misconduct on the part of the judge.

The complainant dislikes the drug court because, among other things, it treats probationers differently for similar crimes and often proceeds informally. She believes it has not helped her son who had voluntarily enrolled in the program when he pleaded guilty and was required to complete a four-part program that began in the summer of 2005. He was subsequently given additional time in jail because he had either tested positive for drug use or had failed to take the test on many occasions. One of the most important components of the program is accountability, and participants are given a list of sanctions and incentives which constitute the consequences of their behavior while on probation. Sanctions include warnings, extra community service and jail time. The drug court program, by its nature, is more flexible and less formal than traditional court, and judges have considerable discretion in enforcing conditions of probation.

The commission is not a court and cannot interfere in the operation of the drug court. Because there was no evidence of ethical misconduct on the part of the judge, the complaint is dismissed pursuant to Rule 16(a).

Dated: June 20, 2006.

FOR THE COMMISSION


/s/ Keith Stott  
Executive Director


Copies of this order were mailed to the complainant and the judge on June 20, 2006.

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

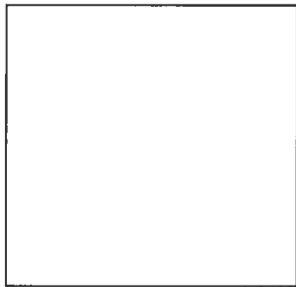



CJC-06-036

Regarding: Complaint Judge 

As indicated on the Commission's Complaint form (downloaded and printed from the Internet), my name is  I am a United States citizen, an Arizona resident (50+ years), and more importantly, the concerned parent of a young adult drug addict who has been sentenced to Arizona's Drug Court program.

I have had occasion to observe court proceedings on the following dates:





During my observations, I watched the proceedings for many offenders (both ongoing probationers and intake offenses) who have appeared before Judge 

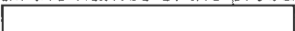
While my son does have a court case and is attempting to abide by all the requirements put before him, my complaint does not deal with his case, but the manner of unjust proceedings for all offenders.

Specifically, I will attempt to address the following Canons:

**Canon 1**

B. Integrity                      Judicial employees shall maintain and observe the highest standards of integrity, honesty, and truthfulness in their professional and personal dealings.

I had occasion to observe Judge  who appeared at the probationer's counseling sessions (approximate date  Her attire (which may have been appropriate for a night out on the town) was certainly not appropriate for the setting. As she was being admitted into the locked facility by a late arriving probationer, she was having casual conversation with him like she was his long lost friend. She also made the comment that since she was in the area, she decided to "drop in". Her appearance at the counseling sessions did not appear to be job related, and under the circumstances was totally inappropriate.

I do not know all the names of the probationers that attend the counseling sessions, but I am sure the Counselor  (or other probationers) can provide that information, as well as confirm her attendance and the specific date in question.

**Canon 3**

A. Professionalism              Judicial employees shall be patient, prompt, courteous to litigants, jurors, witnesses, lawyers, and others who come in contact with the court.

B. Impartiality                      Judicial employees shall perform their duties impartially, and shall not be influenced by kinship, social or economic status, political interests, public opinion, or fear of criticism or reprisal.

With respect to **professionalism** (A), During one of my court date observations, (may be [ ] or the one immediately preceding that date), Judge [ ] asked my son a question, "Who's your secretary?" specifically referring to me. My son had approached the Judge's bench without taking his folder of papers, so when Judge [ ] indicated he had failed to appear for one of his UA tests (TASC) he approached me for the paper (I was sitting in the jury panel area with the rest of the offenders, as the court was full that day). This comment was not only embarrassing to my son and myself, but I was totally offended by that remark, especially with a room full of people when there was no reason for the comment.

With respect to **impartiality** (B), as I have mentioned, I have witnessed the proceedings of many offenders. When Judge [ ] is doling out 'sanctions' for failing to comply with contract requirements, she appears to be very inconsistent for comparable infractions.

For instance, offenders may have a positive UA test result, but have three or four other negative test results during the contract period. In one instance the sanction may be 8 hours community service, while in another instance it may be jail time. In some instances probationers are sentenced to move halfway houses, and others not. On [ ] in at least 3 instances, 1) One probationer admitted using drugs (steroids) to his Counselor **while** in class and before test results were known. He was praised for his honesty. 2) One probationer had a 'diluted negative' UA test and 3) One probationer had one positive UA test. In these three instances, sanctions were either community service or no sanction at all.

In my son's case, he had a 'failed to test' (even though he was clean – not using drugs) and he was sentenced to 72 hours jail time. It appeared to me and probably others that he was being ridiculed while in front of the Judge. It's as if she thinks he is making excuses for everything when I know that is not the case. There is absolutely no rhyme or reason to Judge [ ] method of imposing sanctions for comparable infractions or whom she chooses to praise for being honest, even though comparable infractions exist.

I understand that you do not review cases, but in my son's case, he lost a full time job with medical and dental benefits at \$12.00 hourly simply because his Probation Officer did not like the fact that he lives with us (his parents) in [ ] and recommended his moving into a halfway house. The fact that we live [ ] placed an imposition on the PO in doing his job of 'visual contact' with the probationer. This statement cannot be proven, but there is no other logical reason for the Judge to sentence him to move into a halfway house and lose his means of support and making restitution to the community (court probation fees, counseling fees, and fine).

As an aside, I do not know whether this falls under any of the Canons; however court records are not updated enough on a regular basis for the Judge to have current information on a particular record. Whether it be information from TASC, the Probation Officer, or counseling classes, the information should be available on the court date. I can only use my son's case as an example, but there were others. There have been at least two incidences where my son's contract indicated he 'must pay delinquent fees'. My son has paid his counseling fees and court probation fees each time before appearing in court and has not been delinquent. On one occasion I observed the Judge looking for information in another offender's case (name unknown) but whatever information she was looking for was not found within the record. At times proceedings appear to be chaotic.

Canon 4

A. General activities. Judicial employees shall conduct their outside activities so as to avoid a negative effect on the court or their ability to perform duties.

See Canon 1.

In closing, I would highly recommend that the Commission place an anonymous observer in court during Judge [redacted] proceedings to gain firsthand knowledge how sanctions are meted out and probationers are treated differently.

I am not sure whether Probation Officers fall under jurisdiction of judicial employees, however maybe you can inform me who does. I would also like to file a complaint about a PO, as well as provide an opinion on the overall philosophy of the 'Drug Court' program. If the Commission would be kind enough to direct me, I will address that matter elsewhere. I do intend to write my Congressman with regards to the drug court program, as I am a firsthand witness to addict's behavior and I have specific knowledge of what can or cannot work in most cases. It appears that enormous barriers have been put in place to prevent successful program completion for addicts. The 'Drug Court' program itself leaves a lot to be desired.

As a parent, I have been fighting this drug addiction problem for some time. When my son was arrested, he had been homeless for about 8 months. He was released by the sentencing Judge to our custody. He found a job and had been working, attending his counseling classes, attending NA support group meetings, paying his court fees and counseling fees, and was doing fine (2 positive UA tests and one 'failed to test' since [redacted]). Since he was required to move into town, he subsequently lost his job and will not be able to meet payments until he can find employment again. **I am sure this will result in more sanctions being doled out by Judge [redacted]**

[redacted]

I would like to take this time to sincerely thank you in advance for your attention to this matter.

Concerned parent and citizen,

[redacted]