

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 06-116

Complainant: No. 1284600620A

Judge: No. 1284600620B

ORDER

A review of the complaint filed in this matter reveals that the issues raised are solely legal or appellate in nature and do not involve allegations of ethical misconduct.

It is clear on the face of the complaint that the complainant is seeking to overturn the judge's ruling. Because the commission is not an appellate court and cannot change a judge's decisions, the complaint is dismissed pursuant to Rule 16(a).

Dated: May 9, 2006.

FOR THE COMMISSION

/s/ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on May 9, 2006.

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

APR 27 2006

To: Commission on Judicial
Conduct

I, [redacted] Is putting
formal charges against, Judge [redacted] and his staff [redacted]
[redacted] Deputy clerk for Superior Court [redacted]

On [redacted], Judge [redacted] made
his ruling on defendant [redacted]. It was [redacted]
Due Process Rights to appeal the Judge ruling. To the Arizona Courts
of Appeal, or to Arizona Supreme Court Petition for Reviews.

On [redacted] when Mr. [redacted] filed his Notice Post
Conviction Relief, Exhibit(A), line One and two.

① Defendant's Name and prison number (if any): [redacted]
[redacted]

② Defendant's address: [redacted]
[redacted]

On [redacted] Deputy Clerk mailed the Judge ruling
to this address: [redacted]

[redacted] Exhibit(B) page One.

Exhibit(C) the Receipt from the Clerk of Courts [redacted]

[redacted] when I purchase this legal letter, that was return back to the
Superior Court [redacted] I got this legal document on [redacted]

Time 10:36 A.m. The legal letter I receive was on [redacted] at 6:55p.m.,

Exhibit(C) part-two.

Exhibit(D) [redacted] Arizona Dept of Correction Stamp

the legal letter envelope: Return To Sender Reason Checked, X Unclaimed/Not in Custody. By violating their owned Inmate Programs and Services Dept Order: 902 Inmate legal Access to the Courts, Policy 902.11 Legal Mail, section 1.7.) Using the Adult Information Management System (AIMS) and inmate records to locate any addressee of legal Correspondence who is not located at the institution that received the correspondence, and to locate any inmate who has received legal Mail that does not have an ADC number as part of the address.

section 1.7.4 Return legal correspondence to the sender only if the addressee is no longer an inmate, releasee or parolee, in which case the sender shall be advised of this fact.

I found out from my internet Provider Prisonersout on [redacted] when I got my mail. On the right hand corner it has the date it was copy on [redacted] And mail out on [redacted] Exhibit(E) part (one), (two) and (three).

I filed two Motions For Permission to filed Late Petitions for Review, to Rule 32.9(c) on [redacted] with "Amended" Motion for Permission to Filed Late Petition for Review, to Rule 32.9(c) on [redacted] Exhibit(F) part (1) and (2).

Because of the Deputy Clerk [redacted] wrote the wrong address on the legal letter, the defendant [redacted] never received it.

Because of the Judge [redacted] Deputy Clerk [redacted] made that mistake made him responsible for his Deputy Clerk [redacted] mistake of putting on the wrong address. Not the defendant, [redacted] Defendant can appeal to the next level of his appeal proceedings, under A.R.S. §13-4037(A) and(B).

A Description what defendant is Appealing

Defendant filed on [] a Notice Post-Conviction Relief for Rule 32.1(A) Public Defender Counsel with both Appellee Counsel Failure to review Docket [] Sentence of Probation and Imprisonment, Page 51 "Critical Stage" of the Sentencing Phase: Rompilla v. Beard, 125 S.Ct. 2456, 2467 (2005) (Since Counsel's failure to look at the file, fell below the line of reasonable practice, there is a further question about prejudice, that is whether "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different") citing Strickland v. Washington, 466 U.S. 668 (1984). Because of Counsel's was so prejudice that if they would of looked at the Sentence of Probation and Imprisonment file [] they would of seen that count XII was "Amended" to a lower conviction, to count XII: attempted molestation of a child, a class 3 felony on the 2nd degree, but on A.R.S. § 13-1601(C)(3) class 4 felony, if the offense attempted is a class 3 felony. But, defendant was sentence under Dangerous pursuant to A.R.S. § 13-604^{on file with 100204233} with one prior conviction the sentence should of been under 13-604(A) presumptive 4.5 years, a class 4 felony, of a dismissal of count I thru V, Counts VIII thru XVI of the plea agreement of []

Supporting factors of Ineffective assistance of Counselors

Deputy County Attorney Submitted this on [] At page (2) (B) (Sentence two) [] pled guilty in [] to one count of sexual conduct with a minor, a dangerous crime against children in the first degree, and one count of attempted molestation of a child a dangerous crime against children in the second degree. At sentencing on [] the trial court imposed the presumptive 20 year prison term in

in the first court, followed by lifetime probation in the second court, Exhibit(A), 30 Pg. 3, Page(32) Exhibit(B) First paragraph: [] filed a notice of post-conviction relief in [] and requested appointed counsel. After review of the record, appointed counsel notified the trial court that he could not raise any claims for relief. The trial court then dismissed the proceedings on [] for failure to raise any claims. Pg. 3, Page(32) Exhibit(B) Second paragraph: [] filed his second notice of post-conviction relief on [] Again he requested appointed counsel and again appointed counsel notified the the trial court that he would not be able to file a petition on [] behalf.

[] then filed his own petition claim and was deny. And filed Arizona Courts of Appeal and was deny again. When [] filed his Federal habeas Corpus, Assistance Attorney General notify the Courts that [] was sentence under [] and to see (Sentence of Probation and Imprisonment, Exhibit B.) Exhibit(C) on Line 17 of the Plea Agreement. Some time later it was change again to count VI attempted molestation of a child and count VII Sexual Contact with a minor was "Amended" to the original plea on [] that carry a lesser sentence to imprisonment.

Here the Deputy County Attorney [] with my Appeller Counsel [] and Legal Advocate [] Never review all of the defendet's ^{Exhibit(D) (One)} Sentencing and Probation and Imprisonment "Amended" to count VII attempted molestation of a child to imprisonment. [] Mempe v. Rhy, 389 U.S. 125 (Sentencing has been held to be a "Critical Stage" of a criminal proceeding requiring assistance of appointed counsel); see Stewart v. Smith, 378 Ariz. Adv. Rep. 86 (2002) (IF defense counsel's failure to raise an issue at trial, on appeal or in a previous collateral proceedings is so egregious as to result in prejudice as that term has been constitutionally defined, such failure may be raised by means of a claim of ineffective assistance of counsel).

Rule 32.1(C) allows the attack on the sentence even the petitioner does not contest the validity of the underlying conviction. On [] Defendant was sentence to count III Sexual Conduct with a minor and was given 20 years of imprisonment. Than it was "Amended" on [] to count VII attempted molestation of a child, class 3 felony, becoming a class 4 felony under Arizona law A.R.S. § 13-1001(C)(3). Judge [] should of sentence defendant under Dangerous pursuant to A.R.S. § 13-604 under (A) class 4 felony to the presumptive 4.5 years of imprisonment with one prior conviction on count III. But later ~~we~~ they do another change to the counts, like count III becoming count VI and count VI became count VII. But now the count VI attempted Molestation of a child with no priors, it change A.R.S. § 13-604(F) to class 4 felony presumptive to 6 years of imprisonment. Defendant was sentence under 13-604 on [] Exhibit(D), (One)

But the Courts never change the sentencing of 20 years of imprisonment, this violates the Arizona Constitution Art. II § 15 with 8th, 14th Amend to the U.S. Constitution that the original sentence imposed on the defendant is grossly disproportionate to the Punishment to the lesser conviction, prohibition against cruel and unusual punishment infliction on the illegal sentence.

What defendant was asking was time serv, on both counts, because of the Punishment didn't fit the crime and it overlap to the second count running concurrent at the same time, or consecutive, because of the overlap sentences.

Sincerely

[]

Date May 24, 2006