

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 06-228

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Complainant: No. 0029601628A

Judge: No. 0029601628B

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**ORDER**

The commission reviewed the complaint filed in this matter and found no evidence of ethical misconduct on the part of the judges.

The complaint is dismissed pursuant to Rules 16(a) and 23(a).

Dated: November 2, 2006.

FOR THE COMMISSION

/s/ Keith Stott  
Executive Director

Copies of this order were mailed to the complainant and the judge on November 2, 2006.

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

AUG 25 2006

August 25, 2006

CJC-06-228

Via Facsimile Only: 602-542-5201

E. Keith Stott, Jr., Executive Director  
COMMISSION ON JUDICIAL CONDUCT  
1501 West Washington, Suite 229  
Phoenix, Arizona 85007

Re: Case No. [REDACTED]

Dear Mr. Stott:

I regret that these matters could not have come to you more conveniently, but, as you know, when persons in positions of power exploit the vulnerable, fear often dictates conduct. Anyway, [REDACTED] had worked in the [REDACTED] Clerk's Office since [REDACTED]. Her mother, [REDACTED] has worked there for years; her recently-deceased grandmother, [REDACTED] worked for the [REDACTED] County Attorney's Office for many years before that and was there when I arrived in [REDACTED] in [REDACTED]. The [REDACTED] have been in [REDACTED] for many years. In [REDACTED] [REDACTED] took a position as judicial assistant for [REDACTED] and was there for only about two months when she asked to be moved because of [REDACTED] sexual advances toward her. She has decided to speak out about this, in part, because she has learned that the [REDACTED] newspaper is snooping around, but principally because it sickens her that he may remain a judge. She will bear witness in several areas that warrant your consideration.

1. THE LIE ON APPLICATION ABOUT RESIDENCY: Working closely with him and his typical practice or habit of leaving his office door open, she overheard him speak on the phone virtually every day with his wife and daughter and would often say things like "we can talk about this when I get home." She knew his home was in [REDACTED] because [A] he showed her photographs of damage to his [REDACTED] home caused by a neighbor who backed into his brick and wrought-iron fence and complained that he would not make it right; [B] he gave her his home and cell phone numbers and she put them in her cell phone (the home number was not a [REDACTED] prefix standard to all [REDACTED] phone numbers); and [C] [REDACTED] lives in [REDACTED]. To quote her: "I know from working with him that he lives on [REDACTED] and I live up there. He went home every night. When you work that close with someone, you know what's going on in their life."

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2. THE LIE ON APPLICATION ABOUT SEXUAL HARASSMENT: As explained below, [redacted] tried to exploit [redacted] sexually. Sometime after she left his charge, she saw a copy of his application to the Governor for appointment to the Superior Court bench. Question number 53 asks something to the effect (I am paraphrasing because I have not seen it and [redacted] was speaking from memory): "Has any current or former employee accused you of misconduct?" He falsely answered "no", despite the fact that [redacted] had been harassed and reported the incident to then-presiding judge [redacted] and discussed it as well with [redacted] Human Resources Director, Judge [redacted], a [redacted] Superior Court judge (who rightly told her she had to report it to Judge [redacted] or he would on his own because his judicial obligations required him to), her mother, her fiancée, [redacted] Clerk [redacted] and a councilor arranged by [redacted]

3. THE VOTER REGISTRATION OF [redacted] FALSELY GIVING A [redacted] ADDRESS DESPITE RESIDING IN [redacted] See number 1 above.

4. THE VOTER REGISTRATION OF [redacted] FALSELY CLAIMED [redacted] RESIDED IN [redacted] See number 1 above.

5. [redacted] SEXUALLY HARASSED [redacted] [redacted] first clear indication that [redacted] was out of line and "weird" was his [redacted] introduction of her during his first jury trial in front of everyone – clerk, court reporter, bailiff, visitors from the [redacted] and many prospective jurors – as "my very attractive judicial assistant, [redacted] She says she was "mortified." Despite his wanting her at his side whenever possible and other "curiosities" that, in and of themselves, were simply chalked up to his personality, she wanted to make a go of it. But then on the day Judge [redacted] resigned, he crossed the line. Because of [redacted] resignation, [redacted] many phone calls seeking support for his appointment to the [redacted] vacancy, and Judge [redacted] and his JA, [redacted] being on vacation, [redacted] was buried with work. She decided to work late. She was on the [redacted] courthouse. Judge [redacted] had gone home. [redacted] sort of hung around [redacted] told him he didn't need to stay on her account, that she was fine. She didn't want him to stay. At that time she was thinking, "I don't want you to stay, I have so much work to do." Apparently, [redacted] experience with [redacted] was that he talked about himself for long spells, and she had work to do. [redacted] then phoned a [redacted] and they spoke for about ten minutes. After walking down the hall, [redacted] returned and went back into the private bathroom in his office, where she heard him open the "medicine cabinet", gargle with mouthwash and spit it out. He came to her desk, nudged her, sat in the bailiff's chair, rolled it toward her and pulled it close to her, put his right arm behind her back on her chair and the other on her desk so she was essentially "penned-in", sat with legs spread, leaned extremely close and asked "What's on our calendar." She thought: "Oh my God!" He pressed, "Is that all we have to do?" She

thought, "This can't be happening to me", and finally pushed her chair back and walked out fast. He was so close that if she had turned her face toward him, their lips could have met. She never turned. She could feel his breath on her cheek and smell the mouthwash. The first thing she thought of was, "I need to talk to my mother" and she went directly there. Without explaining herself to her mother, she sat close and nuzzled up to her mom just like [redacted] had done to her. [redacted] perplexed, exclaimed, "What are you doing!" [redacted] replied, "Judge [redacted] just did that to me - he was trying to do something." [redacted] was stunned and could see immediately what the judge had tried with her daughter. [redacted] remark parroted what [redacted] had thought when she was accosted, "Oh My God! This is not happening." [redacted] had a rough night, but went to work. She apparently looked "a mess" and [redacted] asked, "Is everything okay?" She feared telling Judge [redacted] because he and [redacted] were close, so she went to the only judge she know well, [redacted] who was sympathetic but made his position clear that either she had to tell Judge [redacted] or he would. She went to Judge [redacted] the following Monday and explained things. Judge [redacted] remarked, among other things, "I'm so sorry, but it doesn't surprise me. I knew he was a 'ladies-man' but I thought he'd changed with marriage and a daughter...take some time off and get yourself together." And he made it clear that he had to report it. She felt she didn't have any choice. Like Judge [redacted] Judge [redacted] was obligated to take action. Judge [redacted] approached [redacted] and later told [redacted] "He didn't deny his actions, but said his intent was not to do anything. He wants you to come back." She said, "No way. I can't go back there. I won't. I can't." [redacted] was soon reassigned to *pro tems* [redacted] who were half-time. But once Judge [redacted] talked with Judge [redacted] felt his attitude toward her changed. They met in [redacted] and he now told her, "You have to tell me. What do you want to do? If I file, you'll be investigated, you'll be questioned." She was scared, and more concerned about her job than getting in a messy conflict with a judge. Her grandmother had just died. He said he would put her in [redacted] and she said "okay." But - and this was a huge shock to her - from that day on Judge [redacted] was a different person to her. What made this so hard for [redacted] to figure out was that Judge [redacted] even told her earlier that his wife was informed about this and that she was "disgusted" by it. He later informed her that "we are in a gray area" because if either [redacted] become permanent, they would be bringing their own secretaries with them. When [redacted] was appointed, she did bring her own secretary with her and [redacted] was given 30-days' notice. She was stunned. She had an [redacted]-year record with the Clerk's office, had received awards, took a promotion as a JA, was transferred through no fault of her own and now she was fired. There was an post-harassment incident too convoluted to recount here that made [redacted] think, "Is he (Judge [redacted]) going to use this to get rid of me." Three points flow from all this: (A) from Judge [redacted] remarks, it was initially clear to [redacted] that he was going to report it, (B) it was equally clear later that he was trying to dissuade her and that now it was her choice, and (C) it's clear to her that her termination was retaliation. Again, to quote [redacted] "He knew what to say to me to scare me. He saw how vulnerable I was. After Judge [redacted] had that

conversation with Judge [ ] he just flipped."

I know you met with the Commission yesterday. But I can only leave it to you as to how the Commission is to handle this. Please keep in mind that [ ] just last night gave me this information, that I am in [ ] and did not meet with her personally, but via phone, and that she did not have the opportunity to review this because of the time shortage. I point this out because I may have some minor detail wrong and I know that somebody, somewhere, will try to pick this young woman apart. I have worked with too many women who have been abused, wronged or otherwise exploited and I know how the system works - I don't mean the Commission or you personally, but the system generally - and how gender bias implicates both process and outcome. [ ] has been severely set back by this, she is frightened, angry and terrified that she will somehow be "blackballed". Please treat her with caution. I have offered to represent her, so please go through me when you need to speak with her.

Thank you very much.

Very truly yours,

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