

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 06-284

Complainant: No. 1139400083A

Judge: No. 1139400083B

ORDER

The commission reviewed the complaint filed in this matter and found no misconduct on the part of the judge. The judge did not initiate or engage in any ex parte communication with the complainant.

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

Dated: February 7, 2007.

FOR THE COMMISSION

/s/ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on February 7, 2007.

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

CJC-06-284

COMPLAINT AGAINST A JUDGE

Date:
11/15/06

Instructions: Describe in your own words what the judge did that you believe constitutes misconduct. Please provide all of the important names, dates, times and places related to your complaint. You can use this form or plain paper of the same size to explain your complaint, and you may attach additional pages. Do not write on the back of any page. You may attach copies of any documents you believe will help us understand your complaint.

On or about [redacted] the Court issued an ex parte communication to myself without notice to my attorney of record. Concurrently the court issued an order requiring me to appear for a hearing scheduled for [redacted] without giving notice to my attorney of record.

The Court in the "NOTICE" indicated that the court has received an order from the Court of appeals directing the court to scheduled the hearing in question. I was not given nor sent a copy of the "order" from the court of appeals.

The entire scope of the hearing scheduled for [redacted] was an indigency hearing for myself for the purpose of assignment of counsel by the court of appeals.

The matter was heard on [redacted] The court knowing that I was pro se during this hearing and having only scheduled and declared scheduled an indigency matter allowed the County Attorney [redacted] to introduce an oral motion to the court to have matters included on the record in and for [redacted] that took place on the prior dismissed case. I was unaware of the scope of the oral motion until I received a copy of the minute entry for the hearing date [redacted] in which the court granted the inclusion of information not related to the case.

A copy of the minute entry dated [redacted] was sent to my attorney of record ex post facto.

On [redacted] I contacted all parties to the action via email to raise an ethics concern over the actions of the County Attorney and the inappropriateness of allowing an oral motion to take place knowing the Defendant counsel was not present for the hearing. (as attached.) The Court, County Attorney, Public Defender, my Attorney of Record.

The Honorable Judge [redacted] declined to take notice or disciplinary action regarding the County Attorneys conduct and advanced that my communication to his office was in fact ex parte in nature.

The failure to act on this complaint is a violation of Canon 3 Section D (2).

The issuance of ex parte orders and / and communications to myself without notice to my attorney of record is improper and unethical.

The actions of court to grant an unscheduled oral motion favorable to the Prosecutors Office on a matter not related to the case at hand knowing that I was not represented by counsel at the hearing is a violation of Canon 1 and gives the appearance of bias by allowing the prosecutor to engage in unethical conduct in front of the bench.

CJC-06-284

State Judges, as well as federal, have the responsibility to respect and protect persons from violations of federal constitutional rights. *Gross v. State of Illinois*, 312 F 2d 257; (1963).