

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 07-036

Complainant: No. 1302710686A

Judge: No. 1302710686B

ORDER

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

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

Dated: February 20, 2007.

FOR THE COMMISSION

/s/ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on February 20, 2007.

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

CJC-07-036

COMPLAINT AGAINST A JUDGE

Your name: [] Judge's name: [] Date: 1/21/07

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.

THIS IS A COMPLAINT ABOUT THE JUDICIAL BEHAVIOR
OF [] A [] SUPERIOR COURT JUDGE,
WHICH I BELIEVE IS VIOLATIVE OF THE ARIZONA CODE OF
JUDICIAL CONDUCT INASMUCH AS JUDGE [] HAS
WILLFUL MISCONDUCT IN OFFICE AND HAS WILLFULLY AND
PERSISTENTLY FAILED TO PERFORM HIS DUTIES.

MORE SPECIFICALLY, I CONTEND THAT JUDGE []
HAS A PERSONAL BIAS OR PREJUDICE AGAINST ME AS A
CRIMINAL DEFENDANT WHO HAS INSISTED ON REPRESENTING
HIMSELF IN THE JUDGE'S COURT; AND JUDGE []
HAS SUBJECTED ME TO A PATTERN OF IMPROPER ACTIVITY,
SUCH AS REPEATEDLY AND INTENTIONALLY ABUSING HIS
DISCRETION, FAILING TO COMPLY WITH THE LAW AND EXHIBIT-
ING IMPATIENCE AND DISRESPECT IN HIS DEALINGS WITH
ME--ALL WITH A MIND TO ENCOURAGING ME TO WAIVE
MY CONSTITUTIONAL RIGHT TO SELF-REPRESENTATION.

AS EVIDENCED BY ATTACHMENT A AND THE APPEN-
DIXES A-M THERETO, JUDGE [] HAS RECONSIDERED
FOUR ISSUES PREVIOUSLY DETERMINED BY ANOTHER JUDGE
OF THE SAME COURT AND "GUARANTEED" []
ADVISORY COUNSEL, THAT I WOULD NOT BE PERMITTED
TO USE MY PREVIOUSLY-NOTICED DEFENSE OF SELECTIVE
ENFORCEMENT OF TRAFFIC LAWS AT THE TRIAL OF A DRUG
CHARGE. ALTHOUGH THE JUDGE HAS CLEARLY FAILED TO
INTERPRET AND APPLY THE LAWS THAT GOVERN US, I TAKE
UMBRAGE AT HIS BEHAVING WITH IMPROPRIETY OR AT LEAST

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(Attach additional sheets as needed)

State of Arizona
Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
Phoenix, Arizona 85007

FOR OFFICE USE ONLY

CJC-07-036

COMPLAINT AGAINST A JUDGE

Your name: Judge's name: Date: 1/24/07

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.

* CONTINUATION *

THE APPEARANCE OF IMPROPRIETY. HE CONTINUES TO BE IMPATIENT, DISCOURTEOUS AND UNPROFESSIONAL, AND HE APPEARS UNABLE TO CARRY OUT HIS JUDICIAL RESPONSIBILITIES INCLUDING REMAINING FAITHFUL TO THE LAW WHEN I APPEAR BEFORE HIM IN PRO SE.

FINALLY, I SUBMIT THAT JUDGE CONDUCT HAS IMPAIRED THE FAIRNESS OF THE CRIMINAL PROCEEDING AND IN SO DOING HE HAS UNDERMINED ANY CONFIDENCE IN THE OUTCOME OF THE PROCEEDING IN HIS COURTROOM. I WOULD APPRECIATE IT IF THIS MATTER IS INVESTIGATED AND THE APPROPRIATE ACTION TAKEN.

5. Explain your inquiry in your own words. Please provide all important dates, times, places, court file numbers, and details so that the specific nature of your inquiry can be understood. Be clear, brief, and to the point. Use additional sheets if necessary. However, PLEASE DO NOT USE THE BACK OF THIS FORM. Attach copies of any documents you feel may be helpful in understanding your inquiry.

COMPLAINT AGAINST A JUDGE 1/23/07

CONTINUED

On [redacted] Judge [redacted] was again intentionally disrespectful, and he absolutely refuses to follow even rules of procedure let alone constitutional rights when I appear before him.

I was at the final fourth session of a hearing on a motion to dismiss the indictment. [redacted] Jail [redacted] employees had executed a cell search and intercepted documents one of which had a detainees' name on it and some of which pertained to my defense strategy. [redacted] ex-counsel, testified that much of it was discussed and devised by him and me. [redacted] the detainee, testified that I had discussed with him defending my case in hypothetical terms, that he witnessed [redacted] theft of the documents, and that [redacted] claimed to have placed some documents in his property.

When I attempted to testify, Judge [redacted] advised, "You have 15 minutes to testify, 10 minutes for argument on the matter, and 10 minute to argue selective enforcement, but you can divide your time however you wish" or words closely thereto. After I began legal argument, the judge interrupted me mid-sentence and allowed the prosecutor to take most of the time giving an appraisal; and after she completed all of her legal argument, he forbid me to respond.

Given the same opportunity usually extended to counsel, I would have stated that unlike *State v. Warner* (1986) 150 Ariz. 123, 722 P.2d 291, where the seized documents were preserved by the sheriff's office and could be inspected by the court, the state would not or could not produce my legal papers irretrievably taken from my cell. This situation is controlled by *State v. Pecard* (1999) 196 Ariz. 371, 998 P.2d 459, wherein the information was within the exclusive control of county officials; and by failing to produce the materials, the state failed to rebut the presumption that Pecard's 6th Amendment rights were violated by the seizure. Also see cases cited in Pecard.

Likewise, the state foreclosed discovery and failed to rebut evidence that my defense plans and strategy was intercepted by [redacted] officials. The question should have been, "Was dismissal the appropriate remedy?" Again, Pecard is controlling authority, but Judge [redacted] will undoubtedly refuse yet again to apply clearly established law when he "decides" the matter that he has "under advisement"

"under advisement"

ADDENDUM TO PREVIOUS COMPLAINT

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5. Explain your inquiry in your own words. Please provide all important dates, times, places, court file numbers, and details so that the specific nature of your inquiry can be understood. Be clear, brief, and to the point. Use additional sheets if necessary. However, PLEASE DO NOT USE THE BACK OF THIS FORM. Attach copies of any documents you feel may be helpful in understanding your inquiry.

COMPLAINT AGAINST A JUDGE 1/23/07

CONTINUED

As set out in "4" infra, I was not given meaningful opportunity to present legal argument, and I was not given any opportunity to reply to the state's argument.

Had I been given the same opportunity normally afforded counsel, I would have invoked the court's judicial notice of the suppression hearing testimony wherein each of the four officers that testified admitted that "flags" are sometimes "attached" to a person's name or vehicle. I would also have asked that sanctions be applied because the State has suppressed this information and the requested information about the location of the computers from which [redacted] Police Department [redacted] officers ran my name (29 times), my girlfriend's name (29 times) and my SUV (43 times) from [redacted] to [redacted] (date of arrest).

Without this information, I had no way to establish that [redacted] officers did traffic stops on my vehicle or how many times they did so. I also had no means of establishing that officers' conducted these stops to look for evidence of crime because they had information, which formed the subjects of these "flags", that the SUV was involved in drug activity.

I did an interview of [redacted] on [redacted] to try to access this information but to no avail. I then filed a motion to compel discovery of the information which the judge denied. Finally, [redacted] testified on [redacted] that she sent the county attorney ATTACHMENT B, a memo regarding the terminal identifiers and the county attorney "sat on" this information as well.

Judge [redacted] also will make a "decision" on this matter that he has "under advisement".

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ADDENDUM TO PREVIOUS COMPLAINT

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4201 N. 24th Street, Suite 200 • Phoenix, AZ 85016-6288

PHONE: 602-252-4804 • FAX: 602-271-4930 • PUBLIC: www.azbst.org • MEMBERS: www.mylaw.com