

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 07-179

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Complainant: No. 1313910700A

Judge: No. 1313910700B

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**ORDER**

The commission reviewed the complaint filed in this matter and found no ethical misconduct on the part of the judge. The issue raised involves legal and procedural matters outside the jurisdiction of the commission. Therefore, the complaint is dismissed pursuant to Rules 16(a) and 23(a).

Dated: August 22, 2007.

FOR THE COMMISSION

/s/ Keith Stott  
Executive Director

Copies of this order were mailed to the complainant and the judge on August 22, 2007.

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

JUNE 30, 2007

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

JUL 06 2007

CJC-07-179

Gentlemen:

The purpose of this letter and accompanying information is to register a complaint against a Judge who I believe has engaged in conduct prejudicial to the efficient and expeditious administration of the business of the courts. That Judge is Judge Pro Tem [redacted] of the Superior Court of Maricopa County. Her oath of office stated that she would administer justice without respect to persons, and would do equal right to the poor and to the rich, and that she would faithfully and impartially discharge and perform all the duties incumbent upon her under the Constitution and laws of the United States and the State of Arizona. She took her oath of office to ensure that all of the laws, all of the rules, and all of the procedures are applied fairly, consistently and equally to all. No state shall deny to any person within its jurisdiction the equal protection of the laws. Justice must appear fair and there must be an assumption of honesty and integrity in those serving as adjudicators. A judge must avoid the appearance of impropriety and conduct themselves in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Judge [redacted] was aware that I had a totally fractured

relationship with my Public Defender, caused by his complete dereliction of his duties and obligations as a defense counsel. There existed a complete breakdown in communications and a conflict that was totally irreconcilable. Judge [redacted] was aware of this conflict thru my voicing of my complaints, my motions to change counsel and even my motion to terminate counsel. When there is a complete breakdown in communications or an irreconcilable conflict between a defendant and his appointed counsel, that defendant's Sixth Amendment right to counsel has been violated. Moody, 192 Aniz. at 507 n 11, 968 P. 2d at 580 (citing State v Bible, 176 Aniz, 549, 591, 858 P. 2d 1152, 1194 (1993)). Accordingly this court has held that if a defendant is forced to go to trial with counsel with whom he has an irreconcilable conflict or a complete breakdown in communication, a resulting conviction must be reversed. See id. at 509 n 23, 968 P. 2d at 582 (holding that a trial court's erroneous denial of a request to change counsel deprives a defendant of his Sixth Amendment right to counsel, which "infuses" the entire trial process," requiring automatic reversal. Bland v Cal. Dep't of Corr., 20 F. 3d 1469, 1478 (9<sup>th</sup> Cir. 1994)).

Judge [redacted] dismissed my complaints as "I don't see it" without any required hearings on the matter and without actually reading my motion in it's entirety. It is wrong and highly abusive for a judge to exercise his power without the normal procedures and trappings of the

Adversary system - A motion, an opportunity for the other side to respond, a statement of the reasons for the decision, and reliance on legal authority. These niceties of orderly procedure are not designed merely to ensure fairness to the litigants and a correct application of the law, though they surely serve those purposes as well. More fundamentally, they lend legitimacy to the judicial process by ensuring that judicial action is - and is seen to be - based on law, not the judge's caprice. Kozinski, In re Complaint of Judicial Misconduct, 425 F.3d 1179 (9<sup>th</sup> Cir 2005).

My appointed Public Defender stated in Court 3 days before trial, that he was not ready, yet Judge [ ] forced the trial anyway. Judge [ ] allowed a prosecution witness to remain in the courtroom throughout trial despite invocation of the rule prohibiting such actions. Judge [ ] disallowed evidence refuting Prosecution witness testimony, allowed Prosecution to post booking photographs of defendant in front of the bailiff swearing in podium, and allowed pre-miranda statements to be presented to the jury. Judge [ ] gave jury instructions that were not only unclear, they were in error. Her instructions to the jury were "You must obey the law as I give it to you." This is a false instruction. According to the Eighth Circuit Court of Appeals, all jury instructions in criminal cases are merely helpful suggestions. United States v Norton, 846 F.2d 521 (8<sup>th</sup> Cir 1988).

The actions of Judge Pro Tem [redacted] violated my 5<sup>TH</sup> Amendment right to due process which ensures notice and an opportunity to be heard, as well as my 6<sup>TH</sup> Amendment right to counsel which infected the entire trial process. I believe the actions of Judge [redacted] show that she was prejudicial and definitely not impartial. Maybe she wanted whatever notoriety comes with presiding over the first trial in a new facility, or maybe she had other reasons for her actions.

Now my case sits with Commissioner [redacted] to straighten out. Commissioner [redacted] appears to be new to the criminal bench and may be unsure of how to proceed. I would appreciate any guidance you can give to Commissioner [redacted] in correcting the prior judicial errors as well as appreciate your investigation of my complaint against Judge Pro Tem [redacted]

