

August 28, 2007

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CJC-07-235

Keith Stott
Executive Director
Judicial Conduct Commission
Arizona Supreme Court
1501 W. Jefferson Street
Phoenix, AZ 85007-3209

Dear Mr. Stott:

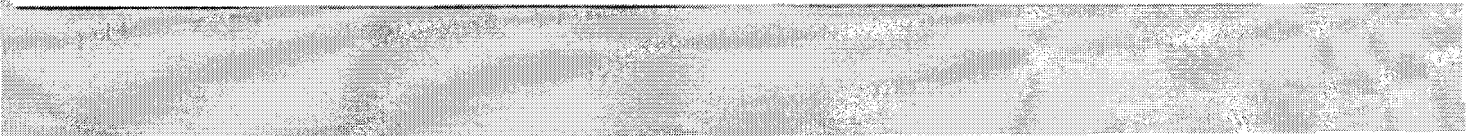
This letter is being sent to the Judicial Conduct Committee on behalf of [redacted]. It pertains to alleged misconduct on the part of a Justice of the Peace in [redacted]. The following information involves these allegations:

It has been brought to the attention of [redacted] that there may have been conduct on the part of the [redacted] Justice of the Peace [redacted] that, if correct, may be a violation of the Judicial Canons and a violation of the 14th Amendment to the U.S. Constitution.

There apparently was concern on the part of Judge [redacted] and others that [redacted] Constable [redacted] was not adequately performing his duties in that he had allegedly failed to perform service and to make returns on process sent to him to be served.

Judge [redacted] told [redacted] County Constable Administrator [redacted] that he was going to throw Constable [redacted] in jail for contempt of court for a period of 100 days so that [redacted] would have to be removed from his elected office and he further stated that Constable [redacted] office was entered and searched by court clerks. This search also included accessing Constable [redacted] office computer. [redacted] can be reached at [redacted] for complete details of this conversation.

Judge [redacted] told [redacted] Constable [redacted] of the [redacted] Justice Precinct that he was going to put Constable [redacted] in jail for contempt. The Chief Clerk of the [redacted] allegedly told Constable [redacted] they were going to get permission from a Judge to conduct a search of Constable [redacted] office. Constable [redacted] can be reached at [redacted] or at his office at [redacted]



Additionally, as related to the writers, Judge [redacted] instructed clerks to obtain a key and to conduct a search of the locked office of Constable [redacted] on a Sunday when the court was closed. Further, Judge [redacted] allegedly admitted these actions in a conversation with [redacted] She can be reached for further information at [redacted]

This memo in no way intends to minimize any alleged misconduct or failure to perform duties by Constable [redacted] If there is a problem with his work performance, the proper avenue to address this issue is through the Constable Ethics Committee that was created by the Legislature to deal with just such issues.

For a Justice of the Peace to state to individuals that he intended to throw a Constable in jail for contempt is improper conduct on his part. Further, it is submitted that a Justice of the Peace has no authority to jail a Constable for contempt. A.R.S. 22-131 specifically reserves to power of contempt over Constables to the Presiding Judge of the Superior Court, not to Justices of the Peace.

For a Justice of the Peace to accuse a Constable of not doing his mandated job would be accusing him/her of nonfeasance in public office. Nonfeasance in public office is a criminal violation under A.R.S. 38-443. For any search involving a criminal matter, there must be probable cause and a search warrant must be issued prior to conducting any search for evidence. The locked office of an elected Constable certainly deserves such protection and the search of such office may, in fact, be a crime on its own. A representative of the Judicial branch has no authority absent a search warrant to order the search of an office of a member of the Executive branch. If the situation were reversed and a Constable believed a Justice of the Peace was not properly conducting his/her business, there would be no justification for a Constable to enter a locked office of the Justice of the Peace to seek proof of misconduct. Such action as has allegedly occurred in this matter, in the opinion of the writers, is simply inexcusable. It is possible that any such conduct by Judge [redacted] may have violated the Arizona Code of Judicial Conduct Canons 1, 2 & 3.

This matter was originally being forwarded to the [redacted] [redacted] for review, however it was subsequently learned that [redacted] In view of that information, the matter is being referred to your office for investigation.

Thank you in advance for any action you can take in this matter, which the Constables in [redacted] County consider to be a serious breach of authority on the part of Judge [redacted] if these events occurred as they are being related to us.

Sincerely yours,

[redacted signature box]