

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 07-265

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Complainant: No. 1039810715A

Judge: No. 1039810715B

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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. Accordingly, the complaint is dismissed pursuant to Rules 16(a).

Dated: November 13, 2007.

FOR THE COMMISSION

/s/ Keith Stott  
Executive Director

Copies of this order were mailed to the complainant and the judge on November 13, 2007.

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

## COMPLAINT AGAINST A JUDGE:

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[REDACTED], Judge Pro Tem Date: October 10, 2007

Describe what you believe constitutes misconduct, etc.:

[REDACTED] was appointed as Judge Pro Tem. He has persisted in ex parte communications with my former counsel, [REDACTED]

[REDACTED]

My primary care physician is a board certified psychiatrist, as noted by [REDACTED] on the record during a telephonic pretrial conference. Two days prior to that telephonic pretrial conference, [REDACTED] ignored the letter/affidavit of my doctor which advised him that I was under doctors orders not to participate for 90 days and conducted an evidentiary hearing in my absence, after having refused a Motion to Continue for filing which was both faxed and hand-delivered to the Court as well as being faxed to the city attorney. Despite having the letter/affidavit of a board certified psychiatrist, [REDACTED] failed and refused to consult with the doctor and, instead, proceeded to, at the Court's expense, order a Rule 11 exam with a doctor friend of his in [REDACTED]. It has and continues to be obvious that competency was not an issue. [REDACTED] ordered the competency exam and abused his power as a Judge Pro Tem in the process. He ordered the competency exam to harass and further diminish my capacity to participate effectively in court proceedings. He proceeded to order the jury summons be sent out and that the case proceed as if it is going to trial, even though the Rule 11 exam, reports and potential hearings had not taken place and would not be able to take place in so little time. Therefore, the city attorney said she could not discuss the case with me until a determination was made as to competency. On

[REDACTED], I was car-jacked and am fortunate to be alive. My files and law books, along with valuable personal belongings were in the trunk. While the car has been recovered, it has not yet been determined if the items in the trunk are still there. I flew home to accommodate the court-ordered competency exam, at which exam, the doctor questioned the reasoning of [REDACTED]. He confided that, while he is acquainted with him, he could see no reason why there would be a question as to competency. It appeared that [REDACTED] was using the psychologist in an attempt to justify proceeding to preside over a jury trial so he can put a feather in his cap. If [REDACTED] questions the findings of a board certified psychiatrist and fails to consult with that doctor, he is not acting in good faith and is wasting government resources. [REDACTED] appointed advisory counsel at the same time as ordering the Rule 11 exam. Advisory counsel was unavailable and out of the country until yesterday. He called the city attorney who refused to stipulate to a continuance under any circumstances. The jury trial is scheduled to last two (2) days, but when Advisory Counsel said he was not free on the second day, [REDACTED] and the city attorney assured him (during an ex parte telephone conference) that the trial would be over the first day. Should I attempt to represent myself at the jury trial, I will be doing so against medical advice. I cannot obey doctors orders and comply with conflicting court orders at the same time. [REDACTED] has threatened me with more humiliation and trauma if I do not

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comply with his unreasonable orders. He ordered me to a competency exam when he knows I have a serious medical condition but am competent, just in need of 90 days to stabilize my condition according to a medical doctor who is my primary care physician. The psychologist [redacted] did not appear to consider the order to have him examine me to be reasonable and he appeared to be concerned that [redacted] was using the order to serve his own secret agenda (since no other explanation appears to exist). He said, "well obviously you are not psychotic and obviously you are competent so I don't know what he wants." I suggested he was being asked to agree or disagree with the findings of my doctor, a board certified psychiatrist. He indicated that he would not be consulting with my doctor at all. He also indicated that he would have to talk to [redacted] to find out what he wants. He was apparently feeling cautious and curious at the same time. [redacted] told me he didn't know what his report would say since he wanted clarify whether he was just confirming that I am not crazy or psychotic. [redacted] then began instructing staff to contact me for a fax number so that they could fax documents to me on [redacted]. This is after they have refused to acknowledge fax transmissions from me. I called several times and asked for [redacted] who had placed the call. I asked if anyone else could help me and was told "no". Each time I called when I was at a fax machine and ready to receive: [redacted] was in a meeting, then at lunch and then, when I did talk to her, she explained that she was waiting for some instructions from the judge before she initiated the fax transmission. She promised to call me back, but never did. I learned that she faxed several documents to advisory counsel after he had left for the day and his secretary was still there. I called again today to receive the fax transmission and [redacted] was out having a cup of coffee and another time the voicemail for the court picked up (announcing a jury trial on the telephone answering machine). I asked and was told no one else could assist. Although originally waiving any conflict because of my acquaintance with [redacted] I have found him to be rude, arrogant, indifferent, unreasonable, self-serving, self-promoting, unethical (especially because he persists in ex parte communications and bad faith attempts to include me) (and especially due to his failure to hold my former attorney in contempt for failing/refusing to comply with the order to release my file and police tapes and transcripts). I have faxed a motion to continue the trial, which was prepared with the assistance of advisory counsel. Advisory counsel had hoped the motion would have been filed this morning, but my medical condition did not permit me to deliver it for fax transmission until the afternoon. I received a call from Advisory Counsel today, but when I tried to call back, the phone was busy all morning. The Court may have been conducted an ex parte telephonic status conference at that time, but no notice or sincere attempt was made to include me in any conference call today. Advisory counsel had his own issues for continuing the trial. He was told not to change his calendar. He assured me he is not going to file a Motion to Withdraw (although he knows the Judge would prefer to see me unrepresented and ill-advised) and said he was sorry that the Judge is insisting that the trial go forward because, Advisory Counsel has said he needs more time to review the file and consult with me, which he has not been able to do because he was out of the country until yesterday. [redacted] told me during the telephonic pretrial conference when he appointed Advisory Counsel that, short of being in a hospital

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bed, I had better be ready to represent myself at a jury trial on [REDACTED] On [REDACTED] I received some devastating medical information and have been seeing various doctors under the primary care of my doctor, [REDACTED] In addition, the trauma of a car-jacking has obviously set me back. The charge I am facing is a misdemeanor. I am innocent and hired a former prosecutor who told me that he is familiar with how the police lie and assured me I had a good case. I reported [REDACTED] to the State Bar for ethical violations and fee arbitration after he took almost \$8,000 and was demanding that much again (with nothing to show for it). [REDACTED] so blindly wants to play judge that he is losing all objectivity. Since he has shown himself to be partial to the city attorney and my former attorneys, he cannot be impartial in matters concerning me or anyone for that matter. He scheduled a Rule 11 exam not to get at the truth but to abuse the judicial system to suit his own agenda. He pompously told all parties that no one in [REDACTED] had ever encountered this type of Rule 11 exam, but that he had plenty of experience with it from his work as an attorney in [REDACTED].

I reserve the right to amend this complaint with details that are difficult for me to provide right now.