

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 08-025

Complainant: No. 1295510728A

Judge: No. 1295510728B

ORDER

The commission reviewed the complaint filed in this matter and found no misconduct on the part of the judge. The judge disclosed the ex parte contact and all parties waived their rights to challenge the judge.

Because the contents of the complaint do not support the claims, the complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: June 30, 2008.

FOR THE COMMISSION

\s\ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on June 30, 2008.

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

January 23, 2008

JAN 30 2008

I respectfully present the following issues to you for consideration. My name is [redacted]
I am a Veteran of the U.S. Army and Army Reserves
where I served this wonderful country as both a commissioned officer and an
enlisted man. I graduated from the University of [redacted] with a degree in
Nursing and passed the State Board examination, becoming a registered nurse
in [redacted].

I had not ever been suspected or charged with a crime. [redacted] at
the twilight of my marriage, my wife accused me of sexually assaulting her.
The case was heard in [redacted] I was found
guilty of sexually assaulting my wife and soliciting my cousin to eliminate her.
I was acquitted of administering narcotics and attempted murder.

The issue I now present does not arise from the criminal proceedings; it stems
from the divorce proceedings of [redacted]
there was a pre trial settlement conference presided over by [redacted], Judge
Pro Tempore; the case was under the jurisdiction of [redacted]
court. I had no objection to the hearing being conducted by [redacted] at
that time. During the hearing [redacted] informed the parties that he had
worked with opposing counsel, [redacted] on several occasions. After the
hearing, [redacted] and the Intervener Grandparent, [redacted] were

waiting for the elevators at the courthouse. Judge _____ stated to _____ that he did not understand why “ _____ ’s (myself) parental rights were not yet stripped from him”. _____ then approached the same area and both men moved to sit at a bench at the end of the hall, where they remained even after the elevators arrived and conversed with _____ about termination of _____ parental rights along with another attorney to assist with this process. During the re-hearing on _____, in front of all parties, admitted to having ex-parte communications with both _____ Additionally, _____ acknowledged and confirmed that the substance of the ex-parte communications was terminated my parental rights. _____ then offered to recuse himself. I refused the recusal, hoping the two other parties would still be able to arrive at settlement.

The offer for recusal came after I cited the Arizona Rules of Supreme Court Code of Judicial Conduct, Canon No. 3 (B)(7)(a)(ii). _____ also confirmed that he and _____ discussed termination of parental rights.

The motion to terminate parental rights was generated through ex-parte communication between judge and opposing counsel, in violation of Supreme Court Rules 42 and 81 and the Due Process and Equal Protection Clauses of the 14th Amendment for purpose of denying the right to participation, in violation of the 9th and 14th Amendments.

_____ conduct was in his individual capacity, thus denying him immunity. Huszar v. Zelany, 269 F.Supp. 2d98 (2003). See also Pierson v. Ray, 386 US 547, 19 LEd2d 288, 87 SCt. 1213, Schever v. Rhodes, 416 US 233, 237-38, 40 LEd2d 90, 94 SCt. 1683, 1686-87; and/or it was in violation of the Code of Judicial Conduct.

Throughout the criminal proceeding against me the Judiciary has upheld the standards provided for by the Code of Judicial Conduct. The trial judge, _____ made decisions that counsel and I disagreed with, a primary note – disallowing spousal defense, however, at all times conducted himself as the professional that he is and followed legal procedure. The “cigar lounge” conversations of _____ are exactly what the Legislature must have intended to prevent in codifying Canon 3 (B)(7)(a)(i)(ii). I am respectfully requesting review of this conduct and disciplinary action against _____. Additionally, if the termination proceedings continue, I absolutely will secure private Federal counsel and litigate this issue to its fullest extent.