

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

FOR OFFICE USE ONLY
CJC - 08 - 089

COMPLAINT AGAINST A JUDGE

Date: April 3, 2008

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. *(Attach additional sheets as needed)*

(defendant) has been adjudicated totally and permanently disabled in accordance with **ARS 15-761 (36):** "Traumatic brain injury" means an acquired injury to the brain that is caused by an **external physical force** and that results in total or partial functional disability or **psychosocial impairment**, or both, that adversely affects educational performance. The term applies to open or closed **head injuries resulting in mild, moderate or severe impairments in one or more areas, including cognition, language, memory, attention, reasoning, abstract thinking, judgment, problem solving, sensory, perceptual and motor abilities, psychosocial behavior, physical functions, information processing and speech.** The term does not include brain injuries that are congenital or degenerative or brain injuries induced by birth trauma."

Municipal Court Judge _____ demeaned the validity of the defendants brain injury and may not have properly considered medical evidence supporting the defendants permanent disability due to a traumatic brain injury. The diagnoses of two medical doctors explaining the defendants medical condition was submitted as evidence by the defendant. This medical evidence may not have received proper consideration by the Municipal Court. _____ also informed Assistant City Prosecutor, _____ of the defendants disability before trial.

The Municipal Court Judge did express an opinion regarding the defendants medical condition based on email banter between the defendant and an intimate friend who is a medical doctor and the defendants previous wife who had provided medical advice to the defendant.

The email statement made by the defendant suggested the defendant considered the said disability as a "joke." The Municipal Court Judge thereby, refused the defendant a trial with legal representation as an accommodation to the defendants disability as required by the Americans with Disabilities Act and violated the defendants civil rights. Thereby, indicating a possible prejudice and/or discrimination even though the defendant testified under oath the "joke" statement was made when the defendant was in denial of the brain injury disability. The medical literature explains certain aspects of a brain injury are seriously debilitating. Denial is a major thread in the fabric of adult traumatic brain injury. Denial is an unrealistic hope that a problem is not really happening and will go away by itself. In its many forms, denial acts like a pain reliever

The defendant requested a court appointed attorney and the Court Clerk informed the defendant that he was not entitled to a court appointed attorney. At trial the defendant testified being unfamiliar with the Courts rules of procedure due to the aforementioned disability. The confusion the defendant experienced at trial was testified to by the defendant at trial.

The defendant affirms and or swears as a qualified individual with a "physical or mental impairment that substantially limits one or more major life activities" to suffer from the above highlighted symptoms indicating the defendants competency and/or ability to fully

comprehend legal action without legal council is a violation of law as described in the Americans Disability Act Technical Assistance Manual Title II - 4.3200.

Title II of the ADA pertains to all public entities, which the Act defines as:

Any State or local government; Any department, agency, special purpose district, or other instrumentality of a State or States or local government; and The National Railroad Passenger Corporation, and any commuter authority (as defined in section 103(8) of the Rail Passenger Service Act).

Title II imposes almost identical requirements upon public entities as Section 504 of the Rehabilitation Act imposes on entities receiving federal financial assistance. That is, public entities cannot discriminate against "qualified individuals" in their administration of services, programs, benefits, privileges, or opportunities. If a person is a "qualified individual" then the public entity must make reasonable accommodations or provide auxiliary aids in order to make its programs or activities accessible.

From the Handbook for Georgia Court Officials on Courtroom Accessibility for Individuals with Disabilities: Cognition refers to "understanding," the ability to comprehend what you see and hear and the ability to infer information from social cues and "body language." People with these impairments may have trouble learning new things, making generalizations from one situation to another and expressing themselves through spoken or written language. Cognitive limitations of varying degrees can often be found in people who have been classified in school as learning disabled, mentally retarded, autistic or who have been diagnosed as having a head injury or Down Syndrome.

CJC - 08 - 089

Remarks made by the Municipal Court Judge indicated this same Judge is unfamiliar with the sequelae associated with brain trauma. Municipal Court Judge refused the disabled defendants request for a court appointed attorney.