

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 08-234

Complainant: No. 1344510593A

Judge: No. 1344510593B

ORDER

The commission reviewed the complaint filed in this matter and found no ethical misconduct on the part of the judge; therefore, the complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: October 21, 2008.

FOR THE COMMISSION

\s\ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on October 21, 2008.

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

CONFIDENTIAL

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

FOR OFFICE USE ONLY

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COMPLAINT AGAINST A JUDGE

Date: 09-11-08

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.

my case, was scheduled for sentencing in front of me. On that day, I had a new lawyer present, who was to replace my court appointed counsel. As I had decided to take my case to trial, I was present to provide the court notice of my desire for a change of plea. At this time, Commissioner did wrongfully deny my counsel's request for a change of plea and continuance so that he could collect the necessary information needed to defend me. Due to this act, I was left with no choice but to accept a plea I did not want to accept. I did at that time, and now still have substantial proof to support my innocence in this alleged crime, and as such, I have filed petition for Post Conviction Relief as it is still my desire to take this case to trial. I have hired lawyer in order to seek the requested relief. Since was hired, Commissioner has repeatedly ignored several motions that she has presented to the court and also has denied oral argument requests for several of said motions. As my lawyer, Commissioner has worked quite diligently in my behalf despite the setbacks caused by Commissioner's wrongful acts. She has filed all the required paperwork for my petition in a timely manner and has brought this case to the point where the rules state that I am to be allowed an evidentiary hearing where I can be present and subpoena witnesses in my behalf. In clear violation of Rule 32.6, the court held a hearing for Oral Argument without identifying the issues remaining that were procedurally precluded. If no such issues remained, the court was to dismiss the petition. The court did not dismiss the petition, and presumably in doing so the court had decided that there were claims that presented a material of fact or law as per Rule 32.6. The court has failed to inform myself

(Attach additional sheets as needed.)

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and my counsel as to which claims if any were precluded, and which claims if any, did present material issue of fact or law. Additionally, the court did not grant me the evidentiary hearing which I am entitled to under Rule 32.8. Instead the court decided to hold a hearing for oral argument which the Arizona Rules of Criminal Procedure do not even provide for. As this oral argument does not allow the same rights and due process that an evidentiary hearing does, I was subsequently denied my right to subpoena several witnesses who will support one or more of my claims. My lawyer has filed motion for rehearing and I am fully prepared to take my case to the Court of Appeals. I do believe that Commissioner [redacted] behavior is completely inappropriate and shows blatant negligence. He has very clearly violated several rules of the Arizona Rules of Criminal Procedure. I do feel that he should be recused from further involvement in my case, that he should be reprimanded, and that he should face potential removal from his appointed position as a court commissioner. Furthermore, it is my full intention to file civil claims against Commissioner [redacted] seeking financial relief due to his blatant acts of negligence.