

October 14, 2008

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

Dear Sir or Madam:

The purpose of this correspondence is to inform this Commission of the serious concerns I have regarding some of the actions and behavior I have personally observed exhibited by the Honorable _____ on two separate occasions. In my opinion, his observed actions did not comport with Judicial Canons 1 and 3 relating to courtesy, integrity and the impartiality of the judiciary. Moreover, the disdain and contempt for individuals appearing before him in criminal matters is open and obvious to anyone who appears before him, and also to those seated in the courtroom. I have detailed below the two instances I observed that I believe warrant investigation into Judge _____ fitness for the bench.

A.

I was seated in Judge _____ courtroom waiting for my client's case to be called. Judge _____ was handling a matter with a defendant at the bench when he interrupted the proceeding to call _____'s case. _____ walked into the courtroom from the hallway and Judge Pearce immediately began to berate _____ stating that he had learned that _____ was giving his staff a hard time. _____ stated that he had requested that he be appointed a public defender. Judge _____ immediately stated, "If I appoint you a public defender, I am going to sentence you to jail, and I am also going to impose attorney costs in the amount of \$4,000.00." It appeared that Judge _____ was attempting to intimidate _____ into withdrawing his request for an attorney with the threat of jail, and substantial attorney's costs. _____ attempted to state his

financial circumstances, but Judge [redacted] would not allow [redacted] to speak by cutting him off and talking over him.

It later became apparent that [redacted] did not qualify for a court appointed attorney, as he was only charged with violating an Order of Protection and the State was not seeking jail time. I want to be clear in that Judge [redacted] did not inform [redacted] that he must be facing jail time, among other qualifiers, in order to qualify for a court appointed attorney when he told [redacted] that he would sentence him to jail and impose \$4,000.00 in attorney costs if he appointed him an attorney. At the time, the courtroom had approximately fifteen to twenty observers and defendants waiting for their cases to be called. I later learned that Judge [redacted] did not make a record of [redacted] appearance, nor that of a number of other defendants that appeared before him that morning.

B.

I was seated in Judge [redacted] courtroom waiting for my client's case to be called when [redacted] was called to the bench for what appeared to be an Arraignment. Judge [redacted] asked [redacted] to identify himself, and asked how he pled to the charge of minor in possession of alcohol. [redacted] informed Judge [redacted] that he would like to plead not guilty, and further stated the State did not have his social security number and had no proof that he was the person who committed the offense. Instead of simply accepting the not guilty plea, Judge [redacted] stated to [redacted] that "we'd be happy to get a handwriting analysis from you and have your fingerprints taken to prove the case." Judge [redacted] went on to state "this case is going to take a lot of time," which clearly implied to [redacted] that he should plead guilty. Judge [redacted] again asked [redacted] how he pled to the charges, and [redacted] again stated not guilty. Judge [redacted] then ordered that [redacted] have his fingerprints taken, and took [redacted] thumbprint at the bench before dismissing him.

It is difficult to convey to this Commission the manner in which Judge [redacted] spoke to [redacted] but I am confident in stating that anyone present for the proceeding would have felt that Judge [redacted] was attempting to intimidate [redacted] into pleading guilty to the offense. The difficulty in conveying Judge [redacted] tone, inflection and bullying manner is again compounded by the fact that Judge [redacted] did not make a record of [redacted] appearance, nor that of a number of other defendants that appeared before him that morning. It appeared to me that Judge [redacted] was in sole control of the audio equipment and thus controlled which matters are made a matter of record and which are not.

Moreover, in my opinion, Judge [redacted] statement regarding how the case would be proven against [redacted] took Judge [redacted] from his role as an impartial finder of fact to that of a prosecutor informing a defendant how he would be proven guilty. At a minimum Judge Pearce was giving Mr. Chamberlain legal advice, which again would take Judge Pearce from his role as an impartial finder of fact to that of a legal counsel.

Also present in the courtroom on both dates were my client _____ and his
mother _____ They are both willing to speak with this Commission and may be
contacted _____

If you need any additional information or have any questions, please do not hesitate to
contact me.