

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 09-007

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Complainant: No. 1353500112A

Judge: No. 1353500112B

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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. A judge's decision to grant or deny a continuance is a legal or procedural determination that falls outside the commission's jurisdiction.

The commission is not an appellate court and cannot change a judge's decisions; therefore, the complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: February 9, 2009.

FOR THE COMMISSION

\s\ Keith Stott  
Executive Director

Copies of this order were mailed to the complainant and the judge on February 9, 2009.

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

JAN 09 2009

January 6, 2009

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

RE:

Dear Commission on Judicial Conduct:

Thank-you in advance for your time on this Matter. My name is  
I am a Pro-Per defendant in the aforementioned  
case. Please be informed that I am filing the following Complaint  
and request the investigation involving the following:

Defendant has filed Numerous Motions during the Course  
of the Court Proceedings. The Court has designated  
honorable Judge \_\_\_\_\_ as to Judge Matters Per-  
taining to the defendant's case.

On December 23, 2008, the Court acknowledges the receipt  
of 11 different Motions submitted by the defendant. These

Motions had actually been Presented to the Court On the Afternoon of December 19, 2008 .. The Court's Schedule for the remainder of that Friday and the following Monday did Not allow it to address those Motions Until Tuesday, December 23, 2008.

The Defendant filed a Motion to request Assistance of a Legal Advisor. The Court on December 11, 2008, allowed the Defendant to waive his right to be represented by Counsel but appointed the Public Defender's Office as Advisory Counsel (Attorney ).

On December 15, 2008, the Defendant filed a Motion to dismiss Public Defender's Office (Attorney ). The Defendant is unwilling to accept the Public defender, as his legal Advisor, because as the defendant's Original Attorney would not properly represent him due to problems he, the Attorney, has had with the defendant advising to Pursue a Matter on behalf of the defendant. Certain Contentions would then be revealed and found to be plausible and Corroborate the defendant's Cause. The Attorney was unable or Unwilling to work with his defendant although has documented his Version of their Conflicts.

On December 31, 2008, The Defendant received Notice through Court Order Granting the defendant's Motion for Private Investigator, with regards to the December 23,

2008 Motion hearing, thus setting a hearing on a remaining 5 motions on January 6, 2009. These motions had actually been presented to the court at the hearing which took place in the afternoon of December 19, 2008.

During the course of January 6, 2009, hearing, Defendant was advised by Judge [redacted] that his trial date is set to commence on January 14, 2009. The Defendant submitted a motion requesting a 45 day continuence, arguing the fact that he, the defendant, had just received notice on December 31, 2008, that the court granted his motion for private investigator and that he, the defendant, had not yet met with his private investigator. The defendant also raised the issue, that he has not been given ample time to prepare for his defense, nor has the court appointed the defendant legal advisory asserting to the immediate need of the 45 day continuence. Judge [redacted] denied the defendant motion for continuence, adding, quote "That if the defendant is not prepared for trial at time trial, I will drag attorney in here to represent you." Unquote.

It seems that, just as an attorney is not permitted to represent a client raising that attorney's ineffective assistance in Rule 32 proceedings, the attorney ought not to be permitted to represent the defendant as legal advisory in court proceedings where the defendant, rather than the

State or a third party, has raised the issue, and there appear to be grounds for concern.

It also seems that, just as the motions that had been submitted by the defendant on December 19, 2008, the court's schedule for the remainder of that Friday and following Monday did not allow it to address those motions until Tuesday, December 23, 2008. The defendant ought to be permitted a continuance to appoint his investigator to pursue matters on behalf of the defendant's endeavor, and the defendant ought to be permitted ample time to prepare for his defense.

I am convinced that Judge \_\_\_\_\_ has breached the Code of Judicial Conduct pursuant to canons and or broad, general principles:

1. A Judge shall uphold the integrity and independence of the Judiciary.
2. A Judge shall avoid impropriety and the appearance of impropriety in all of the Judge's activities.
3. A Judge shall perform the duties of Judicial Office impartially and diligently.
4. A Judge shall so conduct extra-judicial activities as to minimize the risk of conflict with judicial obligations.
5. A Judge or Judicial Candidate shall refrain from inappropriate political activity.

Please do not hesitate to inform me you have any questions or concerns.

Sincerely,

cc: Commission On Judicial Conduct

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