

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 09-181

Complainant: No. 1367200307A

Judge: No. 1367200307B

ORDER

The commission reviewed the complaint filed in this matter and found no evidence of ethical misconduct on the part of the judge. The allegations raised involve legal issues outside the jurisdiction of the commission, therefore, the complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: November 23, 2009.

FOR THE COMMISSION

\s\ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on November 23, 2009.

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

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

FOR OFFICE USE ONLY

CJC 09-181

COMPLAINT AGAINST A JUDGE

Your name: _____ Judge's name: _____ Date: 07/08/09

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.

On December 5th, 2008 I was sentenced to a term of 6.5 years in the Department of Corrections (in violation of my Constitutional Rights) On said day, I filed a Notice of Appeal and a Motion to Vacate Judgement(pursuant to ARCP Rule 24.2). As of January 29th, 2009 I had not received any response on my Motion to Vacate from the Prosecuting Attorneys office nor had I received any response from the Court. (see Exhibit "A" attached) On January 29th, 2009 I submitted an Amended Motion to Vacate. (see Exhibit "B" attached) As of February 28th, 2009 I had not received a response from the Prosecuting Attorney in reference to thee amended Motion, nor had I received any response from the Court. As a result of such failure to respond, I decided that I would file a Motion to Stay the Appeal (pending determination of the Trial Courts ruling on the Motion to Vacate)(see Exhibit "C" attached) Shortly after the filing of my Motion to Stay the Appeal I received a response from the Court in the form of a Minute Entry (see Exhibit "D" attached). On said minute entry Judge _____ orders the Prosecutor (_____) to respond to a Motion that according to the rules, the prosecuting Attorney should have responded within 20 days if there was any objections to the Motion upon receiving the Motion. On March 26th, 2009 I received response from the prosecutor on the Motion to Vacate. (see Exhibit "E" attached) Upon my reading and/or review of the states response, it was determined that legal issues concerning procedural errors in

(CONT.)

(Attach additional sheets as needed)

thee initial stages of the proceedings were at question, and that based on the Prosecutors response to the Motion to Vacate Judgement that the need for the Courts records (Audiotape and/or Videotape) would be extremely crucial in determining the truth of what actually occurred during said proceedings. Therefore, on April 14th, 2009 I () filed a -Exparte- Motion for Transmittal and Transcription of Record and Audiotape or Videotape of Status Conference Hearing.(see Exhibit"F" attached) According to the Rules of The Supreme Court (Superior Court Administration) Rule 91(e)"Every matter submitted for determination to a Judge of the superior Court for decision shall be determined and a ruling made not later than sixty days from submission therof, in accordance with Section 21. Article VI of the Arizona Constitution." As of July 8th, 2009 I have received no response from Judge in reference to my -Exparte- Motion. On April 2nd, 2009 I filed my reply entitled "Defendants Reply to States Response to Defendants Motion to Vacate Judgement (see Exhibit"G" attached). As of July 8th, 2009 I have not received a response from Judge (the Court). Furthermore, on March 19th, 2009 I submitted a Motion to the Court entitled "-Exparte- Motion of Request for GrandJury Indictment Transcripts and Minute Entry of Pronounced Judgement".(see Exhibit"H" attached) And again as of July 8th, 2009 I have received no response from Judge (the Court). It should be noted that I represented myself in Superior Court Case No CR through out all the proceedings and at every stage of said proceedings. It is ironic that I do not have a copy of the Grand Jury Indictment transcripts, nor do I have a copy of my Pronouncement of Judgement. I contend that Judge has engaged in Willful Misconduct in Office and that he has Willfully and persistently failed to perform duties, that his conduct has been prejudicial to complainant and brings the Judicial Office into disrepute. The Court records and/or documents will support this complaint.

(CONT.)

This complaint also involves Exparte Communication on part of Judge _____ and the Prosecuting Attorney _____ in reference to the amount of time the Defendant would receive. On November 2nd, 2008 the complainant filed a Motion for the Appointment of a Mitigation Specialist for the Defense. (see Exhibit "I" attached) Some time in the month of November 2008 an oral argument was placed on the Court's calender (complainant is not in possession of minute entry of said hearing) and is a part of the Courts records. Upon said hearing Judge _____ conducted the argument stating "the Court and the Prosecuting Attorney have already agreed that you will receive a term of no less than the presumptive". Therefore, exparte communication is established as the Courts record will support this statement which was made in open Court on the record. A review of the oral argument on the Motion to Appoint a Mitigation Specialist for the Defense is required in this case. The complainants Constitutional Rights were Violated through out the majority of all proceeding in this case. This complaint is with Merit, and Court records and/or Audio and/or Video recordings are necessary and warranted.

I _____ do hereby declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on: July 8th 2009 By _____