

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 09-195

Complainant: No. 1368600023A

Judge: No. 1368600023B

ORDER

The commission reviewed the complaint filed in this matter and found no ethical misconduct on the part of the judge. The issues raised involve legal and procedural matters outside the jurisdiction of the commission. The commission is not a court and cannot review evidence. Therefore, the complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: October 14, 2009.

FOR THE COMMISSION

\s\ Keith Stott

Executive Director

Copies of this order were mailed to the complainant and the judge on October 14, 2009.

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

7/23/09

RE: JUDICIAL COMPLAINT AGAINST
JUDGE

- JUDGE PRO TEM JUSTICE OF THE PEACE.
- CHIEF MAGISTRATE OF MUNICIPAL COURT.

COMMISSION ON JUDICIAL CONDUCT:

THIS COMPLAINT ALLEGES DERELICTION OF DUTY, ETHICAL VIOLATIONS, CONSTITUTIONAL VIOLATIONS AND CRIMINAL CONDUCT. IT ARISES OUT OF A CIVIL MATTER WHICH I AM THE PLAINTIFF
CU V. CITY OF PHOENIX, et al.
BEFORE HON.

IN 2001 JUDGE WAS THE JUSTICE OF THE PEACE. HE ISSUED A SW FOR MY STORAGE UNIT (). I AM SUING THE PHOENIX POLICE DETECTIVES FOR WRONGFUL DISPOSAL OF PROPERTY. I WAS NEVER TRIED OR CONVICTED OF ANY CRIME ASSOCIATED WITH THIS PROPERTY, NONE-THE-LESS THE DETECTIVES CLAIMED IT WAS STOLEN AND GAVE IT TO WHOM THEY CLAIMED IT WAS STOLEN FROM, EVEN THOUGH I CLAIMED OWNERSHIP OF ALL THIS PROPERTY.

THE CIVIL TRIAL BEGAN ON MAY 5, 2009 AND AFTER TWO DAYS THE COURT DECLARED A MIS-TRIAL FOR DEFENDANTS FAILURE TO DISCLOSE EVIDENCE. BUT BEFORE THE MIS-TRIAL, TESTIMONY WAS OBTAINED WHICH GIVES RISE TO THIS COMPLAINT.

① THE COURT GRANTED JUDGE MOTION TO QUASH MY SUBPOENA AND ALLOWED HIM TO SUBMIT AFFIDAVIT IN LEW OF TESTIMONY (EXHIBIT A). IN IT HE STATES, P. 2 #3:

3. " ASSIDE FROM READING THE SEARCH WARRANT RETURN, I HAVE NO DIRECT PERSONAL KNOWLEDGE REGARDING THE SEIZURE OF ANY OF THE PROPERTY, OR WHAT HAPPENED TO ANY SEIZED PROPERTY, AND HAVE NO KNOWLEDGE OF ITS DISPOSAL AFTER I SIGNED THE SEARCH WARRANT, ALL OF WHICH WOULD HAVE OCCURRED IN PROCEEDINGS OUTSIDE OF MY COURTROOM. "

THIS STATEMENT THAT HE HAD NO INVOLVEMENT IN DISPOSAL OF PROPERTY WAS CONTRADICTED BY TESTIMONY OF DETECTIVE

TESTIFIED ON MAY 6, 2009, THAT IN

2007 (WHICH IS 6 YEARS AFTER RETURN) HE CALLED JUDGE AND REQUESTED PERMISSION TO DISPOSE OF PROPERTY, AND GOT IT. (EXHIBIT B)
IF IT WAS KNOWN OF JUDGE

2007 PARTICIPATION AND INCORRECT AFFIDAVIT, HIS MOTION TO QUASH WOULD PROBABLY NOT HAVE BEEN GRANTED AS HE WAS MORE INVOLVED THAN HE LET ON.

SO THE FIRST QUESTION IS - DID JUDGE FILE A FALSE AFFIDAVIT TO AVOID TESTIFYING? WAS IT AN OVER SIGHT OR A MEMORY LAPSE? DETECTIVE TESTIMONY MAY HAVE BEEN INCORRECT, SO JUDGE SHOULD BE REQUIRED TO RESPOND AND SAY WHETHER HE GAVE PERMISSION IN 2007 TO DISPOSE OF PROPERTY IN CR (EXHIBIT E). IF HE DID, HE SHOULD BE REQUIRED TO AMEND HIS AFFIDAVIT AND FORWARD TO JUDGE

② THE SECOND ISSUE WHICH WAS BROUGHT OUT IN COURT BEGAN WITH 2005 AFFIDAVIT WHEN HE STATED JUDGE AT TIME HE SIGNED SW, ORALLY GAVE DETECTIVE S PERMISSION TO DETERMINE OWNERSHIP OF PROPERTY THEY MAY FIND AND GIVE TO WHOM THEY DETERMINE OWNERS TO BE (EXHIBIT C).

THIS SAME TESTIMONY CAME OUT DURING TRIAL (EXHIBIT B).

SO JUDGE _____ ALLOWED POLICE TO DETERMINE OWNERSHIP OF PROPERTY SEIZED PER SW, INCLUDING ALLOWING POLICE TO MAKE DETERMINATION ON WHETHER PROPERTY WAS ACTUALLY STOLEN. AND HE ALLEGELY ISSUED THESE ORDERS PRIOR TO SEARCH AND NOT KNOWING WHAT WOULD BE FOUND DURING SEARCH.

THE PROBLEM WITH THIS IS IT VIOLATES U.S. AND ARIZONA CONSTITUTIONS (DUE PROCESS) AND ARS 13-3920 - 13-3945. ALL REQUIRE A JUDGE TO DETERMINE OWNERSHIP OF SEIZED PROPERTY AND TO ORDER OR ALLOW DISPOSAL AFTER NOTIFICATION TO PERSON SEIZED FROM AND A HEARING. THIS IS CLEARLY OUTLINED IN STATE V. _____, 216 ARIZ 22, 162 P.3D 661 (2007). THE SOLE AUTHORITY OF OWNERSHIP DETERMINATION RESTS WITH JUDICIAL BRANCH AND IT CANNOT BE DELEGATED.

SO IF JUDGE _____ DID DO THIS, HE VIOLATED HIS CONSTITUTIONAL DUTIES, WAS IT SIMPLE ERROR OF NOT KNOWING, WHICH TRAINING AND EDUCATION CAN ADDRESS, OR WAS IT LAZINESS, INCOMPETENCE, ETC. I BELIEVE THE COURT SHIRKED HIS RESPONSIBILITIES AND PUSHED HIS MANDATED DUTIES OFF ON OTHERS, THIS

VIOLATING MY CONSTITUTIONAL RIGHTS.

(3) THE THIRD ISSUE IS - IF JUDGE DID ORALLY GIVE POLICE AUTHORITY TO DISPOSE OF PROPERTY, WAS IT PRIOR TO SEARCH OR AFTER SEARCH? AFFIDAVIT AND TESTIMONY SPECIFICALLY SAY PRIOR TO SEARCH, BUT JUDGE AFFIDAVIT (P2 AT 4) STATES:

" AT THAT TIME, AFTER A RIGHTFUL OWNER OF STOLEN PROPERTY WAS IDENTIFIED BY A POLICE AGENCY, OCCASSIONALLY THE POLICE INVOLVED WOULD REQUEST MY VERBAL PERMISSION TO RELEASE PROPERTY TO THAT OWNER "

THIS SAYS JUDGE WOULD GIVE ORAL PERMISSION TO RETURN PROPERTY AFTER AN OWNER IS IDENTIFIED " BY POLICE ". THIS LEADS TO THE CONCLUSION THAT THE PROPERTY WOULD HAVE HAD TO BE IDENTIFIED AND ALLEGED OWNERS CONTACTED, THUS NOT PRIOR TO THE SEIZURE OF PROPERTY.

SEVERAL ISSUES HERE:

(a) SAYS ORAL AUTHORITY PRIOR TO SEARCH. JUDGE LEADS US TO BELIEVE ORAL AUTHORITY AFTER SEARCH.

- DID JUDGE DELIBERATELY FILE A MIS-LEADING AFFIDAVIT TO COVER UP CONDUCT.
- (b) JUDGE ADMITS THAT POLICE ARE DETERMINING OWNERSHIP NOT HIM.
- (c) JUDGE ADMITS THAT HE MADE NO NOTIFICATION AND ALLOWED NO HEARING THIS VIOLATING MY DUE PROCESS RIGHTS AND THE LAW.
-

PLEASE OPEN AN INQUIRY AND ORDER JUDGE TO RESPOND TO ALLEGATIONS. IF HIS ACTIONS WERE DELIBERATE AND KNOWINGLY, THEN START FORMAL PROCEEDINGS. IF HIS ACTIONS WERE UNINTENTIONAL AND CAN BE CORRECTED BY TRAINING AND OTHER MEANS, DO WHAT THIS BODY DEEMS BEST.

Respectfully,