

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 09-322

Complainant: No. 1379510057A

Judge: No. 1379510057B

ORDER

The complainant alleged that a retired superior court judge induced the public defender's office and other agencies to file suit against the officer's department, concealed related public records, failed to disclose hostile statements another judge made against the officer's department, and failed to disqualify herself from considering a motion challenging the other judge's appointments. Following a comprehensive review and analysis of the issues, the commission found no evidence of ethical misconduct on the part of the judge and dismissed the complaint pursuant to Rules 16(a) and 23.

Dated: June 18, 2010.

FOR THE COMMISSION

\s\ Keith Stott

Executive Director

Copies of this order were mailed to the complainant and the judge on June 18, 2010.

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



MARICOPA COUNTY SHERIFF'S OFFICE



JOSEPH M. ARPAIO
SHERIFF

November 30, 2009

DEC 01 2009

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

Re: Judicial Complaint Regarding Retired Judge

Dear Commissioners:

Please accept this letter as a formal complaint against Retired Judge _____ for her violating the judicial canons, failing to uphold the integrity and independence of the judiciary, failing to perform the duties of her office impartially, and displaying conduct that brings the judiciary into disrepute.

My name is _____ and I am the _____ of the Maricopa County Sheriff's Office, 100 West Washington Suite 1900 Phoenix, Arizona 85003, My telephone number is:

I respectfully request that the Commission investigate Judge _____ for conduct that may violate the Judicial Code of Conduct. The incidents that may violate the Judicial Code are specifically alleged below as follows:

First, upon information and belief, Judge _____ (and perhaps Chief Judge _____) induced the Maricopa County Public Defenders Office and other court agencies to file suit against the Sheriff's Office. On or about November 13, 2007, the Public Defenders' Office sued the Maricopa County Sheriff's Office because the Sheriff's Office changed visitation hours. (*State v. _____*). The Sheriff's Office changed visitation hours partially in response to an anticipated budget shortfall discovered at the end of the immediately preceding fiscal quarter. Immediately after the Public Defender brought suit, the Sheriff learned, and later confirmed, that other court-related agencies such as court interpreters and adult probation officers may have been induced to join in the suit. The Sheriff's Office made a public records request to the Maricopa County Superior Court for communication records and emails belonging to Judge _____, Judge _____ and court administrators. The Sheriff's Office made this request in an attempt to discover and/or verify which court personnel and/or

administrators had enlisted or compelled various parties to serve as plaintiffs in the Public Defenders' groundless lawsuit. The Public Defenders' suit has continued on for more than two years as Judge [redacted] and Judge [redacted] continue to conceal the public record communications between themselves and other court personnel in the one-month period before the Public Defenders filed suit. Moreover, witnesses subordinate to Judges [redacted] and [redacted] have refused to comment to the Sheriff's Office investigators regarding this matter. Judge [redacted] conduct in this matter raises a troubling specter of impropriety. I therefore request a thorough investigation to insure that Judge [redacted] and other members of the Maricopa County Judiciary did not use their own subordinates and /or their personal bias to aid the Public Defenders in a meritless lawsuit.

Second, on information and belief, Judge [redacted] and Judge [redacted] selected Retired Judge [redacted] a judge openly hostile to the Sheriff's Office and the Maricopa County Attorney's Office ("MCAO"), to preside over a criminal matter involving the Sheriff's investigation of County Supervisor [redacted] CR2008-[redacted]. At the time, Judge [redacted] was the Criminal Presiding Judge. Several weeks before selecting the presiding judge, a court employee, [redacted] told Judge [redacted] that Judge [redacted] made statements demonstrating hostility toward the MCAO. Judge [redacted] failed to disclose Ms. [redacted] report to the MCAO and then failed to recuse herself from considering a pending motion challenging Judge [redacted] appointment. Judge [redacted] maintained these positions even after she learned that Judge [redacted] had made public statements criticizing the MCAO and had submitted information to the Arizona State Bar resulting in a bar complaint against County Attorney [redacted]. Moreover, when the State attempted to learn why the Court had assigned Judge [redacted] Judge [redacted] refused to explain why the court had assigned a retired judge to the case. After a hearing in February 2009, the state learned that Judge [redacted] received the case because the Superior Court declared that it had a conflict. In fact, at a hearing requesting that the defendant, Mr. [redacted] be arraigned, Judge [redacted] refused to preside over the hearing and instead brought in another retired judge, [redacted]. However, even after deciding that a conflict existed, Judge [redacted] continued to consider the State's motion to remove Judge [redacted] and the subsequent defense motion to disqualify the MCAO from the prosecution. Ultimately, Judge [redacted] refused to hear the motion to remove Judge [redacted] focusing instead on the motion to disqualify the MCAO. Judge [redacted] even suggested that Mr. [redacted] defense file a motion claiming MCAO was biased. As the [redacted] prosecution continued, Judge [redacted] also failed to sanction Mr. [redacted] counsel for filing a travel request document that misled the Court. Indeed, within a few minutes of denying the State's request for sanctions on the misleading travel request, Judge [redacted] told the MCAO prosecutor she would take up the State's failure to sign the joint statement prepared by the defense at a later date, inferring some type of misconduct on the State's part while ignoring the clear-cut ethical violations caused by the defense motion. If a conflict prevented the Maricopa County Superior Court from hearing basic arraignment proceedings, then Judge [redacted] abused her discretion and acted improperly by presiding over other matters involving the MCAO. In fact, the Arizona Court of Appeals found that Judge [redacted] exceeded her authority against the Sheriff, and the Sheriff ultimately prevailed in the matter. (See CA-SA-07-0267 Dept. A, filed 2/26/08).

I affirm, under penalty of perjury, that the foregoing information and the allegations contained in the attached complaint are true and correct.

Signature _____ Date: 11/30/09

Sworn before me this 30th day of November, 2009

(Signature of Notary Public)

My Commission Expires:

