

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 09-348

Complainant: No. 1381510324A

Judge: No. 1381510324B

ORDER

The complainant alleged the judge was biased, delayed rulings, failed to enforce a plea agreement, and revoked bond while acknowledging that she lacked authority to do so. The commission reviewed the complaint and the judge's response and found no evidence of ethical misconduct on the part of the judge. The complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: April 21, 2010.

FOR THE COMMISSION

\s\ Keith Stott

Executive Director

Copies of this order were mailed to the complainant and the judge on April 21, 2010.

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

CJC 09-348

COMPLAINT AGAINST A JUDGE

Your name: _____

_____ Judge's name: _____

Date: 12/21/09

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.

Violations: ① A judge shall perform the duties of Judicial Office impartially and diligently. ② Delay in making decisions ③ Failure to abide by a plea agreement in which she agreed to with all lawyers in chambers prior to sentencing hearing. ④ Revoked bond with no legal basis for doing so stating "I don't believe I have the authority to do this but I am"

My experience with Judge _____ began in June 2008 and as of today is still waiting for a resolution in regards to restitution. During this time period I have had the opportunity to witness the worst display of judicial balance and fairness I have ever seen or been a party to. Throughout this case Judge _____ gave a obvious and overwhelming advantage to the victims (Federal agent) and allowed the victims advocate (Keli Luther) to control the courtroom and succeed in overtaking prosecutor discretion and duties.

She allowed the prosecutor and victims advocate to violate discovery and file motions and responses in extremely untimely manner and allowed them to fail to disclose their knowledge of the victims whereabouts when asked by the defense in a attempt for the defense to confront the accuser and further present their defense. Instead they told defense attorney _____ they had no idea of her whereabouts even though they had her ~~at~~ in the victims box at the sentencing hearing at that time.

Prior to this in July 2008 I had my bond revoked by Judge _____ for "unwanted contact with my victim."

due to getting a photo radar ticket with his wife in the passenger seat of her own car, which I was driving. (Case was a result of unknown affair) She then stated "I don't believe I have the authority to revoke your bond yet I'm doing so anyway." (See Special Action included) She then ruled that the unintentional ticket was unwanted contact with the victims even after the victim, wife contacted the prosecutor asking to be removed as a victim and wanted to resume a relationship with the defendant. Next Judge stated that because the defendant was residing in the State of Arizona during the pending litigation instead of returning to his parents home in Illinois after posting \$100,000 cash bond and with no specific limitations as to where he was to live with the court, she stated that as a reason also stating "you knew what we meant even though the record doesn't support it." I am doing this to protect the victims though there was no law to support her decision and making myself the 1st person in Arizona to have their bond revoked without a petition by the state. She shocked everyone in the courtroom, fellow lawyers and Court Officer who all went to defense attorney and said "they have never witnessed such a ruling not supported by law."

Judge allowed the victims advocates and the prosecution unlimited time to respond to the defense motions, even upto walking into court, preventing the defense an opportunity to present a defense to their response or even to review the response. She allowed frivolous continuances from until right now even after receiving a letter from the defendant asking for closure and NO MORE CONTINUANCES.

Judge failed to rule on motions in a timely manner, including a motion and hearing on production of medical records for a in camera inspection over 2 months ago. ^(see medical motions) It is pertinent that she interpret these records in regards to restitution and that she rule on a motion with no objections to correction of presentencing credits which she has failed to do.

Next she failed to accept responsibility for Pinal County Sheriffs Dept's failure to produce the defendant after a signed order was issued and the Sheriffs Dept. failed to execute the said transportation order. She then blamed everyone but herself and instead of citing contempt on the state or Sheriffs Dept she told the lawyers "next time copy everyone you can think of with the order to produce the defendant."

Judge failed to be impartial to objected items and a totally biased presentencing report by Pinal County Probation Officer

She knew that it failed to accurately demonstrate the positive and negatives that surrounded the particularly "unique" case. In addition to the fact that she failed to abide by the stipulation in place of no prior convictions and ignored mitigating factors that outweighed aggravating factors because she couldn't get past the fact that the victim was an officer of the law. Even after establishing the fact that his wife failed to inform anyone of being married causing him to be a true victim and not knowing of her unfaithfulness and that he was a unintended target. Yet Judge had blinders on to the facts only to see that he had a badge.

Upon rendering her sentence Judge violated the terms of the plea agreement by imposing Intense Probation. (See plea agreement) Intense Probation was never discussed and before court in chambers was never discussed between lawyers and the plea agreement was agreed upon among all parties. Once again

Judge abused her powers because "she could" and without any repercussions to her foul actions of imposing whatever

she wants despite ~~with~~ what either party has entered into or agreed to. This is the type of emotional loose cannon that doesn't need to be in a position of power or on the bench.

I believe she should have recused herself due to her families political status and position in Law enforcement clouding her ability to render a fair decision.

This clouded view caused Judge _____ to fail to balance mitigating and aggravating circumstances effectively when she made her ruling.

Respectfully Submitted,

cc: file

Enclosures

Addendum

12/21/09

On December 11th a court hearing in regards to restitution was held, & after my lawyers failure to effectively convey to the court that the defendant wanted to be present and a full hearing^h held, in which Judge heard from the victim only and took the matter under advisement for upto 60 days to render her verdict. At this time she also saw fit to deny the defenses motion for a in camera inspection of the medical records,

At this time we are again waiting on Judge justice from the April 15th sentencing date. ruled in a delay of