

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 10-049

Complainant: No. 1386710764A

Judge: No. 1386710764B

ORDER

The complainant alleged the judge made an improper sentencing and restitution offer prior to the start of his sentencing hearing. The commission reviewed the allegations, the recordings of the hearings, 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: June 17, 2010.

FOR THE COMMISSION

\s\ Keith Stott

Executive Director

Copies of this order were mailed to the complainant and the judge on June 17, 2010.

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

Commission on Judicial Conduct
1501 West Washington
Suite 229
Phoenix, Arizona 85007
Cc: State Bar of Arizona
Cc: Judge Roxanne K. Song Ong

February 19, 2010

“Justice Through Excellence”

“with pride and integrity we provide equal access to justice, professional and impartial treatment and the fair and timely resolution of all court matters”

RE State of Arizona vs.
Case #

My name is [redacted] I am a registered contractor in the State of Oregon. In spring of 2008, my services were specifically solicited for a remodel project by [redacted] and [redacted] At that time they introduced to me as “friends of the family”. The [redacted] specifically solicited my services through my sister [redacted] I did not advertise my services in Arizona. The [redacted] did not solicit bids from any other contractors. The [redacted] temporarily resided with my sister when they relocated from Florida. Admittedly a poor decision on my part. I have family in the Phoenix area and have considered moving there. I took them up on the request. Since then my life as I had known has dramatically changed. A decision which I would describe as poor judgment has cost me dearly both financially and emotionally. I do honestly believe in accountability, I have maintained a clean record as contractor in Oregon since 1990. I have been a volunteer CASA for Deschutes and Crook County. I am a man of modest means. Integrity and honesty are the cornerstones of my character.

The reason I write to you today is in hopes that you will review the actions taken by Phoenix Municipal Court Judge [redacted] on the day of my sentencing and restitution hearing.

Prior to start of the hearing Judge [redacted] presented to me and my attorney [redacted] an offer I could not refuse. I could not refuse his offer because he made it very clear that if I did not accept his terms prior to the hearing that “we will have the hearing, in which case your situation will worsen” a clear statement by Judge [redacted] to my attorney [redacted] when meeting in judges chambers “this is the best its going to get for your client”

A unilateral decision made by Judge [redacted] a decision neither defense or prosecuting counsel expected. A decision made prior to a formal hearing, prior to hearing any evidence.

Evidence which included testimony revealing that I left the job because the “victims”, [redacted] had not paid me, at the time the owed me over \$6000.

Evidence of perjury committed on behalf of “victims” at the criminal proceeding.

Further evidence in the form of Arizona Supreme Court rulings that restitution must be

based on a "victims" economic damage, that in this case there were no economic damages to a victim, that they had already profited.

Knowing that Judge _____ had the ability to incarcerate me immediately for up to 6 months. I had no choice but to accept his offer to pay to the State of Arizona the amount of approximately \$8500, coincidentally the exact same amount the _____ " were demanding several months earlier, prior to a criminal hearing.

At that time I was advised by my legal counsel to reject the _____ demand for \$8500 since they had the burden of proof with regard to restitution as outlined by most recent Arizona Supreme Court rulings. Rulings which clearly stated that restitution must be based on economic damages, further that victims could not "profit" from the involved statutes..

The total catastrophic impact on my life of this entire experience with time worked for which I did not get paid, materials purchased for the "victims" remodel project, attorney fees which are headed for collection, State fees, penalties and restitution an absolute dissolution of my hard earned life savings, years of depression anxiety, sleeplessness nights and now something I never imagined.

For my horrible crime I now get to experience homelessness. I understand the reason and the need for the statute which I was charged with violating. I don't believe it was designed to have this type of impact on someone as myself.

It is my greatest hope that you will review the actions taken by Judge _____ and hold him accountable with regard to operating within a reasonable scope of his discretion. I fail to see how this situation best served the State of Arizona. The course of action taken that day by Judge _____ has devastated my life, changed forever. It has further resulted in an absolute waste of state funds. It has now contributed to perpetuating abuse of the statute for personal gain.

I fear that continuing to allow the pre- hearing, unilateral decisions by Judge _____ will continue to result in devastating consequences for others who may encounter the indiscretion of Judge _____ and suffer greater consequences than necessary which will likely result in devastation of personal lives and families.