

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 10-319

Complainant: No. 1406410678A

Judge: No. 1406410678B

ORDER

The complainant alleged that a superior court judge improperly denied his second Rule 32 request for post-conviction. The commission reviewed the matter and found no evidence of ethical misconduct on the part of the judge. Whether the judge should have granted the additional Rule 32 motion is a legal issue outside the jurisdiction of the commission. The commission is not a court and cannot change judicial decisions. Accordingly, the complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: January 24, 2011.

FOR THE COMMISSION

/s/ Keith Stott

Executive Director

Copies of this order were mailed to the complainant and the judge on January 24, 2011.

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

DEAR MRS. WANLASS,

NOV 29 2010

I HAVE BEEN INSTRUCTED BY MR. JAMES D. LEE OF

1 THE STATE BAR OF ARIZONA, TO CONTACT YOU CONCERNING MY
2 COMPLAINT AGAINST THE HON. JUDGE

3 YOU SEE, I AM DOING A LIFE SENTENCE FOR A CRIME

4 I NEVER COMMITTED AND THE HONORABLE JUDGE WILL -

5 NOT ALLOW ME TO FILE A SECOND PETITION FOR POST-CONVI-
6 CTION RELIEF, UNDER NEWLY DISCOVERED EVIDENCE, AND

7 HAS ALLOWED MS. YVETTE C. GRAY TO WITHDRAW, AFTER SHE -

8 FILED A PETITION ON APRIL 14TH, 2010! I AM CURRENTLY IN

9 THE PROCESS OF FILING A SPECIAL ACTION IN THE COURT OF

10 APPEALS, BECAUSE THIS ACTION WAS FIRST INITIATED TWO -

11 YEARS AGO IN JUDGE GARY DONAHOE'S COURTROOM AND I

12 AM A MEXICAN NATIONAL THAT DOESN'T UNDERSTAND ENGLISH!

13 MY NEWLY ASSIGNED COUNSEL, (MR. RONALD DEBRIGIDA),

14 HAS BEEN ORDERED TO REPLY TO THE STATE'S RESPONSE AND

15 THE STATE'S RESPONSE IS ACTUALLY A REQUEST FOR AN -

16 EXTENSION OF TIME! CREMONA'S CODE OF JUDICIAL CONDUCT

17 ARE EXPLICIT IN THEIR TERMS AND REQUIRES THAT "A JUDGE

18 SHALL ACT AT ALL TIMES IN A MANNER THAT PROMOTES PUBLIC

19 CONFIDENCE IN THE INDEPENDENCE, INTEGRITY AND THE

20 IMPARTIALITY OF THE JUDICIARY", BECAUSE, A "JUDGES -

21 CAPACITY FOR FAIRNESS AND IMPARTIALITY SHOULD NOT BE

22 HERE SPECULATION, SUSPICION, APPREH-

23 ENSION OR IMAGINATION", RATHER THERE MUST BE A

24 SPECIFIC BASIS FOR THE CLAIM AND THE PARTY ASSERTING

25 BIAS MUST PROVE BY A PREPONDERANCE OF THE EVID-

26 ENCE, THAT THERE IS A "HOSTILE FEELING OR SPIRIT OF

27 ILL-WILL OR UNDUE FAVORITISM OR FRIENDSHIP TOWARDS

28 ONE OF THE LITIGANTS". IN THIS CASE, I AM

②

TRYING TO NEGATIVELY TERMINATE THE FIRST PETITION AND SEEK
 1 RELIEF FOR REVIEW, BEFORE FILING A 2254 WRIT IN THE FEDERAL
 2 COURT! PETITIONER HAS NO EQUALLY PLAIN, SPEEDY OR ADEQUATE
 3 REMEDY BY APPEAL, BECAUSE APPELLATE COUNSEL CHOSE NOT
 4 TO FILE AN (ANDERS) BRIEF AND CHOSE TO FILE A FRIVOLOUS -
 5 PETITION, CHALLENGING THE STATE'S REQUEST TO STRIKE TWO HISPANIC
 6 JURORS, AND EMPANELING THE JURY FROM A CERTAIN GEOGRAPHICAL AREA!
 7 ~~THE~~ HONORABLE COURT, REJECTED THE ARGUMENT, AS WELL AS OUR
 8 SUPREME COURT! THE FRUIT OF THE POISONOUS TREE DOCTRINE IS
 9 SO PREVALENT, THAT PETITIONER'S TRIAL AND POST-CONVICTION -
 10 PROCEEDINGS CAN-NOT BE ATTRIBUTED TO HARMLESS ERRORS! HERE,
 11 PETITIONER HAS BEEN HELD TO ANSWER TO TEN CRIMINAL BOGUS
 12 CHARGES AND NO PROPER INTERPRETATIONS OF 3RD PARTY CULPABILITY
 13 OR ACCOMPLICE LIABILITY THEORIES HAVE EVER BEEN EXPLAINED TO
 14 HIM! FURTHERMORE, PETITIONER WAS NEVER ADVISED OR TOLD OF
 15 HIS RIGHTS, AS REQUIRED BY RULES 4.2(c) AND 5.1 OF THE
 16 RULES OF CRIMINAL PROCEDURE, ON WAVING AND THE RIGHT FOR
 17 THE STATE'S VINDICTIVE CASE TO SURVIVE AND ENCOUNTER THE
 18 CRUCIBLE MEANING OF ADVERSARIAL TESTING! APPELLATE COUNSEL,
 19 (CONSUELO M. OHANESIAN), REFUSED TO EVEN REPLY TO THE
 20 STATE'S RESPONSE AND REFUSED TO ADDRESS CONSOLIDATED -
 21 ISSUES, THAT MAY NOW BE PRECLUDED, BECAUSE OF JUDGE
 22 ATTITUDE ON UNTIMELY (NOTICES) ON NEWLY -
 23 DISCOVERED EVIDENCE! THE FACT THAT A TIMELY 12.9 MOTION
 24 WAS FILED BY ASSIGNED TRIAL COUNSEL AND REASONABLE
 25 OBJECTIONS WERE SUSTAINED BY THE TRIAL COURT, IT'S
 26 THE CUMULATIVE AFFECT FROM THE SHEPHERDS OF JUSTICE,
 27 TO SUPERSEDED PETITIONER'S RIGHT TO A COMPLETE DEFENSE
 28 AND IMPEDED ON R. A. J. I. INSTRUCTIONS THAT'S AN ISSUE!

EVER BEEN DISCRIMINATED AGAINST, WITH THE USE OF SECRET INDICTMENT, BECAUSE
 1 OF THE COMMITTING MAGISTRATES TO INFORM AND SET A TERMINAL
 2 DATE! HOWEVER, THE WAIVER OF SUCH A GUARANTEED (HEARING)
 3 CAN NOT BE CONSIDERED AS AN INTELLIGENT WAIVER, SIMPLY -
 4 BECAUSE THE CO-DEFENDANTS HAVE EXHAUSTED THEIR AVAILABLE
 5 STATE REMEDIES AND THEY COULD NEVER BE WRITTEN BACK FROM
 6 THE DEPARTMENT OF CORRECTIONS IN A TIMELY FASHION! IN THIS,
 7 THE COMMITTING MAGISTRATE FAILS TO PERFORM THEIR PRESCRIBED
 8 DUTIES REQUIRED BY LAW AND VIOLATES THE FEDERAL (TREATY)
 9 THAT THE UNITED STATES HAS WITH MEXICO, AS REPUGNANT
 10 TO CAPITAL OFFENSES! FURTHERMORE, IN ACCORDANCE WITH RULE
 11 5.1 OF CRIMINAL PROCEDURE, WHEN A SUSPECT INVOKES SECTION
 12 (D), IT REQUIRES THE DUTY OF THE COMMITTING MAGISTRATE TO
 13 COMMENCE A PRELIMINARY HEARING AS SOON AS PRACTICABLE. SEE,
 14 A.R.S. § 22-301! IT IS THE FUNCTIONS AND DUTIES OF THE
 15 MAGISTRATE, TO CONDUCT PROCEEDINGS THROUGH THE PRELIMINARY
 16 EXAMINATIONS AND THE PROCEDURE OF COMMENCING FELONY ACTIONS
 17 BY THE USE OF INTERIM COMPLAINT, INSTRUCTS THE MAGISTRATE
 18 TO OMIT PERFORMING THEIR LEGAL DUTIES! THE VERY LANGUAGE
 19 OF RULE 4.2(C) AND 5.1(D) IS MANDATORY AND THE TERM OF
 20 (INTERIM), IS INTERPRETED TO MEAN "INTER BETWEEN" BY BLACK'S
 21 LAW DICTIONARY! THIS INSTRUMENT SUBSTANTIALLY UNDERMINES
 22 THE CONSTITUTIONAL SAFEGUARDS, THAT GUARANTEED BY (BOTH)
 23 CONSTITUTIONS! RULES 4.2(C) AND 5.1 ARE NOT ONLY PROCEDURAL,
 24 BUT EMBODIES THE DUE-PROCESS PROTECTION OF BOTH CONSTITUTIONS
 25 TO A COMPLETE DEFENSE AND REASONABLE-EFFECTIVE ASSISTANCE OF -
 26 COUNSEL! THEREFORE, SUPERVISING INDICTMENT IS A CONSTRUCTIVE
 27 AMENDMENT, THAT VIOLATED PETITIONERS 4TH, 5TH, 6TH, 8TH AND
 28 14TH AMENDMENTS TO THE UNITED STATES CONSTITUTION!

FURTHERMORE, CANONS RULES 1, 2 AND 3 ARE ONE THING, BECAUSE UNDER RULE 1.1 OF CRIMINAL PROCEDURE, THESE RULES SHALL GOVERN - THE PROCEDURES IN ALL CRIMINAL PROCEEDINGS, IN ANY COURT, WITHIN - THE STATE OF ARIZONA AND EVEN THOUGH RULE 36, (LOCAL RULES), STATE - THAT ANY COURT MAY MAKE AND AMEND RULES GOVERNING ITS PRACTICE, THE COUNTY ATTORNEY'S OFFICE HAS NO AUTHORITY TO MAKE SOME AD-HOC EXCEPTION NOT TO RESPOND TO YVETTE C. GRAN'S PETITION, FILED ON APRIL - 2010 AND TO AVOID THE CONSOLIDATED ISSUES THAT WILL BE PRESENTATION! THIS APPLICATION OF THE RULES ARE INCONSISTANT WITH THE PRINCIPAL GOAL OF THE LEGISLATIVE INTENT! SEE, PATTERSON V. MARICOPA COUNTY SHERIFF'S OFFICE, 177 ARIZ. 153, 156, 865 P.2D 814, 817 (APP. 1995). IN CONSIDERING A STATUTE OR RULE, WE PRESUME THAT THE PROMULGATING BODY DID NOT INTEND TO DO A FUTILE ACT BY - INCLUDING A PROVISION THAT IS NOT OPERATIVE OR THAT IS INERT AND TRIVIAL. SEE, CAMPBELL V. SUPERIOR COURT, 105 ARIZ. 252, 253, 462 P.2D 801, 804 (1969). CURRENTLY IN MARICOPA COUNTY, THE RULES GOVERNING INITIAL APPEARANCES, FILING TIMELY MOTIONS FOR REMANDS AND RESPONSES TO PETITIONS IN THE AMBIT OF (RULE) 32 ARE MEANINGLESS AND HABEAS RELIEF WILL BE GRANTED BY THE - DISTRICT COURT, IF PETITIONER HAS DESCRIBED THE OPERATIVE - FACTS AND FEDERAL LEGAL THEORY THAT SUPPORTS HIS COLORABLE CLAIM OF INEFFECTIVENESS AT EVERY CRITICAL STAGE! WE MUST GIVE EACH WORD, PHRASE, CLAUSE AND SENTENCE MEANING, SO THAT NO PART OF THE RULE IS RENDERED SUPERFLUOUS, VOID, INSIGNIFICANT, REDUNDANT OR CONTRADICTORY. (SEE ATTACHMENT A)

DUE PROCESS OF LIBERTY INTEREST:

IN UNITED STATES V. SALERMO, 481 U.S. 739, 95 L. ED. 2D. 697, 107 S. CT. 2095 (1987), THE COURT ADDRESSED (BOTH) SUBSTANTIVE AND PROCEDURAL DUE-PROCESS. SUBSTANTIVE

DUE PROCESS IS MINIMAL AT BEST, BECAUSE THE TYPES OF CLAIMS
 1 THAT MAY NOT BE PRECLUDED UNDER RULE 32.2 (A)(3), ARE -
 2 CLAIMS BASED ON THE EXISTENCE OF NEWLY DISCOVERED EVIDENCE
 3 OR THE FACT THAT PETITIONER'S FAILURE TO FILE A TIMELY -
 4 (NOTICES) OF APPEAL OR PETITION FOR POST-CONVICTION RELIEF
 5 WAS NOT HIS FAULT! IN THIS CASE, APPELLATE COUNCIL AND
 6 RULE (32) COUNCIL CHOSE TO FILE PETITIONS, RESPECTIVELY,
 7 BUT IT DOES NOT MERIT THE STATE TO HAVE JUDGE
 8 CURTAIN MY RIGHT TO PRESENT, COLORABLE -
 9 CLAIMS OF INEFFECTIVENESS AND RECEIVE A FAVORABLE
 10 TERMINATION BEFORE PROCEEDING TO THE HIGHER COURTS!
 11 YOU MUST ASSES AND DETERMINE IF I HAVE BEEN DENIED
 12 THE OPPORTUNITY IN PRESENTING MY ISSUES, WHICH BEARS
 13 DIRECTLY TO MY CASE, BECAUSE MR. ATTITUDE
 14 WITH SUMMARY DISMISSALS, ON "NO PURPOSE WOULD BE
 15 SERVED BY ANY FURTHER PROCEEDINGS" OR "NO MATERIAL
 16 ISSUE OF FACT OR LAW WHICH WOULD ENTITLE THE -
 17 DEFENDANT TO RELIEF", IS HIS MOTTO!! THE D.E.A.
 18 AGENT THAT WAS KILLED BY MY BROTHER AND HIS ACCOMPLICE
 19 WERE TRIED SIX YEARS EARLIER AND I HAVE RECEIVED
 20 LESS THAN AN INDIGENT DEFENSE FROM THE VERY BEGIN-
 21 ING OF THIS CASE, BECAUSE I DO NOT UNDERSTAND
 22 ENGLISH VERY WELL AND NEVER SIGNED A WAIVER FOR
 23 A PRELIMINARY HEARING OR REQUESTED FOR THE TRIAL
 24 TO BE SEVERED, IN CONJUNCTION TO RULE 15.8 OF
 25 CRIMINAL PROCEDURE! PLEASE CONCUR AND INVESTIGATE
 26 MY ALLEGATIONS, BECAUSE MY ATTORNEY SHOULD NOT HAVE
 27 TO BE SUBJECTED TO MORE CRUEL AND UNUSUAL PUNISH-
 28 MENT AND REPLY TO A RESPONSE THAT'S NON-EXISTENT!!