

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 11-005

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Complainant: No. 1409510098A

Judge: No. 1409510098B

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**ORDER**

The complainant alleged that a superior court judge refused to appoint counsel, limited his ability to represent himself, and improperly threatened him with contempt of court. After thoroughly reviewing extensive information provided by the complainant and the court, the commission found no evidence of ethical misconduct on the part of the judge regarding five issues raised. The remaining two allegations involved legal issues outside the jurisdiction of the commission. Accordingly, the complaint is dismissed in its entirety pursuant to Rules 16(a) and 23.

Dated: April 27, 2011

FOR THE COMMISSION

/s/ Keith Stott  
Executive Director

Copies of this order were mailed to the complainant and the judge on April 27, 2011

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

**CONFIDENTIAL**

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

**FOR OFFICE USE ONLY**

**2011-005**

**COMPLAINT AGAINST A JUDGE**

Your name \_\_\_\_\_

Judge's name: \_\_\_\_\_

Date: 1/4/11

**Instructions:** Use this form or plain paper of the same size to file a complaint. Attach additional pages, as needed. Please describe in your own words what the judge said or did that you believe constitutes judicial misconduct. To help us understand your concern, be specific and list all of the names, dates, times and places where the conduct occurred. Include only copies of original documents or court recordings that are relevant to your allegations. Print or type on one side of the paper only, and keep a copy of the complaint for your files.

I originally came into contact with Judge \_\_\_\_\_ back in 2008. I had accepted a plea and was sentenced in March of 2009. In my dealings and appearances with Judge \_\_\_\_\_ I found him to be both abrasive and inaccurate as to the facts of my case.

In a very short period of time after my plea I learned that some very serious errors had occurred. The original indictment (CR0008- \_\_\_\_\_) (copy enclosed) was actually incorrect and I was misled into believing that I had been charged with 2 Class 4 Felonies and was misled by the Public Defender into believing that I would face prison for certain.

The reality was that Count 1 would have been easily defeated at trial. Count 2, which was listed as a 4 but was actually a 6 was allowed to go unchecked and even when the error was brought to Judge \_\_\_\_\_ attention he failed to take any corrective action.

Unfortunately, after a traffic stop on July 29, 2010 I was arrested and booked into the Pima County Jail. My arraignment occurred on August 12, 2010 at which time I learned that Judge \_\_\_\_\_ had been assigned to hear my new case. After numerous attempts to contact my court appointed attorney, to no avail, I prepared and mailed from the Pima County Jail a Motion to change Judge pursuant to Arizona Rules of Criminal Procedure, Rule 10.2

The Motion was mailed from the Pima County Jail on \_\_\_\_\_

(Attach additional sheets as needed)

August 19, 2010, counting the ten days as permitted in the Rule it was due on the 22<sup>nd</sup> which was a Sunday and thus the due date moved to the 23<sup>rd</sup> of August. The Motion was confirmed by the clerk of the Court on the 24<sup>th</sup> of August.

Judge ruled the Motion to be filed as untimely (1 day late), I asked him to reconsider, and pointed out the relevance to the 'Prison Mailbox Rule' as defined in *Houston v Zack* 108 S.Ct. 2379 (1988) which he refuses to acknowledge.

Almost immediately there were numerous issues with my court appointed attorney who did not show up until 26 days after appointment by which time both my rights under Rule 10.2 and 12.9 had expired. I brought this to Judge attention which only inflamed him.

The attorney refused to provide copies of plea agreements and motions and I brought this up to Judge. I was arrested in July but did not get my Grand Jury transcript until October 28, 2010.

After numerous requests to receive the documents requested I sent a letter to Judge describing how I felt the attorney was violating my rights and said I was preparing a Motion to request new counsel and would present it at my next court hearing on October 28, 2010.

much to my dismay on October 28, 2010 Judge allowed the attorney to withdraw, Refused to accept my Motion for new counsel and told me he would find me in contempt of court if I ever wrote a letter to his office again. (Copies of letters enclosed) The letters were professional and courteous. Judge

then told me he would give me 2 years prison time for each letter I had written and that he would stack it on top of whatever he decided to give me in my other case. I was at my pre trial conference and he was already saying I was guilty before I had my trial! Judge

refused to appoint a new attorney and continued the matter to November 4, 2010. Judge

then contacted Sean Holquin of the Pima County attorneys office who in turn contacted Thomas Garcia at the jails law library to remove my pro se status and deny me means (Email enclosed)

I ultimately ended up filing suit against both Garcia and Holquin in US Federal District Court for denial of means to access (copy enclosed) This lawsuit puts Judge \_\_\_\_\_ in direct conflict as a material witness. I swore out an affidavit (copy enclosed) to this effect and it was filed in open court on January 4<sup>th</sup>, 2011 by Heidi Higgins. A Motion was made for Judge

to recuse himself, which he still refuses to do.

On November 4, 2010 Judge [redacted] suspended my Rule 32 proceedings until further notice! (copy enclosed) I had also filed a Writ of Habeas Corpus on September 24, 2010 which on September 30, 2010 he made part of my Rule 32 which he suspended. Ergo he has suspended my right to Habeas Corpus in violation of the Arizona Constitution article 2 Section 24.

On October 28, 2010 without my permission, consent or knowledge Judge [redacted] ordered the release of my medical records. (copy enclosed)

I have not had an attorney since October 28, 2010 when Judge [redacted] refused my Motion and continues to reset hearings! My speedy trial time should be up at the end of January but the prosecutor is attempting to exclude from October 28, 2010 thru January 4, 2010 and beyond as my fault. I have requested the transcripts from the October 28, 2010 hearing to provide proof but Judge [redacted] refuses to provide the transcript.

I have also made numerous requests via Motion to Withdraw from Plea Agreement (copy enclosed) which Judge [redacted] simply chooses to ignore.