

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 11-081

Complainant: No. 1415800341A

Judge: No. 1415800341B

ORDER

The complainant alleged that a superior court judge improperly banned a blogger from the court building and mishandled a criminal case. The commission considered the allegations and found no evidence of ethical misconduct on the part of the judge. The judge's decision to bar the blogger from the courthouse was within his discretion and a result of the blogger's conduct in violating the court's order. All other issues raised by the complainants relate to the judge's rulings, which are outside the jurisdiction of the commission. Accordingly, the complaint is dismissed in its entirety pursuant to Rules 16(a) and 23.

Dated: June 30, 2011.

FOR THE COMMISSION

/s/ Keith Stott

Executive Director

Copies of this order were mailed to the complainant and the judge on June 30, 2011.

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

This complaint concerns the conduct of Judge _____ of Pima County Superior Court during the capital murder trial of Arizona vs. _____ CR2009. This trial began January 14, 2011, and ended February 18, 2011. His actions during the trial consistently violated minimum standards of judicial ethics. His handling of _____ murder trial was unfair and unduly prejudicial in favor of the prosecution.

First, the case took more than the 18 month limit to come to trial--a ridiculously long time which violated _____ constitutional right to a speedy public trial (Rule 8). OJ Simpson spent just over a year in jail before his acquittal of murder charges in California in 1995. His case was far more complex than _____ with a "dream team" of defense lawyers dedicated to his defense. There was nothing about _____ case which required such a long pretrial incarceration.

Second, Judge _____ twice refused to grant Ms. _____ a change of venue. This became especially important after Tucson's largest newspaper, the *Arizona Daily Star*, ran some in depth, highly prejudicial coverage of Ms. _____ personal life, and of the various legal motions that led up to the trial. It became even more important after the fatal shootings of Judge _____ and five others in the Tucson area right before _____ trial began. Sheriff Clarence Dupnik and others placed the blame for a mad gunman's behavior on the Tea Party and various conservative commentators. This may have led to higher hostility among jurors toward a member of a border watch group, as _____ was. Judge _____ also refused to grant defense attorney Eric Larsen's motion for a continuance after the murder of Judge Roll, as Larsen said he did not feel emotionally equipped to proceed with the trial.

Third, Judge _____ failed to ensure that people attending the trial were able to hear the proceedings. Microphones were available, but the judge did not use his, nor did he require the attorneys or witnesses to use theirs. Jurors as well as observers strained to hear the proceedings. On the second day of trial, when an usher told the judge that people were having trouble hearing him and asked him to speak up or use his microphone, he said, "That is not my issue." A "public trial" in which the public cannot hear what is being said is not truly a public trial; therefore Judge _____ again violated constitutional rights, as well as the right of the public to observe her trial.

Fourth, AZ border issues writer-researcher _____ was banned by _____ not just from the courtroom, but from the *entire public court building, and from any contact with the defendant*,

This was done in collusion with the prosecutors who had unjustly branded her a potential witness; in spite of this, **she was not called to testify at the trial.** _____ verbal prohibitions against citizen-reporter _____ included: not speaking about _____ case with anyone, not speaking to the media, and not discussing her testimony with anyone. When the written court order was entered, it only mentioned two things: no contact with defendant, and no entrance to the entire public court building! To the best of our knowledge, almost all those on the "witness list" in this case have discussed their testimony publicly! _____ order for no contact between _____ (a consistent supporter of her innocence and her right to fair trial), and _____ was a violation both parties' First Amendment rights and to the right to freedom of association for both women. It was a blatant attempt to remove any emotional support from the defendant and to further isolate her, subjecting her to cruel and unusual punishment prior to her conviction. Bar complaints have been filed which contain more detail. Please refer to complaint numbers 11-0785 and 11-0786 with the Arizona Bar Association for more information.

Fifth, Judge _____ instructed the jury that they did not need to be convinced that _____ had been

at the crime scene to find her guilty of first-degree murder. They merely had to be convinced that the people who were there were acting under her direction. Absolutely no evidence was introduced at trial to prove that _____ ever told anyone to kill someone. The principle of "proof beyond a reasonable doubt" went out the window after the judge's instructions.

Sixth, the judge failed to issue a directed verdict of acquittal after seeing and hearing that the prosecution had no case even approaching proof beyond a reasonable doubt. He allowed the jury to act out of sympathy for the victims and their families, and out of hostility for _____ and the political views she represents. He allowed a travesty of justice in his courtroom, and ought never to try another case.

Finally, since we were not able to attend the entire trial, and a complete transcript is not currently available, further violations of proper judicial conduct may come to light. The undersigned reserve the right to add to or amend this complaint as necessary in the future.

Arizonans for Justice