

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 11-242

Complainant: No. 1427710737A

Judge: No. 1427710737B

ORDER

The complainant alleged that a superior court judge improperly excluded important evidence, yelled at her, the victim, and her spouse, and was biased in favor of the defendant because of his close relationship with defense counsel.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the judge engaged in conduct that violated the provisions of Article 6.1 of the Arizona Constitution or the Code of Judicial Conduct and, if so, to take appropriate disciplinary action. The purpose and authority of the commission is limited to this mission.

After reviewing the information provided by the complainant and the history of the underlying case, including the electronic court records, the members of the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. The commission has no jurisdiction to determine the legal sufficiency of the judge's decisions. Accordingly, the complaint is dismissed in its entirety pursuant to Rules 16(a) and 23.

Dated: November 10, 2011.

FOR THE COMMISSION

/s/ George Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on November 10, 2011.

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

This case has been going on for 2 ½ years. We are getting ready to start our third trial.

Judge ruled the number of text messages were not allowed to be admitted as evidence. He said they would be prejudicial to the defendant. The number of text messages is vital to this case. They show the actions of the defendant leading up to the date he molested the victim. Only the words from 1 day worth of the words from the text messages are allowed in. Testifying without talking about the number and frequency of the text messages is almost impossible.

The first trial started in Jan of 2011 and it took 6 weeks to pick a jury. During the first trial a juror slept a lot. The jury was hung 10 to 2. The 2 jurors would not judge the defendant. 1 of these was the juror who slept. The judge yelled at us (the victim and her parents) because he said we were talking. Throughout the trial there was noise coming from next door. It was later discovered the noise was from telephonic equipment. After a mistrial was announced, the judge placed a gag order on everyone in the court regarding the number of text messages.

The second trial started in June of 2011 and took 7 weeks to pick a jury. This trial was very short. A friend of the defendants messaged the victim on face book and called her ugly names. This friend is a 20 year old man. The victim is now 16. When the victim was on the stand, she was asked how often the defendant and herself texted. When she answered several times a minute, the judge declared a mistrial. (Aug 17, 2011)

Judge has given away 5 cases to keep this case so far. He is planning to give away 3 more to start our next trial on Oct 4, 2011. (Sept 1, 2011)

Judge and the lead defense attorney, Michael Donovan are good friends. Judge goes with what the defense says and does not take the word of the prosecutor even when the defense is guessing. (Sept 4, 2011)