

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 11-261

Complainant: No. 1429310553A

Judge: No. 1429310553B

ORDER

The complainant alleged that a superior court judge failed to take appropriate action against law enforcement officers based on evidence the officers and the prosecution engaged in fraud.

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 all of the information provided by the complainant, 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 does not have jurisdiction to determine whether the law enforcement officers or the prosecution acted unreasonably. Accordingly, the complaint is dismissed in its entirety pursuant to Rules 16(a) and 23.

Dated: November 23, 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 23, 2011.

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

COMPLAINT AGAINST A JUDGE**Continued**

I served my Country for 22 years as a Special Agent, with the United States Army Criminal Investigation Command (CID). As a criminal agent, I had the opportunity to serve as a Drug Team Chief.

As a Special Agent, the Army provided me with specialized training so that I could better serve my country in the event of war and as a criminal investigator in peace time. The use of technical listening equipment was one of many intensive training opportunities I received.

My superiors felt because of my training and numerous drug operations, both overseas and in the U.S, I had earned the right to be classified as an expert in both counter drug operations and the use of technical listening equipment (Exhibit 1).

With that said, I was shocked when Judge _____ allowed a purported electronic intercepted telephone call (call session 4387) to be used against me. Especially, when the State was uncertain if the caller was me. (believed to be _____) (Exhibit 2 & 3). Exhibit 2, is a compact disk containing a 15 second telephone conversation intercepted on September 14, 2009. This was reported as me making plans to move marijuana.

The State was authorized a broad array of intrusive devices that allowed them to instantly captured the identities of their targets. There was no room for speculation. The State used "believe to be" as a device to make me part of the criminal organization without having to prove it.

Attached is Exhibit 4, Federal Filing against the State and Pinal County, Please refer to this filing for complete narrative.

Questions to be addressed with the Maricopa Superior Court and Judge

Why did it take Judge _____ over 63 days to respond to my first motion? During this time the following motions were filed.

- Dismiss and Issue Order, filed February 1, 2010 (Exhibit 5).
- Authorize Extension and Amend Motion to Dismiss, filed February 17, 2010 (Exhibit 6)
- Claimant Response to State's Response to Motion to Dismiss and Issue Order, filed February 24, 2010 (Exhibit 7).
- Response to Partial Release from Notice of Pending Forfeiture and Notice of Seizure for Forfeiture and Request for Immediate Summary Judgment and Order, filed March 16, 2010 (Exhibit 8).
- Response/Gross Misconduct by the State & Pinal County/Dismissal/Issue Order of Release, filed March 22, 2010 (Exhibit 9).
- Response to Notice of Substitution of Counsel and Immediate Dismissal with Prejudice, filed March 29, 2010 (Exhibit 10).
- Response to State's reply to _____ Response to Notice of Substitution of Counsel and Immediate Dismissal, filed April 22, 2010 (Exhibit 11).

The above filings taken in their totality should have caused Judge _____ to question the State's case, as many serious issues were brought to his attention. Based on the above filings, State should have never been allowed to amend their complaint as all their evidence had been shown to have been fabricated or distorted. Any requests for a probable cause hearing were denied by Judge _____

Did Judge _____ feel I was guilty, so it was ok to give State another chance ?

Why did Judge _____ allow this matter to drag on for over 500 days, when it became apparent that State had fabricated evidence?

Did Judge _____ not find it highly unusual that State's initial evidence had faded away by the time State submitted their amended complaint 6 months later. State had less evidence, but was now adding In Personam proceedings. The In Personam Proceedings were:

Arizona Racketeering Act, A.R.S § §13-2301 et seq. [Organized Crime and Fraud], A.R.S. § § 13-2314 [Racketeering; civil remedies by this state], in particular, subsection (D), (E) and (G), and the Arizona Forfeiture Reform Act, A.R.S. § 13-4301 [Arizona Forfeiture Reform Act], particularly 13-4311 [Judicial in rem forfeiture proceeding], and 13-4312 [Judicial in personam forfeiture proceeding], based on conduct in violation of A.R.S. §§ 13-1001 [Attempt]; 13-1003 [Conspiracy] 13-1004 [Facilitation]; 13-2317 [Money Laundering]; 13-3405 [Transportation of Marijuana]; 13-2308 [Participating in or assisting a criminal syndicate]; and 13-2312 [Illegally conducting an Enterprise].

Why did Judge _____ not allow me to view a copy of affiant Janet Gygax's original sworn statement that was issued to Judge Donahoe? This was a major discrepancy as State was reporting the affiant's sworn statement was submitted on or before December 8, 2009, but when I received affiant sworn statement it was dated March 11, 2010. Affiant Gygax is or was a paralegal when she submitted her sworn statement to Judge Donahoe.

Did Judge _____ not find it unusual that counsel for the State, Mrs. Katrin Nelson, admitted she had not reviewed the evidence prior to seizing my home; and would admit 93 days after seizing my home she had not bothered to review the evidence Exhibit (12)? It has been demonstrated Nelson had the evidence as of November 2009, prior to the seizure of my home. Nelson knew she had no evidence as of March 10, 2010, or she would not have attempted to come into an agreement.

Did Judge _____ not find it unusual that it would take State almost a entire year to acknowledge that call session 4387 was not made by me? It was just a 15 second phone call.

Did Judge _____ actually read my filings? Is this the reason why the State was allowed to go unimpeded for over 500 days.

Why did Judge _____ allow the State to seize my brother's entire life's work as State's evidence demonstrated he had been involved for only three months? Judge _____ was provided the sentencing document to demonstrate this fact. Judge _____ was also advised that seizing all of my brother's property violated the 8th Amendment.

On November 15, 2010, why did Judge _____ threaten both parties with a summary judgment, when I had been asking for one from the onset? Was this done to force me to release my bank records? From May 03, to November 15, 2010, I had denied the State any access to my bank accounts. This denial was based on State's May 3, 2010 amended complaint. State never provided any probable cause to support their theory. Judge _____ should have issued a summary judgment ordering my home to be released immediately if he was not directing his comments towards me.

When I finally released my bank records, proving I made no large cash deposits, why did State and Judge _____ wait so long to dismiss this matter against me? On January 6, 2011, I submitted a Motion to Compel Cooperation from the State (Exhibit 13). Review of this document will demonstrate my frustration with the State.

There were issues with the Maricopa Civil Case Information (Exhibit 14). On December 8, 2009, Judge Donohue issued special warrant (SW2009-_____). Almost 10 months goes by without any entry, until I start asking question regarding SW2009-_____. Why was there such a length span between the issues and docket entry? This coupled with Affiant Gygax's sworn statement dated March 11, 2010, **and not on or before December 8, 2009**, makes it appear the State may have done a verbal or partial search warrant request, and then submitted their affidavit

on March 11, 2010. Exhibit 14 is printout of Civil Court Case dated October 15, 2010, which reveals one entry. After November 11, 2010, it reflects two additional entries.

Discovery

The most compelling evidence of State's unethical and abuse of power, comes from State's own Discovery. As of November 2009, State had collected 27 compact disk which contained State evidence developed during their investigation. State's evidence demonstrated no one from the criminal organization identified me as a member (See Exhibit 4)

The State with the assistance of Judge committed fraud upon the Court. The administrative processing of this case from the onset was mishandled. Judge allowed State much leeway as he knew he had failed in his judicial duties. If the State failed, he knew he failed because of the lack of judicial oversight on his part.

Call Session 4387 would serve as State's primary evidence. Because Judge failed to adequately preside over this matter he and the State of Arizona and Pinal County caused me both physical and mental pain, embarrassment and has forever linked me as a major figure in a money laundering and drug enterprise.

To better appreciate and understand the affects this has caused my two daughters and me, one only has to view the current Arizona State Bar's ethical proceedings underway against former Maricopa County Attorney Andrew Thompson and his two Assistant Attorneys.

Former Maricopa Superior Judges, Attorneys and County Supervisors have been brought to tears when recalling their personal experiences. Their accounts and the physical and mental trauma they suffered are similar to mine. My medical records will validate this as my conditions were recorded long before the beginning of the State Bar's proceedings. The testimonies are difficult for me to hear, but it brings me some validation that the fear and mental anguish I am experiencing is normal under the circumstances (Exhibit 15).

One of my biggest fears is to leave home as my first police contact resulted in being falsely accused of transporting marijuana. Recently I inform the Pinal County Board of Supervisors and the Sheriff's Office of the numerous patrols being made in front of my home (I live at the end of a Cul-De-Sac). I get visited 2 to 3 times daily, prior to this; I would see a sheriff's vehicle maybe twice a year.

These visits are all an attempt to get me to drop my claim. ;'

I have attached my initial claim to demonstrate I was not being evasive and was cooperating with the State (Exhibit 16).

I have asked the Department of Justice for their assistance. They have informed me I should exhaust every effort to have the State of Arizona resolve this. I have filed with the Federal District Court, but have not served summons as of this date.

I affirm, under penalty of perjury, that the foregoing information and the allegations contained in the attached complaint are true.

7/7 CH