

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 12-234 (Amended)

Complainant: Kim (Kimmie) Baker

Judge: Edward Bassett

ORDER

In a motion for reconsideration of the initial dismissal in this matter, the complainant raised a new allegation, namely that Judge Edward Bassett engaged in improper ex parte communications.

After reviewing the motion for reconsideration and the judge's response, the Commission finds that Judge Bassett violated the Code of Judicial Conduct, warranting an informal sanction. Specifically, the judge acknowledged that in a casual conversation with a court bailiff, he inadvertently discussed the substance of the complainant's case, which constitutes an ex parte communication. While the Commission did not find any evidence that this ex parte communication had a substantive impact on the outcome of the case, Rule 2.9(A) requires that in such circumstances the judge must disclose the communication to the parties and Judge Bassett failed to do so in violation of that rule. The Commission dismissed all other allegations.

Accordingly, Judge Edward Bassett is hereby reprimanded for his conduct as described above and pursuant to Commission Rule 17(a). The record in this case, consisting of the complaint, the motion for reconsideration, the judge's response, and this order, shall be made public as required by Rule 9(a).

Dated: December 4, 2012.

FOR THE COMMISSION

Louis Frank Domínguez
Commission Chair

Copies of this order were mailed to the complainant and the judges on December 4, 2012.

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

2012-234

COMPLAINT AGAINST A JUDGE

Your name: Kimmie Baker Judge's name: Edward Bassett Date: 8/30/12

Instructions: You can use this form or plain paper of the same size to file a complaint. Please describe in your own words what the judge did that you believe constitutes judicial misconduct. Be specific and list all of the names, dates, times and places that will help us understand your concerns. You may attach additional pages but not original court documents. Print or type on one side of the paper only, and keep a copy of the complaint for your files.

On April 20, 2012, I was granted permission by the Superior Court of Arizona to represent myself. Attached you will find a copy of a waiver of counsel. This case went to trial on August 6, 2012. On August 6, before trial started I raised a [objection] to Hon. Bassett advising the court that I had no say in the states joint pretrial statement filed on July 25, 2012. Hon. Bassett said he was not entertaining the objection. The judge should have heard the objection as it pertained to a crucial procedure matter. Hon. Bassett allowed the trial to begin, this bias me as I have since been given an unsigned copy on 8/27/12, see attached.

On 8/23/12, discussion was held in open court before the jury was assembled about a (73) page DPS report that the state had in its possession according to Kathleen Press, a DPS, DNA analysis since June 12, 2012. Hon. Bassett allowed testimony from Ms. Press to be heard given me only a few hours to prepare for cross-examination, I was hand delivered Ms. Press report after our three pm break by the state's Mr. Ed Lieter. Even though this conversation took place in open court it is not shown in the minute entry why? Why would Hon. Bassett allow such disregard to my defense case, Hon. Bassett opinion concerning

(Attach additional sheets as needed)

this matter was of such that I cross-examined well, and He didn't feel that I was biased in anyway. Hon. Bassett sustained a objection by the State on Cross-examination when I moved to have a exhibit which, had been Marked as exhibit (100), into evidence. Judge Bassett allowed his Judicial Authority to be influenced by the prosecutor's objection. The Detective and lead agent on this Case was not permitted to examine exhibit (100), which containe Items that were Submitted to Dps for DNA results. This Act by Hon. Bassett Sustaining the States objection to the inquiry from a exhibit that had been Marked was a intentional move to keep this testimony from the Jury.

Hon. Edward Bassett used his power from the bench to influence the out come intavor on the state. On 8/27/ I raised two affirmative defenses, asking for a dismissal of all Charges on the grounds of the State failer to produce a report that it had in it's possession from June 2012, until the Court ordered the State to turn it over to me. ^{on 7/22} Why, was Hon. Bassett being so Bias.

I am asking that someone look into
The role that Hon. Bassett played in
Turning his eyes from his duty of
managing this Case with the respect
and professional attention it deserved.

For the reason stated I am asking
that Hon. Bassett be asked to submit
a report as to why he or his Staff
didn't record in the Minute entry
of August 22, and 23, any discussion
about the state not providing the (73)
page DPS, DNA Report.

Sincerely,



SUPERIOR COURT OF ARIZONA
IN MARICOPA COUNTY

From the Chambers of
Hon. Edward W. Bassett

Phoenix, AZ
Phone: 602-372-3003

November 5, 2012

Commission on Judicial Conduct
1501 West Washington St., Suite 229
Phoenix AZ 85007

Re: Case No. 12-234

Dear Commission Members:

This is my response to your inquiry dated October 11, 2012.

I have reviewed Mr. Kimmie Baker's Motion for Reconsideration which alleges I had ex parte communication about his case with Larry Forte. Mr. Forte is an employee of Maricopa County Superior Court Administration and is assigned as a bailiff to Commissioner Jerry Bernstein. Commissioner Bernstein's office suite is on the same floor as mine.

While I am not sure of the date Mr. Baker alleges, August 8, 2012, I acknowledge that Mr. Forte approached me and inquired about the schedule of the case against Mr. Baker. I told Mr. Forte about the schedule as he indicated he wished to attend trial. I believe that I also told him the nature of the case against Mr. Baker and what witness was testifying or was scheduled. This was not a lengthy conversation as Mr. Baker alleges. I believe Mr. Forte did attend trial on at least one occasion.

Mr. Forte told me during our conversation, though not at the beginning of the conversation, that he knew Mr. Baker. Mr. Forte did not tell me they were "friends," as Mr. Baker alleges. I did not tell Mr. Forte that I believed Mr. Baker was being falsely accused. I also deny that I told Mr. Forte "not to say anything." On several occasions, I expressed to my own staff and to other judges and commissioners my opinion that Mr. Baker was doing a very good job as a self-represented litigant. I have no recall of expressing that opinion to Mr. Forte.

Although it is not specifically alleged by Mr. Baker, I wish to make clear that Mr. Forte did not communicate to me anything that Mr. Baker may have said to him.

No communication between me and Mr. Forte in any way affected any decision I made during the trial of Mr. Baker's case.

Upon reviewing the Code of Judicial Conduct, it appears to me now that communication with judicial staff other than my own is limited by the provision of Canon proscribing ex parte contacts. I am referring to Canon III, which allows the judge to consult with "court personnel whose function is to aid the judge in carrying out the judge's adjudicative responsibilities." Though Mr. Forte may be classified as "court personnel," I do not claim he has ever acted in that capacity for me. I acknowledge that I may have unintentionally transgressed this provision by having a conversation with Mr. Forte. For this, I apologize to the Commission.

Yours truly,

Judge Edward W. Bassett