

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 12-309

Complainant: No. 1455900172A

Judge: No. 1455900172B

ORDER

The complainant alleged a superior court judge was biased against him, interfered with his proceedings, and failed to rule or issued delayed rulings on several pleadings.

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 available electronic record, the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: December 28, 2012.

FOR THE COMMISSION

/s/ George Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on December 28, 2012.

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

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2012-309
November 16th 2012

Dear Commission on Judicial Conduct,

My name is _____, I'm Pro-se in my Rule 32 proceedings. I do not have a Complaint Form to support this claim, however, I would like to file a Complaint against Honorable _____ from _____ Superior Court _____ In _____ Via sworn affidavit (letter form), Supporting Affidavit is attached, Honorable _____, has created a conflict of interest in my Rule 32 preparation and interfering with my proceedings, which constitutes a showing of personal Judicial bias and prejudice towards me, in violation under 28 U.S.C. § 455 (b) and (a), violating my Due process Rights.

1) Currently at this present time, Honorable _____ has not yet order on my Extension to file a Rule 32. I filed for another Extension the October 4th 2012, it was filed in the court October 11th 2012, However, my deadline was on October 31st 2012. I have not received a order, which is leaving me worried if I can proceed my Rule 32, he has been ordering (30) days Extensions since July 2012. I've been showing good cause appearing since then, due to the courts failure to provided me transcripts on hearings and Juror questions that the court order June 12th 2012.

I was also forced to file a Motion for Sanction A.R.Cr. Rule 15.7, due to the courts failure to provide me with these transcripts and Juror questions October 23rd 2012, -

which was filed to the court October 25th 2012. Again he has not order to this Sanction, since then.

Every time I filed for a Extension, he would order on it (3) to (5) days after it has been filed with the court. Why is this time any different? The Judge's failure to order on my Extension and Sanction, is interfering with my Rule 32 petition.

Further, I filed for a Status and another Extension October 29th 2012, it was filed with the court October 31st 2012, again he has not ordered to this motion, So I just wrote to the clerk of the court November 13th 2012, for another status to my Extension and motions, I know, I want hear back to the order of my Extension and motions. He showing bias towards my Rule 32 petition proceeding.

2) Honorable [redacted], has failed to order to ~~hear~~ investigate these flawed trial transcripts, there's many missing testimony's from the alleged victim, from a Detective, prosecutor's closing arguments, Rule 20 arguments and from a Juror. The prosecutor is withholding exculpatory testimony's and statements from the Record, which is prejudicial towards me.

The Judge denied my Motions to these missing testimony's June 12th 2012, August 24th 2012, I have just filed a motion to Review and a Compel motion to these missing testimony's, which was filed to the court October 25th 2012, Honorable [redacted] again has not order to these motions, which is interfering with my Rule 32 petition, Honorable [redacted] Knowingly knows the prosecutor is in violation under A.R.S. § 13-2407 and A.R.S. § 13-2309. Accordingly with the court, the Judge refuses to investigate the court reporter's official entirety's of these trial transcripts, the Judge just consulted with the court reporter's office only in regarding their procedures for creating, certifying, and transmitting an official court transcript. The court remains satisfied with each court reporter's certification that the documents are true, correct and complete transcripts. But the Court did not investigate to check if the court reporter's left any testimony's out of the Record trial transcripts. They don't want to investigate because this Judge knows the trial court is at fault and contempt. These are critical

testimony and statements that the state is withholding from me, which this bias Judge refuses to investigate into the court reporter in type writer's entirety which constitutes Fundamental Error - missing testimony from the preparation of the trial court reporter's entirety. I was forced to file a Petition for Special Action, which was filed to the court October 25th 2012, pursuant to Rule 31.8 (4) to request to retranscribe these trial transcripts, and again this Judge has not order to this Special Action petition.

of all these missing testimony that are critical, that the court is withholding from the record and me that I put forth in my Motions to the court, there's one that is favorable to my proceedings, which is from a Juror ms. Cook the first day of trial, which I could prove Judicial bias from this Judge Honorable

After the alleged victim testified, a Juror ms. Cook gave to the trial court a note with a question, the Judge asked this Juror "You seen the victim walking around" the Juror stated "Yes, I seen the victim walking around". The Judge did not question to this Juror statement to the trial court, nor did the prosecutor or my trial counsel, the is sufficient to state my claims of the Judge showing of personal Judicial bias, the first day of trial. This statement from this Juror is taken out of the Record "its missing". However, the second day of trial, is when the Judge questioned this Juror and even then the Judge showed personal bias because he asked this Juror if, "ms. Cook if you indicated yesterday of seen the victim walking around because of the proximity of where the victim lived would that interfere in any way with your ability to be fair and impartial?" this Juror stated of "I didn't know personally", The Judge stated "you just saw her" the Juror stated "Yes, my sister lives in her vicinity", this Judge is bias because he didn't re-asks the question of fair and impartial, this Juror did not answer to a "Yes" or "No" to the Judge question, But yet in Jury voir Dire, the Judge excused a Juror ms. Boyer for not answering to a yes or no question of fair and impartial. If the prosecutor on the second day of trial wouldnt have ask the trial court to make a record of that Juror ms. Cook indicating of seen the victim

walking around, it would have never been known of this Jever seen the victim because this bias Judge Honorable never questioned this Jever the first day of trial, it was never meant for him to put it on the Record because of his fault the first day of trial.

3) During trial this Judge's behavior, by making faces, shaking his head in disbelief and obvious jesters when my mother and girlfriend testified, gave impression to the jury that the defense witness should not be believed.

I'm going to bring these ISSUES forth in my Rule 32 petition, I'm looking into § 2255, to set my claims, I'm still in preparations.

4) This trial Judge knew the prosecutor and my trial Attorney were working together and keeping ISSUES from the Judge during trial, but failed to step in.

5) During deliberating from the jury, the jury asked two questions, they weren't brought back in the court room, the Judge read the questions from the jury notes and stated 1) why wasn't this guy I testified to brought in as a witness? 2) what's the distant time from from the victim house, to my mother's apartments, time from from the store to my mother's apartment and a time from to the motel, I testified to. The jury was asking questions to my now claims of Ineffective assistance of Counsel. However, the Judge read these questions for the Record without giving my trial counsel an opportunity to discuss possible answers to the jury questions, for the trial Record, the Judge answered them both, the Judge didn't even give me a opportunity to answer to the jury questions. United States v. Rivera-Santiago, 107 F.3d 960 (1st Cir. 1997).

The fact that I'm looking into § 2255 petition and the fact of 28 U.S.C. § 455 (A) and (B) - to the fact that this Judge Honorable is going to be questioned within my ISSUES and arguments, this Judge should disqualify himself as of now, this is a bias Judge and he's creating a conflict of interest. and he's interfering with my Rule 32 petition, I can't proceed with this bias Judge anymore.

Respectfully submitted November 16th 2012.