

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 13-023

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Judge:	No. 1461210967A
Complainant:	No. 1461210967B

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**ORDER**

The complainant alleged a superior court judge was biased against him because of her own life experience.

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 available electronic court records, 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 review the legal sufficiency of the judge's rulings. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: February 20, 2013.

FOR THE COMMISSION

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George A. Riemer  
Executive Director

Copies of this order were mailed to the complainant and the judge on February 20, 2013.

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

I am writing to you in regards to the way Judge \_\_\_\_\_ of the Yavapai County Superior Court let her personal feelings regarding alcohol influence my case in her court. I understand that she is a recovering alcoholic and sponsors people through AA in their recovery efforts. I believe that this is the reason for what occurred with me in her court.

On December 14, 2011 I was accused of assaulting someone and a few days later was subsequently arrested and placed into custody and taken to the Yavapai County jail in Camp Verde. My bond was then set at \$2500.00 which was paid the following day and I was released from custody. My case was continued on a few different occasions by my attorney and unfortunately on August 24, 2012 I was arrested for DUI while sitting in a parked vehicle in a Safeway parking lot in Prescott Valley. I was then taken to the Yavapai County jail again where my bond was set at \$3500.00 for the DUI. A few hours later I posted that bond and was released from custody again.

I had filed a motion myself to have a new public defender assigned to me for my assault case because I didn't feel like the one I had, \_\_\_\_\_ was doing all he could for me. On September 24, 2012 I appeared before Judge \_\_\_\_\_ and she granted my request for a new attorney. After she did this she then revoked both the \$3500.00 bond and the \$2500.00 bond and set my new bond at \$75,000.00. I was then rearrested in court and taken back to the Yavapai County jail and was unable to bond myself out because of this unreasonably high amount of money.

On October 2, 2012 I then hired the firm of \_\_\_\_\_ to handle my assault case and paid them \$3500.00 for such. One of the stipulations that was placed on my new lawyer was to have my bond reduced so that I could be released from custody pending trial. I was told a few weeks later by Mr. \_\_\_\_\_ that this was not going to be able to happen, I'm not quite sure why he could not do this.

On November 8, 2012 I appeared in the Prescott Valley Justice Court before Judge \_\_\_\_\_ and accepted a plea deal in the DUI case and agreed to serve 45 days of jail time for this. Judge \_\_\_\_\_ agreed to let these 45 days run concurrent with my County time which I was already serving with credit for 30 days already served. This means that my jail time for the DUI case was completed on November 23, 2012.

Then in November of 2012 I was told by my attorney that I would be looking at probably March or April of 2013 before I would be able to take my case to trial. Being that I had such a high bond and could not get out of jail I finally gave in and decided to take the plea offer that was being offered by the prosecution which require me to do 75 days of jail time.

Also in November of 2012 on one of my visits from my attorney at the jail I conveyed this to him. He then saw me again at the jail and told me that everything was a go for the plea deal and the judge and prosecutor both had agreed on the 75 days of jail time that I would do. I specifically asked him if this would be changed by Judge \_\_\_\_\_ when I went to court to sign this agreement and was told by him that it would not change we would not be "blind sided" by Judge \_\_\_\_\_

On December 4, 2012 I was taken from to the jail to court to sign this agreement and my attorney \_\_\_\_\_ was not present there, he had sent his partner \_\_\_\_\_ to fill in for him. As I was sitting in court in my jail uniform and shackles Mr. \_\_\_\_\_ came up to me and introduced himself. He then proceeded to tell me that Judge \_\_\_\_\_ now wanted me to do 120 days of jail time unless I entered an alcohol treatment program at which point I would be released from jail into such a program. Keep in mind that as of December 4<sup>th</sup> I had been in jail for 72 days and was supposed to be released on December 7<sup>th</sup>, as per the agreement that was conveyed to me by \_\_\_\_\_. I then informed Mr. \_\_\_\_\_ that my assault case has nothing at all to do with alcohol and was then told by him that "they" think it does. I'm still not quite sure what that meant. I then reminded him that I had already settled my DUI case out of a different court and completed the 45 days of jail time for it. I don't know why he did not inform the prosecutor and judge about this. So now facing staying in jail until April I reluctantly agreed to the extra 45 days.

Needless to say I could not afford to pay the thousands of dollars it would have cost me to enter a

treatment program so I spent a total of 120 days in jail. On day 100 of this sentence I was also severely assaulted by someone and required medical attention. Remember I should have been back home at this point.

I believe that Judge                   overstepped her bounds when she sentenced me to an additional 45 days in jail. This was effectively making me do jail time for something that I had already served the time for in a different case. Also as part of my conditions of probation in the assault case I am required to submit to random weekly alcohol testing for which I am required to pay for. There is no need for this testing since I am required to have an interlock in my vehicle anyway because of the DUI and I also quit drinking alcohol after the DUI. Setting my bond at \$75,000.00 was also very excessive for a DUI where someone was only sitting in a vehicle in a parking lot. On my first appearance in court in Prescott Valley for the DUI case Judge                   set my bond at \$200.00.

I can understand if my case with her involved alcohol some of these things being done but it didn't and I feel that she is letting her personal feelings cloud her judgment. I also feel that doing 45 days of additional jail time for a case in a different court where I had already served that time is unconstitutional. Double jeopardy in a roundabout way if you like. I have no problem with a judge belonging to AA but they should not be allowed to interject their feelings about alcohol into a case where it did not play a part.