

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 13-199

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Judge:	No.0043214733A
Complainant:	No.0043214733B

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**ORDER**

The complainant alleged a superior court judge was biased and prejudged his request for post-conviction relief.

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 complaint, the judge's response, and relevant transcripts, 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: October 22, 2013.

FOR THE COMMISSION

/s/ George Riemer

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George A. Riemer  
Executive Director

Copies of this order were mailed to the complainant and the judge on October 22, 2013.

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

COMPLAINT AGAINST A JUDGE

MY NAME: \_\_\_\_\_

JUDGE'S NAME: \_\_\_\_\_

DATE: 08-04-13

JUDGES ARE SWORN TO UPHOLD AND PROTECT THE INTEGRITY OF THE JUDICIARY AND CRIMINAL JUSTICE SYSTEM, AND TO ABIDE & ENFORCE THE RULES OF CRIMINAL PROCEDURE AND TO UPHOLD JUDICIAL ETHICS. SADLY, JUDGE \_\_\_\_\_ HAS DONE THE OPPOSITE. I AM THEREFORE CHARGING THAT JUDGE \_\_\_\_\_ HAS KNOWINGLY VIOLATED: RULE 10.6 OF THE CRIMINAL RULES; CANON 1, RULE 1.2; CANON 2, RULES 2.2, 2.4, 2.6(A), 2.9(A)(4)(E), 2.10(A)(B), 2.11(A)(I), AND 2.15 (B)(D). THE FACTS IN SUPPORT ARE AS FOLLOWS:

1. FOLLOWING A HEARING BEFORE JUDGE \_\_\_\_\_ ON 10-16-12 ON MY FORMER TRIAL COUNSEL'S FRAUDULENT MOTION TO WITHDRAW, JUDGE \_\_\_\_\_ MADE COMMENTS ON THE RECORD THAT TO ME THAT EXHIBITED BIAS AND PREJUDICE AGAINST ME AND PUT HIS "IMPARTIALITY" INTO QUESTION:

1. WITHOUT HAVING YET HEARD ANY RESPONSE FROM ME TO MY ATTORNEY'S FRAUDULENT MOTION TO WITHDRAW, AND WITHOUT ANY FACTUAL SUPPORT, JUDGE \_\_\_\_\_ COMMENTED HIS "CONCERN THAT DEFENDANT WAS ATTEMPTING TO MANIPULATE THE SYSTEM TO ACHIEVE A DELAY IN SENTENCING".

2. HE FURTHER EXHIBITED BIAS & PREJUDICE IN COMMENTING UPON A RULE 32 PETITION THAT HADN'T EVEN BEEN PREPARED OR FILED YET, BY STATING HE "SAW NO GROUNDS TO SUPPORT A RULE 32".

THESE COMMENTS CALLED INTO QUESTION HIS IMPARTIALITY IN BEING ABLE TO HEAR AND DECIDE FAIRLY, WITHOUT BIAS, MY PRO SE MOTION FOR NEW TRIAL, WHICH WAS BASED UPON FALSE & PERJURED TESTIMONY, THAT WAS PENDING BEFORE HIM, OR EVEN ON DEFENSE COUNSEL'S OWN TWO MOTIONS FOR NEW TRIAL, TO BE HEARD ON 10-29-12.

THEREFORE, ON 10-19-12 I FILED MY MOTION FOR CHANGE OF JUDGE FOR CAUSE PURSUANT TO RULE 10.1(A) OF THE CRIMINAL RULES WITHIN THE REQUIRED TIME LIMIT. HOWEVER, AT THE 10-29-12 HEARING AND STATING, ON THE RECORD, THAT HE DID RECEIVE THE 10.1(A) MOTION,

EXHIBITED HIS DISREGARD FOR THE RULES, SPECIFICALLY RULE 10.6, AND CONDUCTED THAT HEARING IN CLEAR VIOLATION OF RULE 10.6 OF THE CRIMINAL RULES, AND CANON 1, RULE 1.2, AND CANON 2, RULES 2.2, 2.10(A)(B), AND 2.11(A)(1), OF THE JUDICIAL ETHICS.

WHEN MY TRIAL ATTORNEY, FILED HIS 10-10-12 MOTION TO WITHDRAW IT WAS CLEAR TO ME HE HAD KNOWINGLY MISREPRESENTED "FACTS" AND MADE BLATANTLY FALSE STATEMENTS IN IT. AT THE 10-16-12 HEARING ON HIS MOTION I ADDRESSED JUDGE AND IDENTIFIED EVERY FALSE AND MISLEADING STATEMENT IN IT BY JUDGE I IGNORED IT, IN VIOLATION OF CANON 2, RULE 2.15(B)(D) OF THE JUDICIAL ETHICS.

JUDGE KNOWINGLY DEPRIVED ME OF MY RIGHT TO BE HEARD WHENEVER AND EACH TIME I TRIED TO BRING TO HIS ATTENTION SERIOUS CONFLICTS BETWEEN AND I. IN EACH EACH INSTANCE HE REFUSED TO "READ" MY LETTER, GAVE THEM TO , AND THEN TELLS ME I "AM NOT TO TRY TO CONTACT" HIM; THAT I "MUST GO THRU EVEN THOUGH IN MY LETTER TO HIM DURING MY CAPITAL MURDER TRIAL I WAS TRYING TO INFORM HIM THAT MR.

WAS REFUSING TO LET ME TESTIFY AT MY TRIAL; THEN ON 9-7-12 HE AND MR. HAVE AN OFF THE RECORD MEETING IN HIS CHAMBERS BETWEEN THEMSELVES IN WHICH THE TWO OF THEM DISCUSSED AMONG THEMSELVES THE CONTENTS OF THE 8-26-12 LETTER I WROTE JUDGE REGARDING MR. AND HIS REFUSAL TO LET ME TESTIFY; THE LETTER WHICH JUDGE CLAIMED IN COURT ON 9-6-12 HE "RECEIVED BUT DIDN'T READ" AND GAVE TO MR. ALL OF WHICH VIOLATED CANON 1, RULE 1.2, CANON 2, RULES 2.2, 2.4, 2.6(A), 2.9(A)(4)(C), 2.11(A)(1), AND 2.15 (B)(D) OF THE JUDICIAL ETHICS.

THE FINAL ISSUE IN THIS COMPLAINT AGAINST JUDGE CONCERNS HIS PENCHANT TO PROTECT PIMA COUNTY PROSECUTORS WHO KNOWINGLY INTRODUCE FALSE & PERJURED TESTIMONY DURING FELONY TRIALS BEFORE HIM, ESPECIALLY CAPITAL MURDER TRIALS. EVEN AFTER BEING ADMONISHED AND "CORRECTED" BY THE SUPREME COURT IN STATE V. MINNLT, 203 ARIZ. 431 (2002) OVER THIS VERY ISSUE (DISREGARDING FALSE TESTIMONY IN CAPITAL TRIALS) JUDGE CONTINUES TO DISREGARD CASE LAW AND THE CONSTITUTION, AS WELL AS DEFENDANTS' RIGHTS TO A FAIR TRIAL AND DUE PROCESS, AND IN SO DOING IS CALLOUSLY SENDING PEOPLE TO DEATH ROW,

SOME OF WHOM, LIKE MYSELF, INNOCENT, FORCING US TO ENDURE AND SUFFER YEARS ON DEATH ROW WHILE APPEALING OUR CONVICTIONS. IN MY CASE FIVE PROSECUTION WITNESSES KNOWINGLY GAVE FALSE TESTIMONY, THE PROSECUTOR ADMITTED THAT AT LEAST ONE DID, EVIDENCE PROVED ANOTHER DID, AND AT THE 10-29-12 HEARING ON MY MOTION OVER THE FALSE TESTIMONY JUDGE REFUSED TO CONDUCT AN EVIDENTIARY HEARING ON THE MATTER, MUCH AS HE DID IN THE MINNIT CASE AND IN OTHERS. BUT THEN IS THAT "SURPRISING" AS HE HIMSELF IS A FORMER WHO HAD HIMSELF ENGAGED IN SOME QUESTIONABLE CONDUCT AS A PROSECUTOR HIS ACTIONS AND CONDUCT DURING MY CAPITAL MURDER TRIAL VIOLATED CANON 1, RULE 1.2, CANON 2, RULES 2.2, 2.4, 2.6(A), RULE 2.9(A)(4)(C), RULE 2.10(A)(B), RULE 2.11(A)(I), AND RULE 2.15(B)(D) OF THE JUDICIAL ETHICS.

IN CONCLUSION, JUDGE FLAGRANT DISREGARD OF THE LAW, OF THE JUDICIAL ETHICS, OF CONSTITUTIONS OF THE STATE OF ARIZONA AND THE UNITED STATES, OF THE CLEARLY ESTABLISHED RIGHTS OF DEFENDANTS, HIS CONTINUED PENCHANT OF ALLOWING FALSE TESTIMONY BY PROSECUTION WITNESSES, ESPECIALLY IN CAPITAL MURDER TRIALS, AS HE DID NOT JUST IN MY CASE AND THE FIRST TWO MINNIT TRIALS, BUT IN COUNTLESS OTHERS AS WELL, IS AN AFFRONT AND INSULT TO THE INTEGRITY OF THE BENCH AND THE CRIMINAL JUSTICE SYSTEM.

ANY JUDGE WHO WOULD ENGAGE IN THE ABOVE DESCRIBED ACTIONS AND CONDUCT, AND WHO WOULD KNOWINGLY AND INTENTIONALLY ALLOW A CAPITAL MURDER DEFENDANT TO BE CONVICTED AND SENTENCED TO DEATH BASED PARTIALLY UPON FALSE TESTIMONY HE CONDONED, IS A DISGRACE TO THE JUDICIARY AND SHOULD BE REMOVED FROM THE BENCH.