

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 13-269

Judge: No. 1094114786A
Complainant: No. 1094114786B

ORDER

The complainant alleged a superior court commissioner improperly sentenced him knowing his plea was signed under duress and based on the advice of ineffective counsel.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the commissioner 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 review, the commission found no evidence of ethical misconduct and concluded that the commissioner did not violate the Code in this case. The commission does not have jurisdiction to review the legal sufficiency of court rulings. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: November 25, 2013.

FOR THE COMMISSION

/s./ George Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the commissioner on November 25, 2013.

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

2013-269

COMPLAINT AGAINST A JUDGE

Your Name:

Judge's Name:

Date:

Instructions: Describe in your own words what the judge did that you believe constitutes misconduct. Please provide all of the important names, dates, times, and places related to your complaint. You can use this form or plain paper of the same size to explain your complaint, and you may attach additional pages. Do not write on the back of any page. You may attach copies of any documents you believe will help us understand your complaint.

Illegally sentenced defendant. Did not honor terms of Plea agreement and allowed very obvious manifest injustice to continue and ultimately persuade her decision to proceed w/ sentencing procedures after they had been continued 2 or 3 times. Lack of Due Process and ~~due~~ diligence and both defense counsel and Judge seemed confused as to handle or how to handle proceedings properly. Defendant was denied effective assistance of counsel (see defendant's Rule 32 exhibits #2-6 for more supplemental detail), and defendant established multiple manifest injustice and conflict of interest criteria on the record in court. Defendant's arguments were continually cut-off or cut-short as to undermine or "hush" his credibility on the record. But defendant established such a conflict between himself and 1st representing attorney, Judge had no choice but to dismiss his 1st defense counsel. Defendant had been manipulated and coerced to sign a plea under this same counsel who had been dismissed, but was denied the right to withdraw his plea even though (1) It clearly states in plea Agreement that defendant can withdraw at any time period, and (2) The same reasons that established a manifest injustice, ineffective assistance of counsel, and conflict of interest that judge agreed established grounds to dismiss counsel coincided and directly correlated to the same reasons as to why defendant wanted and should've been granted the right to withdraw plea. Basically firing ones' counsel for reasons pertaining to Manifest Injustice but not allowing the withdrawal of a crucial document (plea) ~~that was signed~~ that was signed under duress and ultimately under the advisement of ineffective counsel not only doesn't make sense, but warrants the

denial of U.S. Constitution amendment rights under the 6th and 14th amendments and Article II, Sections: 2, 3, 4, 6, 10, 23, 24, 30, 32, 33 of the Arizona Constitution. The Judge subsequently appointed new counsel out of the OFFICE of Legal Advocate. Not only did 2nd counsel follow directly in the footsteps of 1st counsel in ways of ineffectiveness, essentially both offices mimicked the prosecution and assumed the position of prosecution by breaking lawyer to client confidentiality and sharing case information as to come to a contract agreement in the form of a plea, in the form of serving contracted years of life. 2nd counsel was appointed after the dismissal of 1st counsel and after the signing of a plea. Therefore the Judge assigned a new attorney just for sentencing purposes, which was another essentially worthless and un-eventful decision on her behalf, and here's why: 2nd counsel was assigned just for the sentencing proceedings. Therefore counsel went out of her way to make it more difficult for defendant because she knew he was about to be sentenced and she could easily get rid of him and move on to other cases. Counsel knew Defendant was trying to withdraw plea and had fired his 1st counsel. Defendant was never visited or talked to and given case updates and details by new counsel. Counsel discredited defendant and denied him any effective assistance throughout her appointment by the courts. Both of Defendant's counsel never once filed any motions whatsoever or held any relevant or crucial proceedings on defendant's behalf. This forced defendant to file motions on his own behalf using his own finances. 2nd counsel went out of her way to produce documents that the Judge shouldn't have allowed that ultimately led up to the illegal sentencing of defendant. The documents that shouldn't have been allowed were: 2nd counsel furnished to sentencing Judge, whom is the same

Judge in question on this complaint, irrelevant transcripts from defendant's settlement conference proceeding. Now the settlement conference is held in front of an impartial Judge just for the reason as to not create a Biasness for either the state or defendant. Why would a defense counsel furnish a document such as this, to a sentencing Judge? Why would or how could it be correct and justified for a Judge that is holding a sentencing proceeding to have this document in front of her, which is basically a hearsay document, but when read, could easily establish a prejudice or Biasness in favor of the state B/c of how the document is worded in the degree as to make it look like the state has all this evidence and supposed argument when in fact it's just all well-known hearsay and scare tactics? Also 2nd counsel furnished a motion that was never given consent or brought to the attention of the defendant. In fact it was secretly turned in 1 day prior to sentencing and defendant was unaware of its presence in its entirety until the sentencing had already commenced, and defendant was only given a copy of this motion after he had been sentenced. It was at that point where defendant realized he had been sabotaged by his own counsel.

This motion that looked and for seemed legit in the 1st few paragraphs quickly turns into defense counsel ultimately discrediting, and down-putting her own clients claims and then trying to cover her own behind and almost act as if she had no partaking or knowledge of defendant's want to withdraw plea, acting like a coward and extremely ineffective counsel. She assumed position of prosecution, as can be even heard on the record w/prosecution's stand-in stating to actual prosecutor (whom walked in late) after defense counsel's argument, "shut-up dont say anything its all been handled/taken care of." Basically defense counsel had done the arguing for prosecution. Defendant should've never been sentenced under these

The Judge should have been wise enough at her position to see that defense counsel was clearly attempting to get the defendant sentenced and on his way so he wouldn't be on her docket anymore. These vein attempts eventually succeeded where they should of never been allowed. Also it is being found that more and more Judges, Commissioners, Justices, etc. including mine are succeeding in eluding the obligations at their allotted position in making judiciary calls, and in fact are also eluding responsibility at their high government level. These Judges like mine, when worried or confused about making proper judgement calls, are resorting to the unfair tactic of just finding somebody guilty and showing the responsibility off to the appellate court level and to the defendant to file proper documents to get there. And when the defendant's sentenced gets reversed in Appellate court, if and when they possibly get granted the slim opportunity to be heard, Defendant has already more than likely served between 2-5 years imprisoned all because a Judge didn't want to make a call against his/her peers or the state's recommendation even though they knew it would of been the correct and justified call. So essentially a lot of these Judges are taking the easy way out instead of protecting and preserving the interests of Justice we supposedly hold so dearly as the integrity of our "free" nation. I do not know exactly what kind of reprimanding or power your office holds in regards to Judicial conduct, but what I do know is there needs to be alot more and better quality standards and check and balance system held by the Federal Government or entity of equal authority that also is a seperate subsidiary as to have no ties or affiliation w/ local or state government so as to comply with proper justice and equality. The 98% conviction & pleasigning in this state I believe speaks for itself in regards to how corruptness goes hand-in-hand from pub. Def.'s office to prosecution.

2 sentences
on back)



In fact the Public Defenders office and prosecutor work out of the same building and have essentially the same address which is extremely questionable and odd. That whole entity's integrity would have to be questioned with such a broad spectrum of inter-mingling and conflict of interest that would be inevitably happening even with the denial of both offices. Judge not only illegally sentenced the defendant by saying he was on probation when the plea said he was not, but also by not allowing defendant to withdraw. It may be necessary to listen to the on-the-record recordings & all proceedings held in front of Judge