

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 14-314

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Judge:

Complainant:

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**ORDER**

The complainant alleged a superior court judge engaged in judicial misconduct by sentencing him to prison notwithstanding his having a serious medical condition that the judge knew or should have known could not properly be treated by prison medical providers.

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.

The commission does not have jurisdiction to review the legal sufficiency of the judge's rulings or any legal issue in the complainant's case. Accordingly, the complaint is dismissed pursuant to Rules 16(a) and 23.

.Dated: October 29, 2014

FOR THE COMMISSION

/s/ George A. Riemer

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George A. Riemer  
Executive Director

Copies of this order were mailed to the complainant and the judge on October 29, 2014.

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

ARIZONA  
COMMISSION ON JUDICIAL CONDUCT

V.

Re:

Background Sentencing Date:

This is a complaint alleging JUDICIAL MISCONDUCT  
 by the Honorable \_\_\_\_\_ of the

Court of the State of ARIZONA,

COUNTY. Judge \_\_\_\_\_ Knew of

my serious/possibly lethal medical condition  
 AT The time of my sentencing. Judge

Knew or should have known of the  
 extremes of medically inadequate medical care  
 in the ARIZONA Department of Corrections.

This information was public at least since

It is UNLAWFUL to sentence someone  
 to INCARCERATION if the medical care is  
 inadequate.<sup>(2)</sup> Judge \_\_\_\_\_ does NOT have ABSOLUTE  
 qualified immunity in this matter as INJUNCTIVE  
 Relief is being sought.<sup>(2)</sup>

At all times in this matter Judge  
 ACTED under the color of state law, under the  
 color of legal ethics and under the color of

good faith.

### INADEQUATE MEDICAL CARE

Enclosed are articles and an  
Press Release describing horrific conditions  
 of treatment in the ARIZONA Department of  
 Corrections (ADOC).<sup>(12/11)</sup> Reportedly, inmates die  
 in ADOC at the rate of                      from  
 medical neglect.<sup>(13)</sup> Other inmates have had  
 body parts amputated that could have been  
 saved with proper care. These include genitalia  
 and ~~facial~~ structures.<sup>(11)</sup>

In my case, I have a destructive                      of the  
                     that could progress to paralysis or death.  
 It is very rare. There is no physician in ADOC  
 qualified to treat this condition. My care has  
 been with the                      and other  
 first class treatment facilities. I am currently  
 being refused an                      to assess the status of  
 the lesion. This negligence is a threat to my  
 well being.<sup>(15)</sup>

[ My sentence is for INCARCERATION, not for  
 (cruel punishment (8th Amendment, U.S. Constitution)) (a)  
 and not for death from <sup>by</sup> medical negligence! (b) ]

### Requested Remedies

In my informed opinion, medical care in ADOC  
 is irreparable by traditional management  
 approaches. What is required is a profound  
 cultural shift from indifference to deep

3)

Complaint cont.

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concern for the well being of each inmate. The patient's interests are the priority. Cost should not be considered in medical decisions by law (natural law included).<sup>(2)</sup> Such an attitude shift is not likely to occur in the foreseeable future. An extraordinary<sup>CIRCUMSTANCES</sup> exists.

Extraordinary remedies are necessary as follows:

1) A WRIT OF MANDAMUS should be issued.

transferring me to HOME DETENTION.

I am classified as NON-DANGEROUS,

NON-Repetitive. There is no reason why I need to be INCARCERATED when I could be ON HOME DETENTION and obtain proper medical care.

2) It should be noted that I am medical needs at this age are only going to INCREASE with the cost to the taxpayers becoming significant. It is IN SOCIETY'S INTEREST that I obtain healthcare at my OWN expense while on HOME DETENTION.<sup>(1)</sup>

3) I have deep roots in the community, I am not at risk for absconding.

4) I am protected by the Americans w/ Disabilities Act, etc.

### Table of Authorities

(1). "State to investigate medical allegations; Prison inmates in Arizona crying foul over medical care,

4) LITIGATION

\* (2)

Prisoner's Self-Help

Litigation Manual 4th ed., 2010, pp. 36, 504-50.

(3)

"Reasons Why We Should  
treat Prison INMATES LIKE DOGS,

(4) "33,000 Arizona Prisoners NOW can Sue  
State Over Health Care, Solitary Confinement,"

Press Release,

(5) INMATE LETTER Re: for.

(6) Rights of Prisoners, 4th ed, Vol I

WEST, 2009, pp. 68-427, 429-608, Cruel and  
UNUSUAL Punishment, Medical Care, respectively.

(7) AT AMERICA'S EXPENSE; The MASS INCARCERATION OF the Elderly, 2012

\* This treatise references the pertinent legal  
citations on the pages listed. They include, but  
may NOT be limited to the following:

COST NOT a Factor as Excuse for  
NOT providing medical care

- 1) Tillery v. Owens 719 F. Supp. at 1301; accord
- 2) Riddle v. Mondragon, 83 F.3d 1197, 1203 (10th Cir. 1996)
- 3) Ramos v. Lamm, 639 F.2d 559, 574 (10th Cir. 1980).

Unlawful to INCARCERATE IF MEDICAL  
CARE IS INADEQUATE

- 1) U.S. v. Derbes, 369 F.3d 579-581-83 (1st Cir. 2004)
- 2) Glaus v. ANDERSON, 408 F.3d 382, 387 (7th Cir. 2005)
- 3) Caldwell v. U.S., 992 F. Supp. 363, 366 (S.D. N.Y. 1998)

JUDGES NOT ABSOLUTELY IMMUNE

- 1) Polliam v. ALLEN, 466 U.S. 522, 541-43, 104 S. CT. 1970 (1984)

5)

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Witnesses

The following persons witnessed the discussion of my medical condition during a settlement conference in \_\_\_\_\_ or \_\_\_\_\_

Declaration

Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my understanding.

Respectfully submitted this \_\_\_\_\_ day of \_\_\_\_\_

**THE COMMISSION'S POLICY IS  
TO POST ONLY THE FIRST FIVE  
PAGES OF ANY DISMISSED  
COMPLAINT ON ITS WEBSITE.**

**FOR ACCESS TO THE  
REMAINDER OF THE  
COMPLAINT IN THIS MATTER,  
PLEASE MAKE YOUR REQUEST  
IN WRITING TO THE  
COMMISSION ON JUDICIAL  
CONDUCT AND REFERENCE  
THE COMMISSION CASE  
NUMBER IN YOUR REQUEST.**