

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

---

Disposition of Complaint 15-027

---

Judge:

Complainant:

---

**ORDER**

The complainant alleged a superior court commissioner was unprepared for sentencing, imposed an unduly harsh sentence, and was biased against the defendant in a criminal case.

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.

The commission does not have jurisdiction to review the legal sufficiency of the commissioner's rulings. In addition, the commission found no evidence of ethical misconduct and concluded that the commissioner did not violate the Code in this case. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: February 18, 2015

FOR THE COMMISSION

/s/ George A. Riemer

---

George A. Riemer  
Executive Director

Copies of this order were mailed to the complainant and the commissioner on February 18, 2015.

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

2015-027

CONFIDENTIAL  
State of Arizona  
Commission on Judicial Conduct  
1501 W. Washington Street, Suite 229  
Phoenix, Arizona 85007

Re: Abuse of Judicial Discretion by

County Court

Dear

I regret to call your attention to what I believe is a serious abuse of judicial discretion by

On my client, appeared before  
who was acting as for sentencing on one count of cruelty to animals  
There was a report from the adult probation department recommending  
summary probation. The prosecutor, said that he would endorse that  
recommendation. As defense attorney, I had written an analysis of the case and recommended, at  
most, summary probation (Exhibit A).

Present for the sentencing were Mr. Mr. myself and Mrs.  
wife of Mr. She was in a wheel chair and obvious gravely ill

called the case and asked if there was comment. I asked if she had read my  
letter. She said she had not received it. She then looked down at her file and found the letter on  
top. [I had personally hand delivered it to her court over a week earlier.] She then very quickly  
scanned the letter, and asked if we intended to withdraw the plea. I said no, that the purpose of  
the letter was to put the events and prosecution in perspective, showing that the offense was one  
of negligence, not evil intent, and relatively minor. I believe was not  
properly prepared.

Mrs. asked to talk, wanting to explain her husband's role in providing complete  
care for her in their home. refused to let her speak.

sentenced Mr. [redacted] to [redacted] days in jail, to begin immediately, and two years of intense probation.

The sentencing was on the [redacted] immediately before [redacted] I asked if he could report to jail at the end of the week. It should have been obvious from Mrs. [redacted] condition that this [redacted] would be the last for the family before Mrs. [redacted] death [she died [redacted] said that she insisted on the jail term and that she did not have the power to defer the incarceration.

I stated that we were all shocked by the severity of her sentence.

The next day I wrote to [redacted] asking her to explain her comments and the rationale of her sentencing (Exhibit B). She chose not to reply.

Thus, we must speculate as to her motivation:

I know that the sentencing immediately preceding ours was for a felony involving financial fraud. The defendant and his attorney were [redacted] and well dressed, probably in their [redacted] treated them cordially and sentenced the defendant to summary probation.

The [redacted] are [redacted] whose first language is [redacted] I am [redacted] and have a reputation for helping [redacted] and [redacted] We were dressed neatly, but simply.

It could be that [redacted] believes she should manifest harshness against [redacted] and/or [redacted]

It could be that [redacted] was retaliating for her Judicial companion, [redacted] who chose to transfer the case after [redacted]

[redacted] criticized me in open court for my clothing, and then had to apologize (Exhibit C).

It could be that [redacted] was currying Sheriff [redacted] political favor by being extremely severe in a dog case.

As stated above, [redacted] had declined to be "transparent" and reveal her motivation, thus opening this matter to speculation.

Further, [redacted] commented, in passing, that the two dogs had been "put down." However, the investigators' report had said one dog was in good health and the other could respond to treatment. The family is still interested in the welfare of the dogs. What happened? Was Mr. [redacted] harshly punished for malfeasance on the part of the [redacted] County Sheriff's Office?

Also, Mr. [redacted] and his family, who have very little money, have been forced to pay about [redacted] in "fees" to the court because of the nature of the sentence and he has lost about [redacted] in wages. [redacted] must have been aware of these consequences of her actions.

Enclosed is all the relevant information that I have. Please call for any clarification desired. I have waited to report this 1) to minimize the possibility of retaliation against my client, and 2) because the bar has asked for comments on the fitness of [redacted] for a judgeship.

I believe \_\_\_\_\_ should be disciplined for entering the sentencing unprepared, and for abuse of her discretion by imposing an inordinately harsh sentence.

I further believe \_\_\_\_\_ would not be a good choice for a \_\_\_\_\_ Court judge because of her abusive use of judicial discretion and failure to prepare properly for the sentencing.

Thank you for your consideration,