

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 15-102

Judge:

Complainant:

ORDER

The complainant alleged a superior court judge failed to follow the law in a criminal proceeding.

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. In addition, 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: May 13, 2015

FOR THE COMMISSION

/s/ George A. Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on May 13, 2015.

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

2015-102

COMPLAINT AGAINST A JUDGE

Name: _____ Judge's Name: _____

Instructions: Use this form or plain paper of the same size to file a complaint. Describe in your own words what you believe the judge did that constitutes judicial misconduct. Be specific and list all of the names, dates, times, and places that will help the commission understand your concerns. Additional pages may be attached along with copies (not originals) of relevant court documents. Please complete one side of the paper only, and keep a copy of the complaint for your records.

THE HONORABLE
FAILED TO FOLLOW THE HIGH COURT'S
RULING; IGNORED STATE LAWS; AND
ABUSED HIS POWERS BASED ON THE BE-
LOW LISTED REASONS -- WHICH ARE
FULLY SUPPORTED BY COURT DOCUMENTS.

1. THE HONORABLE _____ KNEW THAT "TRANSFERRED
INTENT -- ARIZONA REVISED STATUTE (A.R.S. 13-203)
WAS NOT PUT IN FRONT OF THE _____ NOR PART
OF THE "FIRST" TRIAL. SEE EXHIBIT A.

2. _____ INDICTMENT, SHOWING THAT "TRANSFERRED IN-
TENT" WAS NEVER CHARGED AGAINST _____ SEE EXHIBIT B.

3. CASE INFORMATION SHOWING THAT "TRANSFERRED INTENT"
HAS NEVER BEEN CHARGED, NOR AMENDED IN FRONT OF ANY
SEE EXHIBIT C.

4. TRIAL TRANSCRIPTS OF "FIRST" TRIAL
CLEARLY SHOWING THAT PROSECUTOR _____ THEORY WAS
THAT _____ INTENT WITH THIS ONE ACT, WAS TO KILL

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OR INJURE OFFICER SEE EXHIBIT D.

5. THE HONORABLE KNEW, "BEFORE" CONDUCT-
ING SECOND TRIAL (THE BYSTANDER CONVICTIONS
WERE REVERSED BY THE ARIZONA THAT
CONVICTION FOR OFFICER WAS IN VIOLATION
OF A.R.S. § 13-1203 (A)(1) AND WAS "AFFIRMED" BY
THE ARIZONA SEE EXHIBIT E, PAGE 24.

6. THE HONORABLE REFUSED TO FOLLOW THE
ARIZONA RULING IN STATE V.
No. IN THIS RULING THE COURT
HELD THAT:

A) THAT IT CANNOT BE PRESUMED FROM THE ACT
OF FIRING A SHOT AT THAT
ALSO INTENDED TO SCARE OR ANY
OF THE BYSTANDERS;

B) THE INTENT TO SHOOT AND CAUSE INJURY OR DEATH
CANNOT BE TRANSFERRED TO PROVIDE
THE INTENT TO PLACE THE BYSTANDERS IN REASON-
ABLE APPREHENSION OF IMMINENT PHYSICAL INJURY;

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c) THE "PHYSICAL INJURY" OF BEING SHOT
IS NOT "SIMILAR" FOR THE PURPOSE OF
TRANSFERRING INTENT TO THE MENTAL INJURY
OF EXPERIENCING REASONABLE APPREHENSION OF
BEING SHOT (THE BYSTANDER'S). SEE EXHIBIT
F, PAGES 1, 6, AND 8.

7. THE HONORABLE ALLOWED THE PROSECUTOR
TO CHANGE THE THEORY OF THE CASE AGAIN IN
"THIRD" TRIAL, EVEN THOUGH HE KNEW THE FOLLOWING:
SEE EXHIBIT G

a) THAT CONVICTION FOR
WAS ALREADY "AFFIRMED" (IN VIOLATION OF
A.R.S. § 13-1203 (A) (1) (1989)) IN HIS FIRST
DIRECT APPEAL;

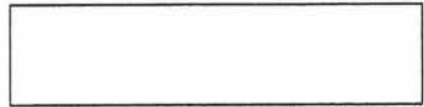
b) THIS, AS NOTED IN SECOND APPELLATE
DECISION, WAS NOT LEGALLY WARRANTED; AND

c) THAT "DUE PROCESS" PRECLUDES THE STATE FROM
ARGUING DIFFERENT THEORIES IN DIFFERENT TRIALS
IN ORDER TO SECURE CONVICTIONS.

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8. THE HONORABLE _____ KNEW AFTER THE ARIZONA
_____ RULING IN _____ SECOND DIRECT APPEAL, THAT
THERE WAS NO NEW EVIDENCE PUT IN FRONT OF THE JURY -- OTHER
THAN THE ACT OF FIRING A SHOT AT _____ (THE AZ.
_____ ALREADY RULED ON THIS) WHEN _____ TRIAL ATT-
ORNEY MOVED UNDER RULE 20, FOR A JUDGMENT OF ACQUITTAL --
FOR LACK OF SUBSTANTIAL EVIDENCE TOWARDS THE BYSTANDERS. SEE
EXHIBIT H, TRIAL TRANSCRIPTS OF _____ PAGE 157-160.

9. THE HONORABLE _____ IGNORED STATE LAWS (A.R.S. § 13-
116), AND EXCEEDED HIS AUTHORITY IN ISSUING _____ ADDITIONAL
YEARS TO _____ ATTORNEY MOVED UNDER A.R.S.
§ 13-116 (BASED ON A SINGLE ACT) THAT _____ SHOULD HAVE RECEIVED
"CONCURRENT" SENTENCES. SEE EXHIBIT I.

A) _____ HAD ALREADY RECEIVED THE MAXIMUM
SENTENCE OF _____ FOR CAUSING PHYSICAL
INJURY TO _____ IN VIOLATION OF
A.R.S. § 13-1203 (A) (1) (1989) -- FOR THIS SIN-
GLE ACT;

B) THE BYSTANDER COUNTS WERE BASED ON A DIFF-
ERENT SECTION OF THE LAW (A.R.S. § 13-1203 (A)
(2) (1989), AND NONE OF THEM WERE "PHYSICALLY



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INJURED BY THIS SINGLE ACT;

c) THE ARIZONA ALREADY HELD
IN SECOND DEGREE THAT "IT
CANNOT BE PRESUMED FROM THE ACT OF
FIRING A THAT
ALSO INTENDED TO SCARE
OR ANY OF THE BYSTANDERS. SEE EXHIBIT
F, PAGE 6;

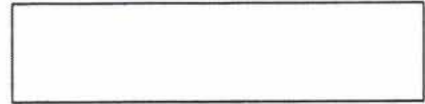
d) THE HONORABLE CITED
STATE V. MENLEY, 141 ARIZ. 465 (1984) TO SUPP-
ORT GIVING "CONSECUTIVE" SENTENCES -- BUT
NONE OF THE BYSTANDERS WERE "PHYSICALLY
INJURED" BY THIS ONE ACT AS
WAS. SEE EXHIBIT J.

10. THE HONORABLE COMPLETELY DISREGARDED THE AZ.
DECISION IN SECOND AND
DENIED POST-CONVICTION (RULE³²) RELIEF -- CLAIMING
THERE WAS NO OBJECTION TO THE TRIAL COURT'S "TRANSFERRED INTENT"
JURY INSTRUCTION, WHICH IS CONTRADICTED BY THE RECORD. SEE PGS.
18-23, EXHIBIT K.

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THE HONORABLE _____ DID EXACTLY
WHAT THE COURT _____ HELD COULD NOT HAPPEN,
AND ALLOWED THE JUROR'S TO PRESUME, FROM THE
ACT OF FIRING A SHOT AT OFFICER (THERE
WAS ABSOLUTELY NO OTHER EVIDENCE) THAT _____
ALSO INTENDED TO SCARE OFFICER AND THE
BYSTANDERS. SEE EXHIBIT F, PAGE 6.

11. THE HONORABLE _____ POST-CONVICTION RELIEF DISMISS-
AL. SEE EXHIBIT L-

- RULING IS CONTRADICTED BY THE RECORD, WHICH
SHOWS THAT SEVERAL OBJECTIONS WERE MADE
ON THE RECORD. SEE EXHIBIT K, PAGES 18-23.

~ RESPECTFULLY SUBMITTED ~