

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 15-236

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Judge:

Complainant:

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**ORDER**

The complainant alleged a superior court judge made improper rulings in a criminal case.

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: October 7, 2015

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 7, 2015.

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

Complaint Against A Judge

Name:

Judge's Name:

Date:

This complaint against The Honorable \_\_\_\_\_ consists of allegations of bias and/or Prejudice, abuse of Judiciary discretion and his failure to follow rules of the Court along with laws of the State of Arizona. These allegations are supported by the following facts that I attest are true and correct to the best of my knowledge,

Facts: ① Judge \_\_\_\_\_ showed Prejudice toward the above named Complainant by the fact that the State Prosecutor, \_\_\_\_\_ was ordered on \_\_\_\_\_ to disclose some \_\_\_\_\_ evidence in my case; i.e., recorded \_\_\_\_\_ by witness/codefendant. \_\_\_\_\_ These \_\_\_\_\_ were pertinent to my case because co-defendant \_\_\_\_\_

was bragging how he'd \_\_\_\_\_ The State Prosecutor **NEVER** gave these recordings to me nor my trial counsel; \_\_\_\_\_ Judge \_\_\_\_\_ showed prejudice toward me and was bias in favor of the State's Attorney by **NOT** imposing any of the enumerated sanctions under Rule 15.7(a) of the Ariz. R. Crim. P. upon the Prosecutor. The Court Order is enclosed as EXHIBIT 'A'.

② Judge \_\_\_\_\_ abused his Judiciary discretion at sentencing when he aggravated my sentence past the presumptive which is the mandatory maximum in Arizona under Apprendi v. New Jersey, 530 U.S. 466, 102 S. Ct. 2360 (2000) and its progeny. Judge \_\_\_\_\_ had **NO** authority to sentence me beyond the presumptive without presenting any facts that would enhance my sentence to a jury and have them proven beyond a reasonable doubt. In my plea agreement (Paragraph 7) there is a statement that says I consent to judicial fact finding for sentence enhancement by preponderance of the evidence. That statement must **NOT** be allowed,

especially when one is unlettered in the law.

Standard is for cases. In cases, the standard is IT has been decided in an Arizona court that it is fundamental error and prejudice to use a standard for finding aggravating factors instead of a jury finding those facts. See - State v. Henderson, 210 Ariz. 561, 115 P.3d 601 (2005).

③ Judge has NOT followed all of the Rules of the Court. Rules are intended to be followed by EVERYONE in the courtroom including Judges. Rule 17.2(6) states that all sentencing statutes must be in a plea agreement. This rule is based on Boykin v. Alabama, 395 U.S. 238, 23 L.Ed.2d 274 (1969). Regardless of what the Rules of Court and the U.S. Supreme Court says, Judge still imposed a sentence of Intensive Probation without the statutes being in the plea agreement (ARS 13-901, et. seq.). Although this was brought up in a petition for amongst all the other issues, Judge summarily dismissed the PCR petition. At the very minimum, Judge should have ordered an Evidentiary Hearing so as to allow oral arguments supporting all facts and to present all evidence in support of all claims. Judge has not breached the plea agreement, instead he has breached the law by imposing an illegal sentence of Probation. One ~~can~~ can ONLY be convicted, found guilty of or sentenced pursuant to a violation of any statute.