

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 15-308

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Judge:

Complainant:

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**ORDER**

The complainant alleged a superior court judge improperly denied a request for a change of judge. The complainant alleged a second superior court judge was prejudiced against him and made improper rulings in his criminal case. Finally, the complainant alleged a superior court commissioner denied him a fair trial, improperly refused to disqualify herself, and made improper rulings in his criminal case.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the judicial officers 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 judicial officers' rulings. In addition, the commission found no evidence of ethical misconduct and concluded that they did not violate the Code in this case. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: December 16, 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 to the three judicial officers on December 16, 2015.

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

To the Commission on Judicial Conduct

This letter is a request that your commission intercede in the matter of \_\_\_\_\_ Case Number \_\_\_\_\_ and the multiple Due Process Violations caused by and allowed by Judge \_\_\_\_\_ My name is \_\_\_\_\_

\_\_\_\_\_ and I am the Defendant in the case. Judge \_\_\_\_\_ was the \_\_\_\_\_ Judge. There is no way that the \_\_\_\_\_ was or could be considered Fair and Judge \_\_\_\_\_ played a major part in making sure it was not Fair.

The first complaint is that Judge \_\_\_\_\_ should have recused herself from the trial due to the fact that she was a prosecutor on the previous case, \_\_\_\_\_ Criminal Case Number \_\_\_\_\_

\_\_\_\_\_ in which the accuser in my cases \_\_\_\_\_ was the Defendant. The \_\_\_\_\_ From the \_\_\_\_\_ case testified as well as the \_\_\_\_\_ of both \_\_\_\_\_ Although Judge \_\_\_\_\_ says that she only did restitution on that case she seemed very familiar with the case and also very passionate and compassionate with the victims. I understand that Judges are believed to be Fair and impartial but as the circumstances exist a reasonable person would have questioned her impartiality.

At the beginning of trial I was \_\_\_\_\_ On \_\_\_\_\_ I requested a Voluntariness Hearing. Judge \_\_\_\_\_ denied the request cutting me off in the middle of my argument because a Voluntariness hearing is only for statements made to Law Enforcement

Personnel or that is what I understood the reason it was denied. Judge \_\_\_\_\_ prevented me from quoting From State v. Holmes, a case decided in \_\_\_\_\_ in which the Arizona \_\_\_\_\_ to me made it clear that even the conversation of a phone call between a Defendant/Suspect and a Informer/State's Agent whether memorized or recorded could only be admitted into evidence if the statements made by the Defendant were voluntarily made. My case involved a \_\_\_\_\_ and in addition to State v. Holmes, \_\_\_\_\_ the Arizona \_\_\_\_\_ in State v. Brunia, \_\_\_\_\_ although it is only a Memorandum For Decision, because the Decision is directly related to this issue it could have provided some guidance. In State v. Brunia, \_\_\_\_\_ the \_\_\_\_\_ upheld the trial court's decision to admit into evidence the confrontation call but only after determining that it was voluntarily made, stating "To be admissible, a [defendant's] statement must be voluntary, not obtained by coercion or improper inducement." State v. Ellison, 213 Ariz. 116, 127 ¶ 30, 140 P.3d 899, 910 (2006). The State has the burden of proving, by a preponderance of the evidence, that a statement was voluntary. State v. Amaya-Ruiz, 166 Ariz. 152, 164, 800 P.2d 1260, 1272 (1990). "We agree, however, that at the time \_\_\_\_\_ made the phone call he was acting as the State's agent, and certain constitutional safeguards, as noted above, do apply." at \_\_\_\_\_ The Court concluded that "Under the totality of the circumstances, the trial court did not err in concluding that \_\_\_\_\_ will was not overbourn, and that his statements during the phone call were voluntary." at \_\_\_\_\_ The Trial Court in

held an evidentiary hearing. The confrontation call in my case contained obvious promises. "I don't want to jeopardize anything. I don't want to jeopardize our relationship. I told you I don't want to go through that whole struggle. I just need to know the truth so that we can get past this." The struggle that \_\_\_\_\_ was talking about was the case against \_\_\_\_\_ referenced earlier that Judge \_\_\_\_\_ ruled could not even be mentioned. \_\_\_\_\_ also testified about promises that she made during the portion of the confrontation call not admitted into evidence. "I told the Defendant, Look, you don't go into -- into marriage with the ideation that it's going to end. No matter what it is that we go through, we can work it out. We can talk about it. We can get help. We can try to resolve it. But first you need to tell me exactly what happened. Tell me what you did. Once you're honest with me and tell me the truth, then we can move forward." "If you tell me the truth, I will go with you. We can get help as a family, you know. We can do this together, you know. I'm your wife, you know. Trust me." The confrontation call was the most probative piece of evidence in the State's case and the denial of the Voluntariness Hearing on grounds that have no legal basis denied me Due Process. Two other points, 1) In \_\_\_\_\_ the Court ruled that other statements made by the Defendant to the \_\_\_\_\_ of the \_\_\_\_\_ were inadmissible because the \_\_\_\_\_ seemed to beat them out of the Defendant and therefore involuntary even though there were no law enforcement personnel involved and 2) Det. \_\_\_\_\_ testified

that he was listening to the call so although the statements admittedly were not intended for law enforcement personnel, were actually made to law enforcement personnel along with the State's agent.

The State filed a \_\_\_\_\_ that among other things requested \_\_\_\_\_

Judge \_\_\_\_\_ went further and ruled that nothing from the case number \_\_\_\_\_ could even be mentioned. Sarcastically stating that if I wanted the police reports and information on the \_\_\_\_\_ case as she will see if the prosecutors office can provide it to me. This evidence was impounded into evidence in my case on \_\_\_\_\_ and requested by me on \_\_\_\_\_ I did not

have the necessary information (the case information) to even begin to see which of the \_\_\_\_\_ exceptions could be used to admit the evidence although Judge \_\_\_\_\_ ruling did not even give that option. This ruling also gave the opportunity to perjure herself increasing the Due Process Violation. \_\_\_\_\_

when asked about the process of the investigation stated "Sure, I didn't understand the process. I surely didn't." and when asked about \_\_\_\_\_ "how to testify in court?", stated "No, I don't know how to testify in court. So I definitely couldn't give \_\_\_\_\_ on how to do it."

In \_\_\_\_\_ called the police reporting the

of her who she reported was  
went to trial, her along with both of that testified in  
my case testified at the trial and I would  
think that once you have done something successfully that you  
can no longer say you don't know the process. The Prosecutor  
allowed this perjury and knew it was perjury and because of  
Judge Familiarity with the history, she knew of the  
perjury as it was happening. The jury was intentionally misled  
to believe that had little or no experience

and that was far from the truth. Delayed disclosure was also  
an issue in my case and the fact that the accuser was familiar  
with why she should not wait was something the jury needed to  
know. One of the Juror questions to was about her  
talking to about reporting Judge kept  
the Jury uninformed about this key issue.

The Prosecutor also questioned about  
why she did not report her allegations. Although told detectives  
that initially stated that she did not want to go through  
everything again (speaking probably about previous case) now had  
several other reasons why she did not, most of them bolstering her  
credibility and even after being asked was there any other reason  
said nothing about not wanting to go through the

This was perjury allowed by the Prosecutor and  
Judge and they both knew or should have known that  
it was perjury.

**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.**

To the Commission on Judicial Conduct

This letter is to inform your Commission of the Conduct of  
County Judge and the effect that his  
 actions had on my criminal case

Judge became involved in my case to rule on an affidavit  
 alleging Judicial Bias which was treated as a Motion to Change  
 Judge for Cause and denied.

Judge in his ruling stated that he had "reviewed the  
 transcript" (see Minute Entry dated referencing transcript of  
 the Oral Argument held on On Judge  
 requested the transcript for that proceeding. I filed a  
 request for information because I could not understand how he  
 reviewed a transcript that he had not even requested. On  
Judge responded that he received an email  
 copy of the transcript on that was used to make  
 his ruling and the request was for accounting  
 purposes.

Somewhere or somehow, either by accident or intentionally the  
 truth has not been told. Judge says that he received  
 the email transcript on and used it to make his  
 ruling on but Judge announced this  
 ruling on

I question the decision that was made, the standard used to make the ruling and the reason behind the deceptive information being provided.

This ruling allowed, what I believe, a biased Judge to rule on matters in my case that shaped my trial in what was nowhere near Fair. Judge \_\_\_\_\_ after this ruling, ruled to admit prior acts, denied to exclude the use of \_\_\_\_\_ in the trial, denied several suppression motions, denied my request for an evidentiary hearing, denied motion to dismiss due to Speedy Trial Violation and a motion to reconsider denial of previous motion to dismiss indictment or redetermine probable cause.

Any help that your commission can provide will be greatly appreciated. I can be contacted at \_\_\_\_\_

through my parents, \_\_\_\_\_

or \_\_\_\_\_  
at \_\_\_\_\_

To the Commission on Judicial Conduct,

This letter is to inform your commission of the Conduct of  
County Judge during my Criminal Case  
 and request any help or resources  
 that you can make available to cure what I believe  
 created a trial that in no way could be considered  
 fair.

Judge \_\_\_\_\_ denied the following motions Filed by myself  
 in propria persona with no response from the State written  
 or orally if a Oral Argument was made available.

Motion to Dismiss Indictment or Redetermine Probable Cause Filed  
 on \_\_\_\_\_ No response from  
 the State.

Motion to Dismiss Filed on  
 No response from the State

Motion to Suppress Confrontation Call Newly Discovered Information  
 Filed \_\_\_\_\_ (alleging Due Process Violation for failing to preserve  
 of the \_\_\_\_\_ recording) No response from the  
 State

Motion to Change Advisory Counsel Filed \_\_\_\_\_ (advisory counsel  
 stated he had no problem)

Motions For Discovery Filed \_\_\_\_\_ and \_\_\_\_\_ requesting  
 information surrounding loss of evidence (confrontation call)

Motion to Suppress Filed \_\_\_\_\_ Suppressing Det.

State's Failure to disclose any information specifically requested in reference to Internal Affairs Complaints) No Response From State (Currently Special Action Filed in Court of Arizona.

Motions Filed (requesting information surrounding evidence) No response From State

Several Motion to Provide Transcripts of Testimony

Motion to Dismiss Due to Federal Speedy Trial Act and Arizona State Rule 8 Violations Filed No Response From the State (Currently Special Action Filed in Court of Arizona

Motion to Exclude use of Prejudicial Term Filed (No Response From the State)

Motion to Suppress State's Witnesses Filed (Requesting suppression of Witnesses included in undisclosed specific request of evidence impounded in my case) State never disclosed although stated that they did and would

Motion to Compel State to Notify Proper Persons Defendant Personally of all Disclosure Filed No response From the State

Request for an Evidentiary Hearing to Determine the Culpability of the State in the Loss or Cutting off of Confrontation Call Recording Filed No response From the State and

Judge stated this information could be obtain through Discovery Motions. Again I Filed Discovery Motions and were ignored by the State and Denied by the Judge.

Motion For Reconsideration of Defendants Motion to Dismiss Indictment

or Redetermine Probable Cause Filed  
From State

No response

I have no intention on questioning your intelligence or knowledge of the law but I do want to express that I do believe that lawfully without any response from the State there was no way that these matters should have been denied.

In addition to the matters already discussed, on I filled a Motion to Suppress Confrontation Call in which I asserted that the Confrontation Call Violated my 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup> and 14<sup>th</sup> Amendment Rights as well as that the Statements were involuntary and violated U.S.C. § 2510-18. The State only responded to the 4<sup>th</sup> Amendment Violation and Judge said it was Voluntary because I was not in custody. Again not questioning or insulting your intelligence or knowledge of the law with my research on the issue I would like to state that custody alone is not the "totality of the circumstances" in which the issue of admissibility of statements is determined. Also the State had the burden, in accordance with Arizona Rules of Criminal Procedure, Rule 35, to prove the lawfulness of this evidence once I made a prima facie showing. If the transcript of the oral argument is accurate it will show that Judge put the burden on me to prove that the statements were unlawful, in which I felt I had already did in my motion and reply.

Judge denying my Request For an Evidentiary hearing on allowed an additional Due Process Violation to occur. My request was in accordance with U.S. v. Miranda, 526 F.2d 1319 (1975) and I believe at a hearing answers would have been provided that could have prevented the State From presenting an additional minutes of the recording the Judge made me believe did not even exist after the jury was sworn in and minutes before opening statements were scheduled.

I did on file an affidavit alleging that Judge was Bias, which was treated as a Motion to Change Judge For Cause and denied, but I stand by my feelings because of his unlawful decisions. Judge denied many motions never stating that they were meritless or frivolous but on at an Oral Argument about disclosure of Records pertaining to my accuser denied all the motions that I could not remember at the time. Although matters that the State did not bring up were not denied.

I ask this commission for any assistance it can provide in this matter. I can be contacted at

or contact my Parents