

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 16-064

Judge:

Complainant:

ORDER

The complainant alleged a superior court commissioner was prejudiced against him and made improper rulings in a criminal matter.

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(a).

Commission member Peter J. Eckerstrom did not participate in the consideration of this matter.

Dated: April 6, 2016

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 April 6, 2016.

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

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2016-064

COMPLAINT AGAINST A JUDGE

Your Name: _____ Judge's Name: _____ Date: _____

Instructions: Describe in your own words what the judge did that you believe constitutes misconduct. Please provide all of the important names, dates, times, and places related to your complaint. You can use this form or plain paper of the same size to explain your complaint, and you may attach additional pages. Do not write on the back of any page. You may attach copies of any documents you believe will help us understand your complaint.

IN DURING A JUDGE'S ROTATION, MY CASE WAS TRANSFERRED
TO IN I APPEARED IN
COURTROOM WITH MY COURT APPOINTED ATTORNEYS
COLLEAGUE NAME WHO REQUESTED A "GO DAY" EXTENSION ON
BEHALF OF MY COURT APPOINTED ATTORNEY WHO WAS
AWAY ON VACATION, THE VISITING JUDGE 'GRANTED THE
EXTENSION TO THE DEFENSE... MOVING FORWARD PRIOR TO MY NEXT COURT
DATE, I FILED A MOTION TO THE COURT FOR INEFFECTIVE ASSISTANCE, REQUEST
TO CHANGE, ATTACHED WITH A BAR COMPLAINT REGARDING LACK OF INTEGRITY,
LACK OF DUE DILIGENCE, LACK OF INTEREST, NOT TO MENTION AFTER THOROUGH
RESEARCHING, I DISCOVERED HAD
REGARDING THEREFORE I FOUND
NOT TO BE A GOOD FIT TO REPRESENT ME IN MY TRIAL..
FILED A MOTION TO THE COURT AS WELL, INFORMING THE COURT
HE WAS NOT PREPARED TO GO TO TRIAL, ASSUMING SEVERAL THINGS HAD
ALREADY BEEN COMPLETED IN REGARDS TO THE AGE OF THE CASE... MOVING
FORWARD ON I APPEARED BEFORE WITH
FOR THE FIRST TIME SINCE MY CASE WAS TRANSFERRED TO
HIS COURT ROOM. AT THE BEGINING OF THE PROCEEDING,
QUICKLY RECOGNIZED IN A "PERPLEX FASHION", SEVERAL THINGS WERE
OBVIOUSLY INCOMPLETE IN MY CASE, CONSISTENTLY
KEPT EMPHASIZING MY CASE WAS THE OLDEST CASE "IN HIS COURT ROOM..
MOVING FORWARD, REPRIMANDED REGARDING
HIS MOTION, AND THE FACT HE HAD ALREADY BEEN GIVEN AN EXTENSION

(Attach additional sheets as needed.)

1 TO BUILD AND PREPARE THE DEFENSE'S CASE FOR TRIAL.
 2 EXPLAINED ON THE RECORD, HE HAD BEEN
 3 AWAY ON VACATION, ASSUMED THINGS WERE ALREADY COMPLETE
 4 IN MY CASE (IE. DISCOVERY, INTERVIEWS, SUBPOENAS) AS
 5 WELL AS THE ISSUES THAT SURFACED BETWEEN HIM AND
 6 ME AS HIS CLIENT. CLEARLY STATED ON THE
 7 RECORD HE ADVISED HIS CLIENT TO FILE A MOTION TO CHANGE
 8 COUNSEL. MOVING FORWARD, WHEN
 9 ADDRESSED THE MOTION TO CHANGE COUNSEL BY THE DEFENDANT,
 10 HE QUICKLY REPRIMANDED ME, STATING THAT I'M NOT
 11 ALLOWED TO FILE MOTIONS IN HIS COURT ROOM, THAT I
 12 MUST GO THRU MY ATTORNEY. HOWEVER,
 13 TOTALLY, INTENTIONALLY OVERLOOKED THE FACT,
 14 STATED ON THE RECORD HE INFORMED OR ADVISED HIS CLIENT
 15 TO FILE A MOTION TO CHANGE COUNSEL.
 16 WENT ON TO SAY, I'M NOT ALLOWED TO PICK AND CHOOSE MY
 17 ATTORNEY'S WHICH I TOTALLY UNDERSTAND REGARDING COURT
 18 APPOINTED COUNSEL. HOWEVER, IT IS TO MY BELIEF AND
 19 UNDERSTANDING, I HAD REASONABLE GROUNDS WITHIN THE
 20 "COTH AMENDMENT" TO SEEK NEW COUNSEL, AS WELL AS MY
 21 CONSTITUTIONAL RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL.
 22 MOVING FORWARD, PROCEEDED TO SAY EVEN
 23 IF HE DECIDED TO GRANT MY MOTION TO SEEK NEW COUNSEL,
 24 IT WOULD BE A "DISADVANTAGE" FOR ME BECAUSE HE WAS
 25 NOT GOIN' TO GRANT ME ANY ADDITIONAL TIME TO ALLOW MY NEW
 26 ATTORNEY TO PREPARE FOR TRIAL CAUSE I ALREADY HAD A
 27 SCHEDULED TRIAL DATE. THEREAFTER
 28 STATED ON THE RECORD "NOW A MOTION

1 TO CHANGE COUNSEL, THAT SOMETHING YOU CAN DO, AND
2 WHAT YOU SUBMITTED HERE IS PERFECT. SO AS A
3 DEFENDANT IN HIS COURT ROOM, I'M A LITTLE MIND-BOGGLED
4 @ THIS TIME, TRYING TO ASSESS AND MAKE SENSE OF THIS
5 COURT PROCEEDING. BECAUSE @ THE BEGINNING OF ADDRESSING
6 MY MOTION, HE CLEARLY STATED I'M NOT ALLOWED TO FILE
7 ANY MOTIONS IN HIS COURT ROOM. CLEARLY
8 STATED ON THE RECORD, HE ADVISED HIS CLIENT TO FILE A
9 MOTION TO CHANGE COUNSEL. COURT TRANSCRIPTS WILL CERTAINLY
10 PROVIDE PROOF THAT NEITHER COUNSEL WAS PREPARED TO GO
11 TO TRIAL, THE STATE HAD "NO OBJECTIONS" TO EITHER MOTIONS
12 - BY THE DEFENSE. CONSIDERING, WAS FAIRLY
13 NEW TO THE CASE, THE STATE HAD NOT TURNED OVER ALL
14 EVIDENCE DESPITE THE FACT MY CASE WAS ALREADY 2 YRS.
15 OLD WHICH I WILL TOUCH ON LATER IN THIS COMPLAINT.
16 MOVING FORWARD THE TRIAL JUDGE
17 GAVE THE DEFENSE LESS THAN 2 WEEKS TO BUILD AND
18 PREPARE FOR TRIAL. HE DENIED MY MOTION TO CHANGE
19 COUNSEL DESPITE THE "BAR COMPLAINT" AND A COPY OF THE
20 I PROVIDED
21 @ THE COURT PROCEEDING, WHERE THE TRIAL JUDGE
22 REFUSE TO REVIEW IT OR ALLOW ME TO SUBMIT IT TO
23 THE COURT. HOWEVER, WHAT
24 FAILED TO RECOGNIZE PRIOR TO MY TRIAL? WAS THE DATE
25 I WAS "ARRAIGNED", MY 1ST INITIAL APPEARANCE IN COURT
26 WAS AND I DID NOT RECEIVE AN "ARRAIGNMENT"
27 UNTILL "WHICH GOES DIRECTLY TO RULE 5.1"
28 UNDER ARIZONA RULES OF CRIMINAL PROCEDURE, IF A PRELIMINARY

1 HEARING HAS NOT COMMENCED WITHIN "20 DAYS" FOR A
2 DEFENDANT WHO'S OUT OF CUSTODY IN WHICH I WAS
3 RELEASED ON "O.R." ON "ALL CHARGES MUST
4 BE DISMISSED", CASE HISTORY INDICATES I WASNT
5 ARRAIGNED UNTILL "65 DAYS" AFTER THE "20 DAY RULE" OR
6 TERM HAD ALREADY CLEARLY "EXPIRED" WHICH INDICATES THE
7 ARRAIGNMENT IS CLEAR AND CONVINCINGLY "INVALID" ALTHOUGH
8 RULE 5.1 UNDER A.R.C.P. STIPULATES, THE COURT MAY
9 POST-PONE A PRELIMINARY HEARING DUE TO "EXTRAORDINARY
10 CIRCUMSTANCES". HOWEVER "CASE HISTORY" DOESNT INDICATE
11 ANYTHING THAT WOULD JUSTIFY SUCH CIRCUMSTANCES OF
12 -THAT NATURE... RECORD INDICATES
13 FAILED TO THOROUGHLY REVIEW "THE ENTIRE CASE HISTORY"
14 PRIOR TO THE TRIAL, THEREFORE ALLOWING MY CASE TO
15 PROCEED TO TRIAL AND REACH "A VERDICT" THAT WAS ABSOLUTELY
16 "CONTRARY TO LAW". NOT TO MENTION A "MISSING DASH CAM
17 VIDEO" WHERE THE FIRST ARRIVING OFFICER,
18 OF STATED ON THE RECORD "HE DID NOT TURN
19 ON HIS DASH CAM, RECORD INDICATES HE NEVER EXPLAINS WHY?
20 UPON HIS ARRIVAL TO THE INTERSECTION... MOVING FORWARD, THE
21 "MISSING TOW REPORT" WHICH WAS THE "CENTRAL PIECE OF EVIDENCE"
22 IN MY CASE. THE COUNSEL FOR DEFENSE CLEARLY EXPLAINED
23 ON THE RECORD ON HOW AND WHY THE "MISSING
24 TOW REPORT" WAS EXCULPATORY TO THE DEFENDANT.
25 AFTER HEARD THE DEFENSE OUT REGARDING
26 THE MISSING TOW REPORT, "NOT ONCE BUT TWICE". THE TRIAL
27 JUDGE THEN CLEARLY STATED ON THE RECORD "IN MY MIND
28 THE MISSING TOW REPORT WOULD BE "EXCULPATORY" TO THE

1 DEFENDANT, IT WOULD TEND TO EXONERATE THE DEFENDANT,
2 IT WOULD EXPLAIN THAT HE WASN'T DRIVING, AND IT WOULD
3 BE PREJUDICIAL TO THE DEFENDANT. HOWEVER ONCE AGAIN,
4 ALLOWED MY TRIAL TO PROCEED AND
5 REACH A VERDICT CONTRARY TO LAW. A WILLIT'S INSTRUCTION
6 WAS FILED BY THE DEFENSE PRIOR TO THE TRIAL, HOWEVER
7 INTENTIONALLY SAT ON THE WILLIT'S
8 INSTRUCTION UNTILL FINAL PREPARATIONS OF FINAL JURY
9 INSTRUCTIONS. THEREFORE ROBBING THE JURY OF THE
10 GENUINE OPPORTUNITY TO WEIGH OUT THE SIGNIFICANCE
11 AND THE IMPACT OF THE MISSING EVIDENCE THRUOUT
12 THE DURATION OF THE TRIAL. IT IS TO MY BELIEF AND
13 UNDERSTANDING, AFTER OBSERVING
14 ACTIONS REGARDING HIS DELAYED DECISION WHETHER TO
15 GRANT THE WILLIT'S INSTRUCTION TO THE DEFENSE? THE
16 TRIAL JUDGE BASICLY GAVE THE STATE TILL THE TAIL END
17 OF THE TRIAL TO PRODUCE THE MISSING TOW REPORT AND
18 INTENTIONALLY OVER LOOKING THE FACT, THE STATE HAD
19 OVER 2 YEARS TO PRODUCE AND TURN OVER ALL EVIDENCE TO
20 THE DEFENSE, WHICH CLEARLY EXPOSES, THE CLEAR AND
21 CONVINCING FACT, THE TRIAL JUDGE FAILED TO SANCTION
22 THE STATE ACCORDING TO RULE 15.1 (B) SUPPLEMENTAL
23 DISCLOSURE: SCOPE, PROSECUTOR SHALL DISCLOSE THE MATERIALS
24 AND INFORMATION LISTED IN RULE 15.1 (B) NO LATER
25 THAN 30 DAYS AFTER ARRAIGNMENT. AS WELL AS "E.R. 3.8"
26 UNDER "RULE 42" - PROSECUTOR IN A CRIMINAL CASE SHALL
27 (D) MAKE TIMELY DISCLOSURE TO THE DEFENSE OF ALL
28 EVIDENCE OR INFORMATION KNOWN TO THE PROSECUTOR

**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.**