

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 16-109

Judge:

Complainant:

ORDER

The complainant alleged a superior court judge engaged in improper ex parte communications and 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(a).

Dated: May 25, 2016

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 25, 2016.

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

I understand the commission cannot reverse court orders or assign a new judge to a case.

I declare, under penalty of perjury, that the foregoing information and the facts I have provided upon which my allegations of judicial misconduct are based are true and correct.

Signature: _____

Date: _____

INSTRUCTIONS

Use the following space or plain paper of the same size to explain your complaint. Explain why you believe what the judge did constitutes judicial misconduct. Be specific and list the names, dates, times, and places relevant to your allegations. Additional pages may be used and relevant copies of documents may be sent with your complaint (please do not send original documents). Use one side of each page only and write legibly or type your complaint. Please keep a copy of your complaint for your records.

Please see Exhibit One.pdf attached hereto

Table of Contents

- Complaint
- Information and Evidence

Exhibit 1
(Complaint)

My trial Judge, _____ conducted multiple critical meetings without me or my counsel present. These meetings were not house keeping, they resulted in irreparable harm to my case and my defense. Furthermore, neither I nor my attorney were ever informed by _____

that these meetings had occurred or that decisions had been made in our absence. It was not until years later that I came into possession of the minute entries and transcripts that I uncovered these violations. Here the violation was especially flagrant and inexcusable for I had moved prior to trial to replace my retained counsel. The circumstances surrounding this pretrial motion were thoroughly examined by _____ in an long oral argument. _____ summed it up as, "

Judge _____ denied the motion on the grounds that replacing retained counsel would cause undue delay, for it would require the new attorney to spend _____ or over a familiarizing himself with the case. Later, _____ conducted an ex parte (secret) meeting without my presence and utilized the pretext of me being represented by _____

I had never met this man before, he had no knowledge of my case (much less the _____ or _____ had already stated would be required to represent me) and I had not entered into a representation agreement with him verbally or in writing. This was an invalid substitution of counsel. See _____ annexed hereto as _____ at 1-2, discussing Ariz. R. of Crim. P. 6.3 (c).

Notwithstanding the invalid substitution, [redacted] was required to obtain voluntary waiver of absence. Rule 9.1 unambiguously states that three conditions must be met before [redacted] could infer I was voluntarily absent, "The court may infer that an absence is voluntary if the defendant had personal notice of the time of the proceeding, the right to be present at it, and a warning that the proceeding would go forward in his or her absence should he or she fail to appear." *see also id.* At 2 detailing the effects of [redacted] violation of my rights as under Rules 19.2 and 9.1.

Please review the three pages I have attached from my [redacted] that detail the circumstances surrounding this secret meeting. *see pages*

Please also note that there was a second secret meeting at which neither myself nor any attorney purporting to represent me was present. At this meeting jury instructions were settled. This was a separate and discrete violation of my rights. What makes this so shocking is that at all times relevant to these violations I was present in the building, sitting in a room just down the hall, and at no time was I ever informed that there would be or had been such meetings.

Based on the foregoing, [redacted] improprieties violated the following portions of the Arizona Code of Judicial Conduct:

- ◆ Rules 1.1 and 1.2 generally, for [redacted] actually violated at least two rules of court on two occasions;
- ◆ Rule 2.2, for once [redacted] rejected my application to fire retained counsel on the premise that it would take another attorney [redacted] to get up to speed on my case, [redacted] allowance of an attorney who had done no preparation is evidence of unfairness and partiality. Separately, [redacted] was partial to the prosecution, ensuring that they were informed and present at all meetings;

- ◆ **Rule 2.6 Ensuring the Right to be Heard**, blatantly violated; and
- ◆ **Rule 2.9 Ex Parte Communication**, blatantly violated.

I declare, under penalty of perjury, that the foregoing information and the facts I have provided upon which my allegations of judicial misconduct are based are true and correct.

Signature: .

Date: