

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 16-114

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Judge:

Complainant:

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**ORDER**

The complainant alleged a municipal court judge was incompetent, biased in favor of the prosecution, and improperly accepted a plea from a criminal defendant who stated he had been coerced into accepting it.

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).

Commission member Margaret H. Downie did not participate in the consideration of this matter.

Dated: August 15, 2016

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 August 15, 2016.

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

2016-114

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

Dear Commission Members:

Sadly, it is my duty to report Judge [redacted] for violations of the Code of Judicial Conduct. I am enclosing audio of the hearing I recently had with this judge. You will be flabbergasted at the lack of professionalism, bias for the prosecution, and basic incompetence of this jurist. Let me set the stage: I was representing [redacted] on a charge of [redacted] and was assigned to Judge [redacted] courtroom. The prosecution was extremely untimely with fulfilling their duties of mandatory discovery pursuant to Arizona Rule of Criminal Procedure 15.1. Despite this, Judge [redacted] denied reasonable requests for continuances to complete the discovery process. [redacted] was arraigned on [redacted]. The prosecution did not file a [redacted] until the [redacted]. After this, the Defense learned that the arresting officer was wearing a bodycam. The State had not provided the mandatory discovery consisting of the bodycam audio/video, so the Defense had to specially ask for it. The State did not provide this mandatory discovery until [redacted]. Judge [redacted] had denied the Defense's unopposed and reasonable requests for continuances and set a trial date of [redacted]. Thus, the bodycam audio/video was received a mere [redacted] prior to trial.

When the Defense finally got a chance to review the bodycam footage, it contained

. It also contained:

Therefore, the bodycam audio/video was mandatory discovery pursuant to Arizona Rule of Criminal Procedure 15.1(b)(2). The Defense asked for a continuance due to the new discovery. Judge [redacted] denied this completely proper and reasonable request for a continuance. (Recall that [redacted] was arraigned on [redacted]. Judge [redacted] denied continuances and set trial for [redacted]. Rule 8 governs speedy trial rights: it holds that, on a misdemeanor case such as this one, the speedy trial limits are 180 days. Thus, the speedy trial deadline was not quickly approaching, it was, in fact, [redacted] away.)

The Defense filed a motion asking for sanctions due to the prosecution failing to timely provide [redacted] material. Now, somewhat obviously, for a judge to determine if a violation has occurred, the judge would actually **have to view and listen to the evidence in question**. As you will hear when you listen to the audio of the hearing, Judge [redacted] never even bothered to view the bodycam footage. She just summarily rules for the

prosecution. Whether this is due to bias or incompetence (or, most likely, a combination of the two) is for the Commission Members to decide.

But this is just the beginning of this jurist's malfeasance. After the reasonable motions to continue were denied, my client was forced to go to trial. As he could not afford my trial fee, he exercised his right to discharge my services. As any competent attorney is aware, a person cannot be forced to have a lawyer he does not want and has a right to represent himself (absent mental illness considerations). This is common sense, and it is also black letter law as decided by the United States Supreme Court in *Faretta v. California*, 422 U.S. 806, 95 S.Ct. 2525, 45 L.Ed.2d 562 (1975). Judge [redacted] denied [redacted] his constitutional right to discharge his attorney and represent himself, and forced him to have an attorney he no longer wanted. This, in turn, forced [redacted] to plead guilty—even though he did not want to—because he did not want to go bankrupt by amassing legal fees he could not afford. As you will hear, during the change of plea proceeding, [redacted] told Judge [redacted] that he was being forced to plead guilty and felt he had no other choice due to her forbidding him to discharge his lawyer. Judge [redacted] had no problem whatsoever taking this poor man's guilty plea, despite his informing her that he felt forced to do so. The overarching minatory tone of this judge and blatant favoring of the prosecution fairly drips from the recording. She has forgotten, if she ever knew, that she is a public servant and is duty bound to treat litigants with respect and dignity.

Sincerely,