

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 19-019

Judges:

Complainant:

ORDER

The Complainant alleged that two superior court commissioners improperly convicted him.

The role of the Commission on Judicial Conduct is to impartially determine whether a judicial officer has engaged in conduct that violates the Arizona Code of Judicial Conduct or Article 6.1 of the Arizona Constitution. There must be clear and convincing evidence of such a violation in order for the Commission to take disciplinary action against a judicial officer.

The Commission does not have jurisdiction to overturn, amend, or remand a judicial officer's legal rulings. The Commission reviewed all relevant available information and concluded there was not clear and convincing evidence of ethical misconduct in this matter. The complaint is therefore dismissed pursuant to Rules 16(a) and 23(a).

Dated: May 22, 2019

Copies of this order were distributed to all appropriate persons on May 22, 2019.

Comp
2019-019

To Whomever It May Concern,

Please use this letter as my application.

My name is

Born on

I am going to try

and keep this short, sweet, simple, and to the point. The reasons for my requests to begin review upon Court Judges and

are. I feel like I have become the victim of malicious prosecution, due to the fact that these Judges have sought retribution for acts in another jurisdiction/state that were already a crime and I have already been punished for, causing me cruel and unusual punishment and to be held twice in jeopardy for the same offense/offenses by the same government, violating my rights to a due process both procedural and substantive. Because of this My Finance is struggling.

The facts are as follows, from officer report for

written by:

"

"For one there is no proof to the alleged

failure to register charges. Second there are no references to any case numbers, dates of offense, final dispositions, or county of origin, for the alleged charges. Nor is there any attachments, exhibits, appendix, etc. of any certified (or even uncertified) copies of records. County Prosecutor argued that A.R.S. §13-3821(A)(19) requires those with previous failure to register convictions to register as a sex offender, even if that conviction was in another state, he says that my underlying adjudication is irrelevant and serves no basis as to my requirement to register in Arizona. The only other way I could even be required to register in Arizona is if I had come from to Arizona with a pre-existing duty to register.

First off even if there was certified or uncertified copies of argument and Judge reason to convict me

Records to substantiate of failing to register in

Arizona as well as Judge reason to convict me of failing to obtain identification as a

sex offender. There must be an elements test as espoused in State v. Kuntz 209 Ariz. 275, 280, 413 (App. 2004) of statute and Arizona's FTR statute to determine if I was even

subject to registration in Arizona before even convicting me of failing to register as a sex offender.

Secondly, under Arizona Rules of Evidence Article IV. Relevancy and its limits. Rule 404. Character evidence not admissible to prove conduct; exceptions; other crimes.

Inadmissible

Evidence that tends to suggest that defendant has a prior criminal history must be excluded. State v. Weaver 158 Ariz. 407, 762 P.2d 1361 (ct. App. 1988). Evidence of prior bad acts is inadmissible to show the propensity of a defendant to commit crimes because it would unduly prejudice the defendant and because it lacks probative value with regard to the crimes for which defendant is on trial. State v. Webb 149 Ariz. 158, 717 P.2d 462 (ct. App. 1985).

From office report. " "

In ^v I was granted an Order to Discontinue Sex Offender Registration Conviction
Ajudication or Disposition. Two findings in this were 1.) The petitioner has not been ~~convicted~~ convicted or
ajudicated for any offense involving unlawful sexual behavior since termination of the courts jurisdiction. 2.) If the
Petitioner was less than of age at the time of adjudication or disposition that the

shall remove the above named petitioner from any maintained list related to sex offenders . If
you think about it how can failure to register even remotely trigger a duty to register causing a violation of 13-3821(A) (19),
which reads Violation of 13-3822 or 13-3824. You must first commit a form of unlawful sexual behavior subjecting
and triggering a duty to register under 13-3821 (A), which then triggers a violation of 13-3822 or 13-3824, not failure
to register. So in all reality how can I violate 13-3822 or 13-3824 for failing to register in another state, especially if I am
no longer required to register by the home state of. and was never subject to registration in Arizona.

From officers report " "

"Three points: 1.) If my criminal history
contained numerous references to Failing to Register in what point was there for Det. after running the
criminal history and speaking with Deputy to determine if I was currently in violation if I was already
subject to registration? 2.) The advisal is mentioned after the fact that Det. was informed that I was no
longer required to register as a sex offender. 3.) There are no misdemeanor failure to register charges in these

are only class felony's.

" Any normal person

(you average everyday) can read the law and know that nowhere in the law does it read any subject convicted of failing to register is required to register, henceforth the reason for there being no A.R.S. statute # given.

On I reluctantly entered in to a plea agreement because I had relied to my detriment on the erroneous advice of counsel who () when asked never told me anything about what Arizona law says. Because of this I pled guilty to Failure to Register as a Sex Offender, a class 4 Felony, which occurred on or about within County. It cannot be said that I intelligently entered into a plea agreement.

From Reporters transcript of proceedings on

The following statements were made,

Mr. "

"

The Court/Judge:

"

I was ultimately
To a period of

in pertinent part as follows:
probation, to run consecutive to the prison sentence imposed in

Condition : You will abide by special conditions of probation for sex offenders. Condition : You must

register as a sex offender as defined by law.

I believe that this is a blatant violation of not only my 5th Amendment right, which is a right to not be held twice in jeopardy for the same offense/offenses by the same government, it is a violation of my 8th Amendment right as well. The 8th Amendment prohibits cruel and unusual punishment, and this Amendment's cruel and unusual punishment clause applies to the states. In *Millard v. Rankin* Civil Action No. 13-CV-02406 says:

Public shaming and banishment are forms of punishment that may be considered cruel and unusual under the Eighth Amendment. See *Smith v. Doe*, 538 U.S. at 109 (). Other courts

considering this factor have found that sex offender registry statutes are sufficiently analogous to shaming to warrant a finding that this factor weighs in favor of finding a punitive effect. See e.g. *Doe v. Snyder*, 834 F.3d at 701-03; *Doe v. State*, 189 P.3d at 1012; *Doe v. State*, 111 A.3d at 1081; see also *Smith*, 538 U.S. at 116 (Ginsburg J., dissenting). Further as the Sixth circuit observed, a sex offender registration act that requires regular reporting to law enforcement in person, for which failure to comply is a crime punishable by imprisonment, also resembles characteristics of parole or probation. *Doe v. Snyder*, 834 F.3d at 703. The observations of these other courts apply here.

Arizona requires offenders to register based only on their conviction for a past action, and based on a statutory classification of the offense and not on an individualized assessment of an offenders level of dangerousness. Such a scheme " than a public

safety regulation. *Doe v. State*, 111 A.3d at 1044 (quoting *Corn v. Baker*, 295 S.W. 2d 437, 444 (Ky. 2009)). It therefore

"ID.

(quoting *Wallace v. State*, 405 N.E. 2d 371, 382 (Ind. 2009)). This factor weighs in favor of finding that Arizona's effects are punitive.

These sweeping registration and disclosure requirements - in the name of public safety but not linked to a finding that public safety is at risk in a particular case - are excessive in relation to expressed public safety objectives. See *Doe v. State*, 111 A.3d at 1100 ("

""); see also *Wallace*, 405 N.E. 2d at

383-84; *Smith v. Doe*, 538 U.S. at 117 (Ginsburg J., dissenting). Application of unalterable registration requirements and

time periods with no possibility of considering their individual circumstances is arbitrary and excessive.

Arizona also imposes its registration requirements for behavior that is already a crime. As Justice stated in Smith, 4

1. Other courts have considered this factor and found that it indicates a punitive effect. See Doe v. State, 189 P.3d at 1015; Wallace, 905 N.E. 2d at 382; Letabien, 985 A.2d at 22; Doe v. State, 111 A.3d at 1099; Starky, 305 P.3d at 1028.

I can assert that there has indeed been judicial misconduct by P.O., County Prosecutors, and County Judges and Failure to Register as a Sex Offender is invalid, because I was not required to register in Arizona based on either the underlying ~~per~~ adjudication or failure to register provisions. Properly Analyzed, Arizona's Sex Offender Registration Act (SORA) codified at A.R.S. § 13-3821 et. seq. does not require an out of state person to register, based on an out of state conviction for failure to register, upon arrival in this state. Instead, the out of state failure to register must be examined under the same elements test espoused in State v. Kuntz, 209 Ariz. 275, 280 P.13 (App. 2004), See U.S. Const. Amendments V, VI and X IV.

Argument

A.) The underlying conviction would not subject me to registration in Arizona, thus, any out of state failure to register does not meet the elements test.

Arizona's SORA requires in pertinent part:

A.) A person who has been convicted of or adjudicated guilty except insane... for an offense committed in another jurisdiction that if committed in this state would be a violation or attempted violation of any of the following offenses... having the same elements of an offense listed in this section

[A.R.S. § 13-3821 (A)]

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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.**