

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 19-272

Judge:

Complainant:

ORDER

January 28, 2020

The Complainant alleged a municipal court judge condoned attorney misconduct, spoke to her in a condescending tone, and engaged in improper ex parte communication.

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 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 Commission Rules 16(a) and 23(a).

Commission members Gus Aragón, Roger D. Barton and Christopher P. Staring did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on January 28, 2020.

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

2019-272

COMPLAINT AGAINST A JUDGE

Name _____ Judge's Name _____

I accuse _____ Judge _____ of malfeasance. I am the _____ yrs old _____ defendant's advocate and mother; I'm also one of the witnesses.

Judge _____ public defense counsel _____ acted in concert maliciously to make certain ALL defense evidence was left out of the court process. During the pretrial conference and through an email Judge _____ knowingly enforced two defense counsel's willful violation of State Bar Rules of Professional Conduct: ER 1.1. Competence. Judge _____ violated RULE 2.15. Responding to Judicial and Lawyer Misconduct (D), RULE 2.9. Ex Parte Communication (A) and I believe you'll identify more.

Motive: It wasn't personal; I met _____ others. This case of railroaded injustice exposes the fact that defense evidence is not tolerated in _____ Court Public Defenders Office and judges support that.

I believe to have a chance for justice there's a need for me to go outside the box, hence to persuade the arresting officer to rethink his report I created a _____ music video for the _____ officers who were at the scene and the _____ involved over the phone. On _____ at their station I dropped off a postcard for each of them; the card informed them of my pending TPD arresting officer complaint and directed them to _____ account to view the video. My hope is the arresting officer will choose to correct the record instead of face a TPD complaint.

It's through knowing the flow of circumstances (described below) that Judge malfeasance is understood.

All parties acknowledge the defendant has diminished capacity.

The arraignment judge denied my request to represent the defendant _____ the judge entered a not-guilty plea and sent _____ to Judge _____ for pretrial. At pretrial conference I asserted my position as _____ advocate. Judge _____ sent _____ to the Public Defenders Office.

1st public defender meeting _____ The waiting room door opened and _____ called for _____ asked me to go with him; she said they would talk first then she'd get me.

Around _____ later the door opened and _____ called me in. When I entered her office appeared glum and nervous; he had been excited and proud when we left home; he knew truth was on our side, with overwhelming evidence to prove it.



COMPLAINT AGAINST A JUDGE

Name _____ Judge's Name _____

I told _____ I wanted to hear from _____ first. _____ said he was afraid he'd have to register as a sex offender so he better take a plea. _____ had told _____ she doesn't handle 'not guilty' cases. She had no desire to discuss evidence; her only intent was to get him to plea; innocence of the sex crime was unimportant to her. The meeting was over; he'd be assigned another public defender.

At _____ office on _____ I dropped off a meeting follow up letter; I wrote I'd file a State Bar complaint once the case was over.

A day later at the _____ pretrial conference Judge _____ moved _____ to Judge _____ court. _____ mental health agency representative is in Judge _____ court. We weren't told why there was a change of judge; the Case Summary report does not show the change of Judge.

2nd public defender meeting _____ - outside counsel _____ Before the meeting I emailed _____ a link to a web page that contained _____ witness videos, historical seizure medical records, an analysis of the police report, with pictures of location. I asked she take the beginning of the meeting to read it; it would take around _____ I assumed we'd watch the videos together. Over the phone she stated she'd seen the email. That site is now called _____

_____ sat across from _____ and focused only on him. She acted like I wasn't there; I sat silent stunned at her behavior.

She asked _____ if he read the report; he said yes. She asked if he had any questions; he said no. I remained silent. Of course he didn't read the report. He reads well, but his abstract thought processing limitations and lack of focus don't allow him to comprehend the whole; he did try; he and I went over the report a few times because he forgets. When _____ gets confused he'll say 'yes' or 'no' or 'I don't know' to questions based on which stops more questions.

_____ hen asked _____ to explain what a witness saw; his reply was _____ sentences long. I am a witness; _____ was not interested in what witnesses had to say or she would have asked me what I saw. Next she asked _____ for that witness's phone number and looked down at a blank paper ready to write; _____ said he didn't know.

I asked her why she doesn't watch the video of that witness. No response. I was now clearly annoyed; I said he isn't able to do what you're asking. Her response was to ask _____ if he wanted her to file him incompetent. _____ was clearly taken aback, as was I. The incompetent legal process is extensive; she didn't mean it; her intent was to goad us.

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I then said 'the name and the phone number listed as the _____ in the police report are not the _____ who was at the scene'. Her only response: she looked at me and said do you want another lawyer; I said yes and we left. Any reasonable person would expect a competent defense counsel response would be something like ' _____ ?'. As I walked out the door I believed her only intention was to cast aspersions on me; I assumed _____ and she were friends.

_____ take away from _____ meeting was I wanted him committed so I could control him. He became withdrawn and hostile towards me. It took almost a week for his memory to fade enough for him to trust me again.

A day after _____ meeting I faxed her a follow up letter, which included my suspicion she and _____ were working together to deem me a problem. My letter also informed _____ of my intent to file a motion for a change of counsel.

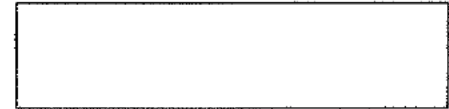
I knew I needed to take action to get the truth of that meeting to the judge and in the court case record. On _____ as the advocate for the SMI defendant I created, he signed and I faxed the motion to Court: Exhibit 1

On that same day _____ employee sent me _____ emails. _____ stated _____ had been to court; _____ was now the assigned attorney. Exhibit 2 _____ came _____ later and stated she made a mistake, she didn't go to court; she filed a motion to withdraw as counsel; there was no attorney yet assigned. Exhibit 3 I figured she'd talked to _____ and the 'went to court' email did not work in their scheme.

Then or _____ almost _____ weeks since _____ replaced her, _____ sent me an email (Exhibit 8) with a _____ attached granting her withdraw. The Case Summary (Exhibit 9) shows she filed a motion; it does not show a _____ She never sent a copy of her filed motion.

after I filed my motion, on _____ I received an email from Judge _____ Exhibit 4

At that time the last sentence captured my focus; it indicated the judge believed _____ was on his attorney because I was a problem. I hit reply and after a few sentences it came to me that communicating with the judge through email was crazy, so I didn't reply.



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Name _____ Judge's Name _____

I wondered what _____ and possibly _____ had told him and what reason she wrote on her motion. The judge's email stated he received both her and my motions.

Since the judge expected me to ensure the _____ counsel worked, and since _____ was the _____ I decided to drop off at the mayor and city supervisor offices a letter. Exhibit 5 The objective was to get them to encourage _____ to provide State Bar competent representation. _____ also received a copy of that letter.

I never heard back, and it was clear no one encouraged _____ because all he did was scream at me over the phone he would only speak with _____ alone; no advocate/witness allowed. A defense attorney refusing to talk to a witness is a willful violation of duty. When I hung up I knew _____ was part of a tag team that engaged in conduct that was prejudicial to the administration of justice. I posit the purpose of the tag team was to create a powerful they 'the respected professionals said' against she 'the despondent social and financial failure said'.

_____ was hospitalized the day before his _____ pretrial conference in Judge _____ court so I went to court alone.

I saw _____ for the first time when he came into the courtroom and called out for _____ whom he had not met. I told him _____ was in the hospital; he asked which one; I replied I'd tell the judge. _____ then said I'll be back and left. I assumed the game plan was thrown off so he went to huddle for a new one. When he returned he again asked what hospital and I again said I'd tell the judge. I had to make sure I'd get to speak to the judge, whom I viewed as a beacon of fair reason and justice.

The courtroom was packed; _____ was called first. I explained _____ hospitalization and then asked if I could say something else; Judge _____ said no. _____ then declared his legal right to speak with his client alone and Judge _____ eagerly concurred. My belief the judge was a beacon ended.

I then asked if I could represent _____ the response was a condescending 'no'. The interaction felt more like two bullies getting jollies degrading a person than a moment of fair reasoning. Another pretrial conference date was set.

I left court with a changed viewpoint: the judge was part of the scheme to isolate _____ from me so evidence could be ignored and innocent _____ could be badgered to plead guilty to a sex crime. I knew I couldn't go into his courtroom again because my utter disgust and contempt for this judge would explode through my pores,



COMPLAINT AGAINST A JUDGE

Name _____ Judge's Name _____

show on my face and the urge to scream out at the injustice impelled upon _____ could be too great for me to contain.

From my new viewpoint I looked again at Judge _____ email and the other documents to see if I could prove _____ civil rights were violated. The judge's email stated I'd receive a document in the mail; I did from _____ Exhibit 6 Oddly, a few days later in the mail from _____ I received the same _____ (Exhibit 7), but it was white instead of yellow; both had two punch holes at the top; the yellow one appeared to be the copy of the white original. It isn't the same _____ format used in courtrooms. Then on _____ almost _____ weeks since _____ replaced her, _____ sent me an email (Exhibit 8) with the same _____ attached.

The oddity of it caused me to compare the three copies and I found one difference. The first copy I got in the mail, the yellow one, did not have any processed boxes checked at the bottom, the other two had the boxes checked and near were initials and

Another peculiarity: On _____ employee sent the 'went to court; _____ is now the assigned counsel' email; _____ later, on _____ Judge _____ signed an _____ assigning _____ after that, on _____ the judge emailed to inform me of _____ and tell me I better make it work; my email address was not listed on my motion form. What does all that imply? Discussion among the lawyer and the judge outside of legal case discussion.

Concrete evidence of judicial malfeasance Based on the reasons given on my defendant motion _____ had violated State Bar Rules of Professional Conduct: ER 1.1. Competence. Since _____ would not write she refused to consider evidence, her reason to withdraw on her _____ motion must be fundamentally different. It was Judge _____ duty to set the motion for hearing.

Instead he emailed the SMI defendant's advocate better behave, with no explanation of what behavior I was suppose to change. And that's because the judge couldn't acknowledge in writing that legitimate defense evidence discussion in his courtroom and with defense counsel is not allowed.

In court on _____ claimed he has a legal right to speak to his client alone; he only did that to ban his SMI client's trusted advocate/witness, which due to the defendant's diminished capacity translated to _____ ban of all defense evidence; plus his refusal to speak with a witness. Both those behaviors violated State Bar Rules of Professional Conduct: ER 1.1. Competence. In his court instead of protecting the defendant's civil right to competent counsel Judge _____ with glee willfully enforced _____ calculated violation.

**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.**