

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 19-289

Judge:

Complainant:

ORDER

December 24, 2019

The Complainant alleged a superior court judge improperly denied motions, was biased, forced a false plea, refused to obey court rules promoting confidence in the judiciary and engaged in other misconduct.

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

Commission members Christopher W. Ames and George H. Foster, Jr. did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on December 24, 2019.

In _____ Court No. _____ (hereinafter “ _____”), Judge _____ accepted a false indictment, which was known and moreover admitted to be false as the result of a _____ phone call with _____ police detective, _____ who confessed on _____ that he lied to the grand jury in order to gain that false indictment.

_____ later, on _____ Judge _____ violated Code of Judicial Conduct (hereinafter “CJC”) Rule 2.6(B) to force and coerce a false “confession of guilt” from _____ also known legally as a false “ _____”, in order to clear his calendar, not have a trial, and thus gain an expeditious, self-serving but false Plea Agreement from _____ and sentence him to _____ in prison.

If the Factual Basis is false, then the plea is false. Such a false plea must then be stricken and _____ must be promptly exonerated and freed from prison.

CJC Rule 2.6(B) states as follows:

A judge may encourage parties to a proceeding and their lawyers to settle matters in dispute, but **shall not** coerce any party into settlement.

Judge _____ failed to obey this rule, as shown in the transcript of the Change of Plea Hearing, dated _____ now quoted:

Judge _____ :

_____ :

Judge _____ :

_____ :

¹ _____ intent to _____ **was not** to have the officers _____ him, but rather to have the officers _____ because they were already _____ lethally at _____

Judge :

:

Judge :

:

Judge :

, County Prosecutor:

Several things are wrong with this cursory, false and induced “
”, which erroneously centered on Judge mistaken notion that
first, so the police would .

1. Judge took command to extract a false confession.
2. His illegal and surprise “ ” was a demand to
3. He grilled only to satisfy the prosecutor and not to find the truth.

Judge violated 2.6(B), which prohibits a judge from browbeating a
defendant, or putting words in his mouth to get a false plea. By this misconduct,
innocent was railroaded into prison, and he stays there, because Judge
broke the CJC Rules and will not consider relief. Here is what really happened:

attorney, only wanted to plea and he did not do his
due diligence to show that was innocent. event with the
police occurred on However, later, on
in a phone call to and to the prosecutor,
Detective admitted that he lied to the
grand jury to gain a false indictment, in order to deflect blame from the
police and to “ ” for the misconduct of his fellow police officers.

The reason it was so long after the event but only
before the stipulated time for to take the plea and go to prison was
because wife got pregnant and and the prosecuting
attorney, hatched a sinister plan that if would go ahead

and plead guilty, and not have a trial, and instead take a false plea, then these lock-step attorneys would delay going to prison until after the child was born, so could be guaranteed to be present for the birth.

This plan wrongfully took advantage of and compromised desperate and inflicted When accepted this plan, at his lawyer's insistence, that put a false onus on to go prison, even though he was innocent, just so he could be with his wife when his son was born.

Nevertheless, knew he had to have a true " " to give to Judge so this judge could legally accept official Plea Agreement. However, there was no true factual basis. was innocent.

had been framed by the police and his inept attorney, and failed to detect that it was the police who did not obey their required rules and assaulted not vice versa. Also, witnesses said the police first at a docile and non-aggressive not the other way around.

only sought a false Factual Basis to justify his own desire for a plea, which is why he called and recorded However, that plan backfired because unexpectedly, Mr. admitted he did not know who first, and he admitted he did not know if the police followed the rules, and he admitted the only reason charges were filed was because survived. I.e., the police could not just apologize and let go.

and now knew Mr. had deceived the grand jury and these lawyers, but they made no correction to Judge as required by ER 3.3(1)(2)and (3). Instead, these attorneys just went ahead with a false Factual Basis that first at the police, so the police would then See: the above transcript insertion of the Change of Plea Hearing, dated For these reasons, innocent went wrongfully to prison, which must now be corrected.

Fortunately, after [redacted] was maliciously induced to plead, and was incarcerated in error, then by Rule 32 of the Arizona Rules of Criminal Procedure, [redacted] had an Of Right opportunity to present to the court all the “ [redacted] ’ that occurred, in order to still gain full relief and vindication.

A public defender was assigned to [redacted] but she only wasted much time and ultimately refused to help, so [redacted] was both “ [redacted] ” disadvantaged and tardy when he finally was able to present his Rule 32 Motion for post conviction relief.

What happened next was the “ [redacted] ’ of every Code of Judicial Conduct Rule, which is codified to assure justice for [redacted] under these conditions.

[redacted] filed his Rule 32 Motion for Post Conviction Relief on [redacted]. He did so specifically under Rule 32.1(a), inadequate counsel; Rule 32.1(e), new evidence that was never presented to the court, which was the confession of Detective [redacted] that he had lied to the grand jury, and to the prosecutor, and he perjured that [redacted] had [redacted] first, when in fact it was the police who [redacted], and the police did not obey their manual rules, so the indictment was false and the Factual Basis for the sham plea was also false, so exoneration was in order.

[redacted] also filed his Rule 32 Motion for Post Conviction Relief under Rule 32.1(f), which was that for “ [redacted] ”, [redacted] untimely filing of this key motion was not [redacted] fault, but rather the fault of his inadequate public defender, who abandoned him. [redacted] also filed under Rule 32.1(h), which was that the clear and convincing facts presented fully exonerated [redacted].

It must also be critically noted that under Rule 32.2(b), there is no time limit within which to file a Rule 32.1 (a), (e), (f) or (h) motion for post conviction relief, which is exactly what [redacted] did.

It is also critically noted that under Rule 32.2(c) “The state, (not the judge), must plead and prove **any** ground of preclusion by a preponderance of evidence.”

It must also be critically noted that on [redacted] [redacted] filed his Notice of Change of Judge in that Judge [redacted] was biased against [redacted]. However,

by order from Judge [redacted] on [redacted] motion for a Change of Judge due to Judge [redacted] being prejudice, impartial and unfair was denied.

It is also critically noted that under Rule 32.6(a) and (b), the judge assigned to “ [redacted] ” a Rule 32 motion but obey certain key procedures as follows:

- (a) **State’s Response.** The state **must file** its response no later than **45 days** after the defendant files the petition. The State’s response **must include** a memorandum that contains citations to relevant portions of the record and to relevant legal authorities, and **must attach** any affidavits, records, or other evidence that **contradicts** the petitioner’s allegations.
- (b) **Defendant’s Reply.** No later than 15 days after a response is served, the defendant may file a reply.

On [redacted] day after Judge [redacted] was assigned to hear Rule 32 Motion, and [redacted] days after [redacted] filed that motion, and before the time limit for the State to respond to that motion, then Judge [redacted] simply slaughtered, killed and “ [redacted] ” Rule 32 motion, against Rule 2.6(A).

Judge [redacted] claimed that [redacted] motion was untimely, but there was good cause involved which was not [redacted] fault. Also, as per Rule 32.1(f) there is no time limit in which to file this motion. In addition, if there was a preclusion issue it had to be **raised and proven** by the State, not by Judge [redacted] on his own.

Most egregious, Judge [redacted] dismissed [redacted] motion without waiting the required 45 days for the State response, to keep an innocent man languishing in prison, in order for Judge [redacted] to deflect and mask his own judicial misdeeds.

Judge [redacted] was so malicious and prejudiced against [redacted] he should not have been the judge to “ [redacted] ” motion to begin with. Rule 2.11(A) **required** Judge [redacted] to disqualify himself from hearing this motion as follows:

- (A) A judge **shall disqualify** himself or herself in **any** proceeding in which the judge’s impartiality **might reasonably be questioned**. Including but not limited to the following circumstances.

Rule 32 motion exposed all the mistakes, misconduct and malfeasance of Judge [redacted] to force [redacted] into a false plea deal to begin with.

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THE COMMISSION CASE
NUMBER IN YOUR REQUEST.**