

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 20-101

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Judge:

Complainant:

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**ORDER**

July 9, 2020

The Complainant alleged a superior court judge was not fair and impartial in a criminal matter and made erroneous rulings.

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 Michael J. Brown and Colleen E. Concannon did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on July 9, 2020.

2020-101

**COMPLAINT AGAINST A JUDGE**

Name: \_\_\_\_\_

Judge's Name: \_\_\_\_\_

**Instructions:** Use this form or plain paper of the same size to file a complaint. Describe in your own words what you believe the judge did that constitutes judicial misconduct. Be specific and list all of the names, dates, times, and places that will help the commission understand your concerns. Additional pages may be attached along with copies (not originals) of relevant court documents. Please complete one side of the paper only, and keep a copy of the complaint for your records.

The Code of Judicial Conduct states: A Judge shall perform the duties of Judicial office impartially, competently, and diligently. Complainant will prove that at no time during \_\_\_\_\_ hearing on a motion to suppress evidence under 16.2 of the Az. R. Cr. Proc. were these principles followed. Complainant realizes that complaints filed solely on a judge's decision will be dismissed without investigation. However, a pattern of abuse of discretion, that leads to the violation of a fair hearing, that ultimately violates a person's constitutional right to a fair trial should be taken seriously. The errors that occur throughout this hearing rest solely upon Judge \_\_\_\_\_ and by his failure to properly prepare himself, leaving him incapable to render a fair decision.

Due to Judge \_\_\_\_\_ lack of preparation it caused a lack of knowledge on how to conduct a proper hearing under the Az. R. Cr. Proc. Rule 16.2(c)

(See Attachments - 1, 2, 3, 4)

This is not just a simple abuse of discretion. These are the rules a court "must" follow, it is law. Judge \_\_\_\_\_ lack of knowledge, that he must comply with Rule 16.2(e) renders him incapable to perform the duties of judicial office competently. In the states response to the motion



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The state cites, State v. Jarzab, 123 Ariz. 308 (1979) to support argument. The court allows this and why the court allows this is a mystery. Due to the fact that under State v. Richcreek, 187 Ariz. 501, 505 (1997) specifically states that Jarzab should not apply to vehicle stops. (See Attachment #5)

Essentially in this circumstance Judge \_\_\_\_\_ has denied \_\_\_\_\_ a fair hearing. There can be no fairness in a matter that is decided by a judge when that judge does not investigate the matter to its full capacity. \_\_\_\_\_ would now bring to light how this hearing was not conducted properly with impartiality and how Judge \_\_\_\_\_ fails to decipher fact from fiction. In the Ruling, the court responded to the argument regarding private property by stating that "indicators of impairment" allow for stops on private property.

(See Attachment #6)

How did Judge \_\_\_\_\_ reach the determination that there were indicators of impairment. Judge \_\_\_\_\_ simply took the statement made by the state that the stop was made specifically to check for impairment and officer testimony that the stop was to perform a DUI investigation. (See Attachment #5 and #7 in red)



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Here will prove that the stop of his vehicle on private property was not to "specifically check for impairment" as the state claims, nor was it to "perform a DUT investigation" that officer testified to. Neither of these were the "purpose" of the stop, they are the "excuses" given to the court in an attempt to support an unjustified stop. Officer testified under oath that he performed no field sobriety tests nor did he ask any questions regarding impairment. Officer admits this numerous times. He then states he turned the investigation over to officer, who also asks no questions regarding impairment, performs no field sobriety tests and writes no citation for D.U.I.

(See Attachment #7)

one must ask, how can officers involved in a traffic stop alleging the purpose of the stop was to perform a DUT investigation or specifically check for impairment, not perform either action. Further enforcing the fact that the stop to perform a DUT investigation is a story of fiction. Facts do not support fiction, however, facts do support facts. How is something so clearly visible, so hard to see  
Mr. feels that this complaint is valid and



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deserves investigation. also feels that  
Judge should be held accountable for his  
actions. realizes that there is an appeal  
System designed to handle these issues and at this  
time, these issues are under appeal. That however is not  
what our judicial system was designed for. It is  
not a "pass the buck" system. It is our justice  
system. Justice means; the fair and proper  
administration of laws. There was nothing fair  
or proper in the suppression hearing conducted  
by Judge what Judge did  
however achieve was a Gross miscarriage of  
justice. This is unacceptable considering the fact  
that you are impeding on the liberties of an  
individuals freedom. I thank you for your time  
and consideration in this matter

Respectfully,

## ISSUE 1

**Rule 16.2(c) requires the Trial Court inform an unrepresented defendant of his rights to testify at a suppression hearing. Did the Court fail to comply with the rule?**

### *Law*

Rule 16.2(c) of the Arizona Rules of Criminal Procedure states:

**Duty of Court to Inform the Defendant.** If an issue arises before trial concerning the constitutionality of using specific evidence against the defendant and the defendant is not represented by counsel, the court *must* inform the defendant that: (emphasis added)

1. The defendant may, but is not required to, testify at a pretrial hearing about the circumstances surrounding the acquisition of the evidence;
2. If the defendant testifies at the hearing, the defendant will be subject to cross-examination;
3. By testifying at the hearing, the defendant does not waive the right to remain silent at trial; and
4. The defendant's testimony at the hearing, including the fact that such testimony occurred, will not be disclosed to the jury unless the defendant testifies at trial concerning the same matters.

Attachment # 1

**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.**