

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 20-118

Judge:

Complainant:

ORDER

The Complainant alleged a superior court judge failed to disqualify himself from his criminal matter and improperly denied a motion to disqualify the prosecuting agency.

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.

After review, the Commission found the judge's impartiality could reasonably be questioned based on his prior representation of the Complainant. While this was improper under Rules 1.2 and 2.11(A) of the Code of Judicial Conduct, the Scope Section of the Code provides that not every transgression will result in the imposition of discipline. The Commission decided, after considering all the facts and circumstances, to dismiss the Complaint pursuant to Commission Rules 16(b) and 23(a), but to issue a warning letter to the judicial officer reminding him that he must recuse if his impartiality might reasonably be questioned.

Commission member Michael J. Brown did not participate in the consideration of this matter.

Dated: August 14, 2020

FOR THE COMMISSION

/s/ Louis Frank Dominguez
Hon. Louis Frank Dominguez
Commission Chair

Copies of this order were distributed to all appropriate persons on August 14, 2020.

Affidavit

State of Arizona)

Case no: _____

) ss.

County of _____)

I, _____, being first duly sworn upon oath hereby depose and say, upon my own personal knowledge, observation and firm belief:

My name is _____, and I am the defendant in the above case number _____.

Judge _____ of _____ Superior Court erred in failing to disqualify himself as Judge in case number _____ in which I am the defendant. Judge _____ previously served as my defense counsel in one of the alleged priors in controversy in the formentioned case (A violation of Judicial Ethics Rule 2.11). Upon raising the matter to my initial defense counsel, _____, advised that I ignore the matter. I also raised another matter to her that she disregarded. The matter of fact was, and is, a court established and predetermined conflict of interest with the _____ County Attorney's Office. _____ (at the time), now _____

_____ is my ex-wife and is employed by the attorney's office as the _____
(See Exhibit A)

In the prior convictions alleged in the formentioned case special prosecutors were assigned to handle the prosecutions because of the conflict.

I raised these issues throughout the plea process to all of my successive attorneys (

All attorneys wrongly advised me against pursuing these matters. It wasn't until I was presented with a plea bargain with a sentencing range that the judge would decide, when I realized it to be imparative that my judge be impartial. So against all my counsels bad advice, In court I privately demanded my attorney, to raise both violations through motion.

Upon my next court date, Judge , ruled against both my counsels motion for change of Judge and for the special prosecutor for conflict. In response to the motions filed prosecution vindictively pulled the plea bargain.

Before trial , pulled me aside into the empty jury room and told me " assuring me that he had prepared no meaningful defense and had also abandoned the defense of my previous attorney. He then suggested that if I would just plea guilty before jury selection that the prosecutor would go with the mitigated sentence.

Compelled by the duress caused by being in an actual kangaroo court situation, with an ineffective assistance of counsel to boot, I plead guilty before trial started.

Finally during the critical stage of the pre-sentencing interview, I interviewed without counsel. After the interview I asked the probation officer what his sentencing recommendation would be. He said he would be recommending intense probation. However I am completely unaware of what my PSR contained or suggested as I was never provided a copy or informed of by my attorney

I was sentenced to _____ for prohibited possession of a firearm aka. misconduct with a weapon. I am now seeking relief by rule 33.

State of ARIZONA, County of

Subscribed and sworn (or affirmed) before me



EXHIBIT A

(PAMPHLET TAKEN FROM JUDGES PODIUM
WHILE IN CUSTODY)

[Redacted]

Victim Services Manager

Phone

[Redacted]

For more information or a confidential

consultation, please contact:

Victim Services Manager

or

Victim Advocate

Phone



**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.**