

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 21-436

Judge:

Complainant:

ORDER

August 10, 2022

The Complainant alleged a superior court judge allowed improper delay in reviewing a post-conviction relief petition and demonstrated bias in favor of the opposing party.

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 Roger D. Barton, Joseph C. Kreamer, and Christopher P. Staring did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on August 10, 2022.

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

FOR OFFICE USE ONLY

2021-436

COMPLAINT AGAINST A JUDGE

Your name _____

Judge's name: _____

Date: _____

Instructions: Describe in your own words what the judge did that you believe constitutes misconduct. Please provide all of the important names, dates, times and places related to your complaint. You can use this form or plain paper of the same size to explain your complaint, and you may attach additional pages. Do not write on the back of any page. You may attach copies of any documents you believe will help us understand your complaint.

This judicial bar complaint is a Rule 2.2 violation. A judge shall uphold and apply the laws, and shall perform all duties of the judicial office fairly and impartially. However, here Judge _____ is not upholding the Rules of Criminal Procedures and continuously favors the State.

In this case, Defendant was allowed to file a supplemental PCR brief next to his attorney's brief. The supplemental brief was filed on _____ Pursuant to the AZ. R. Crim. Proc., the State had _____ days to issue a response. The State chose to only file a response to the attorney's brief and waived filing a response to the Defendant's supplemental brief. The State's response was due on _____

Come _____ Judge _____ re-ordered the State to file a response. A response that has been abandoned and waived by the State. The State's response as of _____ is already _____ days LATE. By allowing the State _____ days from _____ is nothing more than a _____ day continuance of which the state did not request. More than _____ after the State chose to NOT file a response, Judge _____ ruling is holding up the Defendant's PCR and causing an unnecessary delay. See Rule 1.2 and the attached Objection.

Judge _____ has a pattern of doing this, favoring the State every step of the way. And this office has sent Judge _____ a letter reprimanding him back in either _____ or _____ pursuant to _____ case _____ But to no one's surprise, Judge _____ is still demonstrating favoritism towards the State and still not complying with the Rules of Criminal Procedures.

Defendant's PCR was sent to the trial judge for a ruling on _____ See _____ minute entry attached. This delay by Judge _____ is causing nothing but an unnecessary delay. Instead of a ruling this month or _____ by the trial judge, Defendant will not see a ruling on his PCR until _____ or _____

This is a prime example as to why our legislators has placed these Rules of Criminal Procedures in place, to protect the Fundamental Due Process of all parties involved. Judge _____ has repeatedly shown that the Rules of Criminal Procures do not apply to county attorneys, rather, only to defendants. This is far from being impartial.

How many acts of injustice needs to be shown before Judge _____ is removed from the bench? Judge _____ has already shown that reprimanding him has no affect. Defendant recommends something more strict,

(Attach additional sheets as needed)

COMPLAINT AGAINST A JUDGE

FILE NO. _____

TO THE COMMISSION ON JUDICIAL CONDUCT:

I, the undersigned complainant, believe that Judge _____ of the (check one) municipal court; justice court; superior court; court of appeals; or supreme court located in the city of _____ and county of _____, Arizona, has committed misconduct.

GENERAL ALLEGATIONS

I also allege that the judge's misconduct involves one or more of the following (check all that apply):

- A plea of guilty or no contest or a finding of guilty to a crime punishable as a felony under Arizona or federal law or of any other crime that involves moral turpitude under such law.
- A disability that seriously interferes with the performance of judicial duties that is or is likely to become permanent.
- Willful misconduct in office.
- Willful and persistent failure to perform duties.
- Habitual intemperance (addiction to alcohol or drugs).
- Conduct prejudicial to the administration of justice that brings the judicial office into disrepute.
- A violation of the Arizona Code of Judicial Conduct.

In support of these allegations, I submit the attached statement of facts and request that the commission take appropriate action to investigate the judge's conduct.

Complainant's name: _____

Street Address: _____

City: _____

State: _____

Telephone: _____

Zip Code: _____

Complainant's Signature: _____

Date: _____

Check here if you are involved in a lawsuit that is still pending before this judge. Case No.: _____

STATEMENT OF FACTS

Your Name:

Judges' Name:

Date

This judicial bar complaint is a Rule 2.2 violation. A judge shall uphold and apply the laws, and shall perform all duties of the judicial office fairly and impartially. However, here Judge is not upholding the Rules of Criminal Procedures and continuously favors the State.

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Defendant's PCR was sent to the trial judge for a ruling on See minute entry attached. This delay by Judge is causing nothing but an unnecessary delay. Instead of a ruling this month or by the trial judge, Defendant will not see a ruling on his PCR until or

This is a prime example as to why our legislators has placed these Rules of Criminal Procedures in place, to protect the Fundamental Due Process of all parties involved. Judge has repeatedly shown that the Rules of Criminal Procures do not apply to county attorneys, rather, only to defendants. This is far from being impartial.

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SUPERIOR COURT OF ARIZONA
COUNTY

CLERK OF THE COURT

HONORABLE

STATE OF ARIZONA

v.

COURT ADMIN-CRIMINAL-PCR
JUDGE
JUDGE

RULE 32 PROCEEDING ASSIGNED FOR RULING

Effective the Arizona Supreme Court amended Arizona Rules of Criminal
Procedure 32 and 33.

All pleadings and transcripts have been filed and this matter is ready for review and ruling. Good cause appearing therefore.

IT IS ORDERED assigning this Rule 32 proceeding to the Honorable
for all further proceedings.

SUPERIOR COURT OF ARIZONA
COUNTY

CLERK OF THE COURT

HONORABLE

STATE OF ARIZONA

v.

COURT ADMIN-CRIMINAL-PCR
JUDGE

**PETITION RECEIVED
DUE DATE FOR RESPONSE**

Effective the Arizona Supreme Court amended Arizona Rules of Criminal Procedure 32 and 33.

The Court ordered Defendant to prepare and file the Petition for Post-Conviction Relief. The Court has received notification from the Post-Conviction Relief Management Unit that the pro per Petition for Post-Conviction Relief was filed on with the Clerk of the Court. In addition, the Court has received Defendant's "

" filed on . The record reflects that the State responded to Rule 32 counsel's Petition but there is no Response to Defendant's pro per Petition. Accordingly,

IT IS ORDERED the State's Response to the pro per Petition must be filed no later than The Response must not exceed 28 pages. Ariz. R. Crim. P. 32.9(c)(1). Defendant may file a Reply within 15 days of service of the Response.

**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.**