

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 22-027

Judge:

Complainant:

ORDER

July 21, 2022

The Complainant alleged a superior court commissioner violated his right to counsel in post-conviction proceedings and made other improper 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 Christopher P. Staring and J. Tyrrell Taber did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on July 21, 2022.

My name is _____ my
son _____ reached out to
the Commission via-email after being
referred by Governor _____ office.

On _____ I was wrongfully
convicted of a white collar crime
in _____ county.

In this letter I provided exhibits
from the evidentiary hearing that was
held on _____. After bringing
forward colorable claim as to rule 32
and 33. This is were prosecutorial
misconduct, corruption, and unaccountable
power continues.

As to rule 32 the Court Judge
Exhibit #1 ignored AZ law of procedure 6.3b.
By allowing the law firm of _____
and attorney _____ to

withdraw as Counsel hours after I
was sentenced. AZ law of procedure
6.3b: Counsel that represents a
defendant during sentencing still has
a continuum duty of representation.

Exhibit #2 is aware of rule 6.3b
As seen in transcripts, and admits to
Exhibit #3 be put on notice.



The Court Judge not
Only ignored AZ law of procedure
6-3 b by granting the withdraw. The
Court Judge ignored AZ
law of procedure 31.5e. If a court
allows a defendant's attorney to
withdraw. The Court or the
Court must appoint new
counsel. No new counsel was
ever appointed nor was I ever
notified. Thus denied me Constitutional
right to counsel. Judge also
ignored AZ Case Law State V. Ainsworth
which is analogous to this situation.

Exhibit #4 Furthermore Judge makes
his decision as to rule 33 on a
hypothetical theory. (Not on facts or law)

Exhibit #5 What happened to innocent until
proven guilty?

Corruption, prosecutorial misconduct,
and Unaccountable power. Has eroded
my Constitutional rights.

I am asking for your help.

1 controversy. And that's something, again, which --
2 which it's -- is advancing was an error of
3 law explained to him by -- by which induced
4 him into signing this plea agreement. And by doing so,
5 really negated the knowing, voluntarily -- voluntary and
6 intelligent aspect of the plea, which is why we're
7 asking that at this point -- or relief in the form that
8 be able to withdraw from that plea, that
9 that plea agreement be -- be rescinded.

10 As to the Rule 32 issue, Your Honor,
11 which is 32.1(f), as in failure to file notice,
12 of appeals through no fault of, I believe
13 that the evidence is overwhelming that the failure to
14 file a notice of appeal was through no fault of

15 .
16 I find it a bit curious that
17 in his motion to withdraw, specifically cited Rule 6.3.
18 However, it appears that may not have gone
19 on to read the provisions of 6.3(b), which
20 specifically -- specifically say that counsel has an
21 ongoing duty, even after sentencing, to file a notice of
22 appeal.

23 That's further bolstered, Your Honor, by
24 Rule 31.5(e), as in "elephant" -- again, Arizona Rules
25 of Criminal Procedure -- which provides that if a court

Exhibit #1

1 allows a defendant's appointed attorney to withdraw, the
2 superior court or the appellate court must appoint new
3 counsel.

4 Now, in my -- excuse me, my notice which
5 I filed in raising the Rule 32 issue, I had referenced a
6 case, and that was *State v. Ainsworth*,
7 A-I-N-S-W-O-R-T-H. That's 250 Ariz. 457. It was an
8 court case out of Division 2, which was filed

9 . .
10 The interesting thing about that case
11 right now really -- I mean, when looked upon in
12 testimony that we heard from , was
13 testimony was pretty on point almost with
14 what the Court was alluding to in *Ainsworth*. And what
15 the Court in *Ainsworth* did, Your Honor, was they drew a
16 distinction between a defendant filing a notice of
17 post-conviction relief and the defendant filing a notice
18 of appeal.

19 Now, if were here today
20 arguing that he did not file a notice of post-conviction
21 relief in a timely manner because his attorney didn't do
22 it for him, then he really wouldn't have much of a leg
23 to stand on based on what the *Ainsworth* case says.

24 However, *Ainsworth* does say that a
25 counsel who represents the defendant or the client

REDIRECT EXAMINATION

BY :

Q. , in your motion to withdraw,
which just asked you about, you
referenced Rule 6.3 of the Arizona Rules of Criminal
Procedure, correct?

A. I believe so.

Q. Okay. Now, are you familiar with Rule 6.3 in
its entirety?

A. Excuse me, . Not off the top of
my head. Not without looking at it right now, if you're
asking about the entirety of it.

Q. Well, specifically Rule 6.3(b), as in "boy,"
which provides that unless permitted to withdraw,
counsel who represents a defendant at any state of a
case has a continuing duty to represent the defendant in
all further proceedings in the trial court, including
the filing of a notice of appeal.

Are you familiar with that portion of the
rule?

A. Yes, I am.

Q. And would you agree with me that the
time frame in which to file a notice of appeal is
days from the date in which the sentence is
pronounced? Would you agree with that?

**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.**