

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 22-126

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Judge:

Complainant:

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**ORDER**

October 13, 2022

The Complainant alleged a superior court judge ruled improperly and did not follow required procedures in a petition for post-conviction relief proceeding.

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 Colleen E. Concannon and Joseph C. Kreamer did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on October 13, 2022.

COMPLAINT AGAINST A JUDGE

FILE NO.  
2022-126

TO THE COMMISSION ON JUDICIAL CONDUCT:

I, the undersigned complainant, believe that Judge \_\_\_\_\_ of the (check one) \_\_\_\_\_  
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: \_\_\_\_\_ Telephone: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Complainant's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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

COMPLAINT AGAINST JUDGE

01. Complainant filed his NOTICE REQUESTING POST-CONVICTION RELIEF in  
 (Exhibit 01) and PETITION FOR POST-CONVICTION RELIEF in.

(Exhibit 02)

02. The order for PCR ASSIGNMENT TO JUDICIAL OFFICER FOR RULING was given to  
 Judge. (Exhibit 03)

03. RULE 32 PROCEEDING DISMISSED, 1 days after assignment, by Judge  
 (Exhibit 04)

04. Pursuant to Ariz. R. Crim. P. 32.9(2)(1) - "The State must file its response no later  
 than 1 days after the defendant files the petition."

05. Judge is evidenced of denying due process, by an abuse of discretion,  
 dismissing Rule 32 without any objections by the State, as required by rule.

06. "Nothing can destroy a government more quickly than its failure to observe its own laws, or worse,  
 its disregard of the charter of its own existence."

07. In Ruling on a Post-Conviction Relief Petition, "the Court must make specific findings of  
 fact and expressly state its conclusions of law relating to each issue presented." Ariz. R. Crim. P.  
 32.13(d)(2). The Court is required to decide every issue or claim on its merits. A failure to  
 do so means the Petition was never heard and violated Defendant's due process rights.

18. Judge

knowingly violated Defendant's due process rights and disregarded the Court requirements that it "must make specific findings of fact and expressly state its conclusions of law relating to each issue presented." (Ariz. R. Crim. P. 32.13(d)(1)).

Judge

remarked, "with the exception of the ineffective assistance claim, all these claims are also precluded..." (Exhibit 04). Judge

dismissed Rule 32 without addressing substantive colorable claims of ineffective assistance of counsel by denying due process through an abuse of discretion.

19. Complainant notifies the Arizona Commission on Judicial Conduct of Judge

knowingly: (1) violating the Arizona Code of Judicial Conduct; (2) committed a criminal act of perjury that reflects adversely on the integrity of judicial proceedings; (3) engaged in conduct involving dishonesty, fraud, deceit, and misrepresentation, and; (4) engaged in conduct that is prejudicial to the administration of justice. The record is the proof of these acts, as evidenced on (Exhibit 04)

RESPECTFULLY SUBMITTED on this

COMPLAINT AGAINST JUDGE

EXHIBIT - 01

**Form 24(b). Notice Requesting Post-Conviction Relief**

Court Name or Location: \_\_\_\_\_

County: \_\_\_\_\_

STATE OF ARIZONA, Plaintiff

CASE/COMPLAINT NO. \_\_\_\_\_

-VS-

**NOTICE REQUESTING  
POST-CONVICTION RELIEF**

Defendant (first, middle, and last name) \_\_\_\_\_

If the Defendant was sentenced after a trial or after a probation violation hearing, the Defendant must request relief under **Rule 32** of the Arizona Rules of Criminal Procedure.

If the Defendant was sentenced after a plea of guilty or no contest, after the admission of a probation violation, or after an automatic violation of probation, the Defendant must request relief under **Rule 33** of the Arizona Rules of Criminal Procedure.

There are time limits for filing this notice. See section C below. There are also time limits for filing a petition for post-conviction relief. See **Rules 32.7 and 33.7**.

**A. INFORMATION ABOUT THE DEFENDANT:**

1. Name (first, middle, and last): \_\_\_\_\_
2. Date of Birth: \_\_\_\_\_
3. Mailing address: \_\_\_\_\_  
City, State, Zip Code: \_\_\_\_\_
4. Is the Defendant currently in jail or prison? ☒ Yes [ ] No  
If yes, the Defendant's inmate number is: \_\_\_\_\_

**B. INFORMATION ABOUT THE DEFENDANT'S SENTENCE:**

1. The Defendant was sentenced on the following date: \_\_\_\_\_
2. The Defendant was sentenced after:  
[ ] a plea of guilty or no contest.  
☒ a trial.  
[ ] an admission of a probation violation.  
[ ] an automatic violation of probation (because the Defendant was convicted of another crime).  
[ ] a probation violation hearing.
3. The Defendant was sentenced in this case for the following crime or crimes: \_\_\_\_\_
4. The Defendant received the following sentence: \_\_\_\_\_
5. The Defendant was represented by the following lawyer at sentencing: \_\_\_\_\_
6. After the Defendant was sentenced, the Defendant had an appeal: ☒ Yes [ ] No  
If yes, the appellate court issued its mandate on: \_\_\_\_\_

**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.**