

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 22-288

Judge:

Complainant:

ORDER

May 25, 2023

The Complainant alleged improper rulings by a superior court judge hearing a criminal case.

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 Denise K. Aguilar and Michael J. Brown did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on May 25, 2023.

COMP

Greeting Judicial Committee

Hello, My name is

I am incarcerated in the

After being convicted in a jury trial, in the County Superior Court, in , and sentenced to one, 12 years sentence, and four, 35 to Life sentences in May of , to all run Concurrent, these convictions and sentences were appeal, and appeal was denied.

A Notice for PCR was filed in and Judge of the Superior Ct. was appointed to preside over the Rule 32 proceeding in , as a visiting Judge to the County Superior Ct.

In this case I am representing myself, after having my motion granted in to do so, My former Appellate and PCR counsel had A duty pursuant A.Z. Rules of Prof'l Conduct Rule 42, E.R. 1.16, to provide me with my entire case file, and refuse to, so therefore I filed A Motion with the Court to obtain the case file, the Court (Judge) ordered Counsel to provide the case file, and he failed to comply, so I inform the Court that he failed to comply, the Court once again ordered former counsel to provide the case file, and he again refused to comply, I then filed A Motion requesting Sanctions be imposed on former counsel, he was ordered to respond to the Sanction Motion, and did, and it was the Court's (Judge) decision to once again order he provide the case file to me, and former Counsel again refused to comply, and the Court again ordered him to comply and he again refused, therefore I filed a Motion requesting the Court Compel Counsel to provide the Case file, This Motion was ignored by the Court, thereby forcing me to seek another way to obtain

the case file, so in
the

I filed a complaint with

who moved to investigate former Counsel

it is at this time he started to provide the
case file, after a 6 nearly 7 months delay, that the Court
Judge became Comphett in when refused to compel
Counsel to give up the file.

In:

I believed former Counsel had provided
me with the entire case file, therefore I Motion the Court
for Case Status, inquiring about the deadline to file the
Rule 32 petition, and if it was necessary and Ext. time to file
Petition, but the fact is no deadline had been previously
set, A fact the Court chose to overlook, but a deadline
was set at that time. at this time former
Counsel was terminated

At this time I was housed at , this
is a high security prison unit that is run thru controlled
movement, therefore access to what passes as a law library
is very limited, and any legal work that is on CDs or DVDs
you must go through your building Counselor, to set up time
to research and investigate, and this is done at a time
that is suitable to that staff member, and this limited
time was further restricted when the Covid 19 restriction
s were implemented.

On my property was rolled up, so I could be
moved to a lower Custody level prison, during the transition
of that move on. My legal property was lost and
withheld by the prison staff, it was nearly two

weeks before I received my lost legal work and another week before I was informed that my withheld legal property had been finally sent, and then it was placed in property storage, without me being informed, so when I attempted to get it, I was told that we ~~can~~ could not have any legal CDs and DVDs in our possession on that yard, and I would have to go through the unit to set up a time to view this material, but due to Covid restriction this scheduling would probably be a month later, which would of clearly put me beyond the deadline to file the PCR petition.

These emergency circumstances, along with the fact I am laymen of the law, was pointed out to Judge in a Motion For Ext. of Time, which he denied after he erroneously stated I had been previously given Multiple Ext. of Time, this is not shown in the record in fact, it is shown that the delays are a result of former Counsel's withhold of my case file and the Court's complicity in that misconduct.

In spite of all these obstacles, I submitted the PCR petition and exhibits to prison staff on ~~thereby timely~~ filing the petition pursuant to the Mail Box Rule, so on I filed A Notice with the court, informing it, I had timely filed the PCR petition, and that I was giving notice to file a Supplement/amendment to the petition, because I had discovered the Sentencing Transcript, had not been provided to me, and I did not have time to

Thoroughly research and investigate the entire case file to discover all issues with merit and raised them as required by A.R.C.P. Rule 41.25(5).

Judge responded in a Court order, in which he erroneously concluded that my PCR petition had not been timely filed, according to the Ct.'s record, and due to the Multiple ext. of time, my petition was precluded from review.

On I filed Motion for Clarification/Reconsideration in which I provided a Money Disbursement slip to prove I handed the Petition to Prison staff on that Slip contained the prison staff member's name and badge #, this was accompanied by a Inmate bank account printout, and a Affidavit, thereby providing proof the PCR petition was timely filed.

On Judge in a Ct. order upheld his decision to preclude My Rule 32 petition, relying on an erroneous application of the Mail Box Rule, and the continued erroneous finding that I had been granted Multiple ext. of time, therefore I filed A petition For Review with the Court of Appeals, who ordered that the Court respond to the petition.

While I was challenging Judge erroneous decision, the investigation of former counsel had been concluded and he was recommended to the

that had violated Multiple Rules of The Rules of that found

Prof'l conduct, and in doing so, unreasonably delayed
This Judicial proceeding, verifying that Judge
had erroneously asserted that I had delayed
this proceeding.

In the response to my Petition For Review to
the Court, it took No Position as to the
Application of the Mailbox Rule in my case, but did
refer to a case, and suggested that the
Ct. Conduct a evidentiary hearing as to that issue.
On the Court's decision in A Memorandum
decision ordered that my Rule 32 petition be review-
ed by the Court.

The State's non position and the decision
establishes that Judge became complicit in
the misconduct of former counsel, and in doing
so violated multiple rules of the AZ. Code of Judicial
conduct Canon 1, 1.2, (5), Canon 2, 2.2, 2.3, 2.5, and 2.6, due to
Judge Complicity, I was denied access to the
Court to have my issues adjudicated on their merit for
A year and 1/2, this Abuse of Discretion is the product of
partiality and unfairness, that has severely prejudiced
me, and nearly denied my right to be heard in court,
as afforded to me through the right of Due Process by law.
Further Judge failed to Comply with Canon 2,
2.15 (B) (D) and therefore I request that Judge
actions in this Judicial proceeding be investigated and
addressed according to the Rules; Sincerely,

**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.**