

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 23-025

Judge:

Complainant:

ORDER

April 12, 2023

The Complainant alleged a superior court commissioner illegally sentenced him after changing his plea agreement.

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 April 12, 2023.

From:

Sent:

To: Commission on Judicial Conduct <CommissionJudicialCo@courts.az.gov>

Subject: case #

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I am filling a complaint against Judge . On I was sentenced to serve jail time after accepting a plea deal because I had never been allowed to speak with an attorney.

I had already served in jail and was while awaiting a trial which would never happen. Judge sentenced to me to another in jail along with probation. This came as a shock to me because the plea agreement I signed was for probation only.

Looking back at the plea agreement, it states that I should have been given the opportunity to withdraw from the plea if the court decided to change the plea agreement or change the agreed upon sentence.

I was never given the opportunity to withdraw my guilty plea before my sentence was changed nor did the judge even notify me about the change.

Nor was there any wording or clause in the plea agreement allowing judge to sentence me to any jail time.

Judge denied me the opportunity to withdraw as the plea clearly states and now knowing that she did not have the legal authority to impose the sentence that she did, she must overturn the conviction and allow for proper and legal sentencing.

My name is

Case

Attachments: [viewer \(5\) \(18\).pdf](#)
[viewer \(5\) \(11\).pdf](#)

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Subject: Re: Judge case #

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On PM > wrote:

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My name is
Case

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF

Plaintiff,

vs.

DOB:

Booking #:

Defendant.

**PLEA AGREEMENT
A DOMESTIC VIOLENCE OFFENSE**

The _____ and the Defendant hereby agree to the following disposition of this case:

**Plea: The Defendant agrees to plead guilty to:
COUNT 1(as amended): AGGRAVATED ASSAULT, A CLASS 6 UNDESIGNATED FELONY and a DOMESTIC VIOLENCE OFFENSE, in violation of A.R.S. 13-1203, 13-1204, 13-3601, 13-604, 13-610, 13-701, 13-702, and 13-801, committed on _____**

This is a non-dangerous, non-repetitive offense under the criminal code.

Terms: On the following understandings, terms and conditions:

1 Count 1:

The crime carries a presumptive sentence of 1 years; a minimum sentence of .5 years; a mitigated sentence of .33 years; a maximum sentence of 1.5 years; and an aggravated sentence of 2 years. Probation IS NOT available.

Restitution of economic loss to the victim and waiver of extradition for probation revocation procedures are required. Pursuant to A.R.S. §13-805 at the time restitution is ordered the court may enter a criminal restitution order including interest and collection fees. The maximum fine that can be imposed is \$150,000 plus an 83% surcharge plus, if applicable, \$20.00 probation fee pursuant to A.R.S. § 12-269 plus a \$13.00 assessment pursuant to A.R.S. § 12-116.04 plus a \$2.00 assessment pursuant to A.R.S. § 12-116.09. If the Defendant is sentenced to prison, the Defendant shall also be sentenced to serve a term of community supervision equal to one-seventh of the prison term to be served consecutively to the actual period of imprisonment. If the Defendant fails to abide by the conditions of community supervision, the Defendant can be required to serve the remaining term of community supervision in prison. Within 30 days of being sentenced, pursuant to A.R.S. § 13-610, the defendant shall provide a sufficient sample of blood or other bodily substance for deoxyribonucleic acid (DNA) testing and extraction to be used for law enforcement identification purposes and/or for use in a criminal prosecution and/or for use in a proceeding under title 36, chapter 37. Pursuant to A.R.S. § 13-3105, Defendant shall forfeit all interest in the weapon to the State. Special conditions regarding the sentence imposed by statute (if any) are: The defendant shall pay a \$50 assessment to the court, to be transmitted pursuant to ARS §12-116.05 to the Address Confidentiality Program. The defendant shall pay a \$50 assessment to the court, to be transmitted pursuant to ARS §12-116.06 to the Domestic Violence Shelter Fund. Pursuant to A.R.S. § 13-604(A), this offense shall be treated as a felony for all purposes until such time as the Court may actually enter an order designating the offense a misdemeanor. If this offense were designated a misdemeanor, Defendant could receive a maximum of 6 months in jail and a maximum fine of \$2,500 plus the statutory surcharge. Pursuant to A.R.S. §13-3601.01(A) the court shall order the defendant to complete a domestic violence offender treatment program. Pursuant to A.R.S. §13-3601.01(C) the defendant shall pay the cost of the domestic violence offender treatment program.

- 2 The parties stipulate to the following additional terms, subject to court approval at the time of sentencing as set forth in paragraph 7: Defendant shall be placed on supervised probation with domestic violence terms. As a term of probation, Defendant shall complete domestic violence counseling. This offense shall not be designated a misdemeanor unless and until the defendant successfully completes all terms of probation. Defendant shall have no contact with the victim (even through third parties) absent prior written approval from the adult probation officer. Defendant shall pay restitution for all economic loss to all victims, for all counts including dismissed or amended counts, and/or their insurance companies, resulting from Tempe PD DR#: _____ and any supplements, in an amount not to exceed \$100,000, regardless of who caused the loss. Defendant shall pay \$550 to _____ to defray the cost of the forensic nurse examination.
- 3 The following charges are dismissed, or if not yet filed, shall not be brought against the Defendant by the _____ : Count 2.
- 4 This agreement serves to amend the complaint, indictment, or information to charge the offense to which the Defendant pleads, without the filing of any additional pleading. However, if the plea is rejected by the court or withdrawn by either party, or if the conviction is subsequently reversed, the original charges and any charges that are dismissed by reason of this plea agreement are automatically reinstated.

**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.**