

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 23-049

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Judge:

Complainant:

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**ORDER**

July 10, 2023

The complainant alleged improper legal 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 Colleen E. Concannon and Scott C. Silva did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on July 10, 2023.

To: Arizona Commission on Judicial Conduct  
1501 West Washington Street  
Phoenix, Arizona 85007

From:

**COMPLAINT AGAINST A JUDGE**

Judge's Name:

Court:

Court

Location:

Case Name and Number:

Court No.

Attorneys involved:

private counsel for  
prosecutor,

Office

List the names and phone numbers of any witnesses who observed the judges conduct:

I affirm, under penalty of perjury, that the foregoing information and the allegations contained in the attached complaint are true.

\_\_\_\_\_

\_\_\_\_\_

Date

This is a landmark case. At issue is not only the competence of Judge to be fit to continue in office, but also, the competence of this Commission on Judicial Conduct to continue to be the one to police and to discipline all judges.

To disclose the true facts and basis for this Complaint against Judge, the -page active document entitled "Addendum," currently before the Arizona Supreme Court is attached, being Case Number .

Had Judge done his job, none of this would have been necessary and I would not have had to languish in prison for years, due strictly to the machinations which occurred in his court, which must now be disciplined as a deterrent to all.

Judge violated Arizona Code of Judicial Conduct Rules 1.1, 1.2, 2.2, 2.6(A), 2.6 (B), 2.9(B), 2.11(A), 2.16 (B) plus Rules 33.1(f), 33.9(a) and 33.9(b) of the Arizona Rules of Criminal Procedure, as follows:

**Rule 1.1. Competence with the Law.** "A judge shall comply with the law, including the Code of Judicial Conduct."

Note – Judge            did not comply with the 6<sup>th</sup> Amendment of the U.S. Constitution and he did not comply with Rule 32, of the Az. Rls. of Crim. Procedure.

**Rule 1.2. Promoting Confidence in the Judiciary** A judge shall act at all times in a way that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

Note – Judge            was biased against me. He only pushed the false influence of the false grand jury indictment against me, and not the true facts, which he struck from the record and ignored. Judge            negative cast over his court made me and all observers realize that my innocence had no chance and his pre-planned object to expedite me into prison, by means of a false plea, was his singular intent.

**Rule 2.2 Impartiality and Fairness** A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

**Comment [1]** To ensure impartiality and fairness to all parties, a judge must be objective and open-minded. Note – Judge            did not do this.

**Rule 2.6(A) Ensuring the Right to be Heard** (A) A judge shall accord to every person who has a legal interest in a proceeding... the right to be heard according to law.

Judge            did not do this. I also had a highly incompetent lawyer, who only believed the false indictment, and who victimized me by doing no research, and who only wanted to plea. I only say this to show the additional disadvantage I was under.

Under these circumstances, to let the truth be known, on           , which was one day before my “lawyer” had arranged for my “Change of Plea Hearing,” then with the help of my friend, I signed and filed a document entitled “Motion to Dismiss.”

A copy went to the Clerk of the Court, to Judge           , to the prosecutor, and to my own traitor lawyer,           . This Motion fully stated my innocence. It disclosed that the police illegally shot first at me against the rules.

The next morning, at the Change of Plea Hearing, the two lawyers approached the bench and asked Judge            to strike my Motion to Dismiss. Judge            then sealed and ignored that critical motion. *See*: Transcript, Change of Plea Hearing, page 3:

## JUDGE

Judge            failed to “hear” my motion. He failed his duty as a judge. He violated Judicial Code **Rule 2.6(A)** which states: **Ensuring the Right to be Heard.**

(A) A judge *shall accord* to *every person* who has a *legal interest* in a proceeding, or that person’s lawyer, the right to be heard according to law.

As to judicial discipline for Judge           , I need only show that he sealed and refused to “hear” my claims, which violated Rule 2.6(A). Judge            did this, as per the transcript of his own admission, so he must be punished as a deterrent to other judges.

**Rule 2.6(B)** A judge may encourage parties to a proceeding and their lawyers to settle matters in dispute, but shall not coerce any party into settlement. **Comment [1]** The right to be heard is an essential component of a fair and impartial system of justice. Substantive rights of litigants can be protected only if the right to be heard is observed.

Judge sealed and ignored my proper "Motion to Dismiss," which was replete with overwhelming fact and evidence that the police did not obey their required protocol rules when they illegally shot me. Moreover, the police then lied about it to the press, to the County prosecutor, to the grand jury, and indirectly to Judge himself, by means of a false indictment. Judge deliberately refused to consider all of this material then tried to hide and mask his judicial code misconduct, plus retaliate against me and others for their whistle blowing, as will be shown.

In open court, Judge "took the lead" to wrongfully channel me into a false plea. Both the prosecuting attorney and my own "lawyer" just watched while Judge, mocked me, browbeat me, and *de facto* put false words into my mouth to illegally horn me into a false plea, which did not have the necessary and required "True Factual Basis," to make the plea valid and enforceable.

All of this is inserted in the next 5 pages, with highlights, and further explained on the front cover page to the Addendum to the Court, followed by pages 2 and 3, which are all from the transcript of the Change of Plea Hearing, on September 1, 2015, with actual verbiage from Judge, plus comments attached.

*See also:* Exhibit "H" to the Addendum, the confession of, in which he admitted he did not tell the truth to the grand jury to get a false indictment.

In sequence, the questions from Judge, and the answers that Judge extracted from me, my attorney, and from the prosecuting attorney were a farce!

I stated I was not in my full mind, due to severe depression, medication and epilepsy. This should have alerted Judge to enjoin special precautions to determine the full truth, **and not**, to simply ramrod hyperbole. I did clearly say that " " I emphasized this twice, and I particularly said " " (to stop shooting), since the police were already shooting viciously and directly at me. **This lack of "intention plus the fact that the police did not obey their required rules, and the fact that the police fired first, and lied about it** precludes assault on my part towards the police, which was the charge I was faced with.

All of these true facts are what my incompetent lawyer refused to state, so I had to state it on my own, directly to Judge, the day before this Change of Plea Hearing. Shockingly, Judge removed my true and documented brief from the record, sealed it and ignored it, which is forbidden by Judicial Code Rule 2.6(A).

Judge also forced his false notion that no matter what I said, or what the true facts were, I was guilty because the indictment said so, and therefore, it did appear to me, and to my family and friends in the courtroom, that his sole object was to clear his calendar and slam me into a false plea, in violation of Code Rule 2.6(B) and 1.2.

I stated in my Notice to Dismiss, dated, which was ignored and sealed by Judge, that I was the one who got blinded and injured, and that I had no

intent to harm any police officer, and that the police were shooting at me first, and not obeying any rules, and specifically that: as quoted on page 4, bottom of page, that:

As per statute, I can only commit assault in the event I actually caused physical injury to another, yet I harmed nobody. Instead, it was the police who maliciously assaulted me, while I was under their total sphere of control and domination.

By this disclosure, Judge [redacted] should have recognized the bombshell fact that I was being railroaded and falsely charged. Instead, Judge [redacted] sealed my true brief and acknowledged that he had placed this information under seal.

At my plea hearing, Judge [redacted] said: “ [redacted] ’ which I did show.

After the false plea, as shown in the record, I did file many Rule 32 Motions for post-conviction relief, which documented this manifest injustice, yet Judge [redacted] denied all of my motions without waiting the necessary [redacted] days for the other side to respond.

If there is any fault to any claim, it is strictly and only up to the [redacted] to say so, then I had [redacted] days to reply. Only then, as per to Rule 32, can any judge rule, but Judge [redacted] prematurely killed all my true petitions for relief, while the prosecutor – who brought the false charges to begin with – happily stood by while Judge [redacted] broke code rules 1.1, 1.2, 2.2, 2.6(A) to protect them and him too from their errors.

Judge [redacted] also violated code rule **2.11(A) Disqualification**, which states: (A) A judge **shall disqualify** himself or herself in any proceeding in which the judge’s impartiality might reasonably be questioned, including but not limited to the following circumstances: (d) previously presided as a judge over the matter in another court.

Judge [redacted] did preside over – and did orchestrate – my false plea and my false sentencing, during which he did exhibit massive prejudice against me at that time.

As per rule 2.11 Judge [redacted] was required to disqualify himself from inflicting more injury to me, an innocent man, who he had already and repeatedly mistreated.

Judge [redacted] refused to disqualify himself because he had to protect himself and make sure that I remained guilty and in prison, to keep him from being officially exposed and terminated as an unfit judge.

If another judge vindicated me, on the same facts Judge [redacted] rejected and sealed, then Judge [redacted] is exposed as an unfit judge to be removed from the bench.

**Rule 2.16(B) Cooperation with Disciplinary Authorities.** (B) A judge **shall not** retaliate, directly or indirectly, against a person known or suspected to have assisted or cooperated with an investigation of a judge.

Judge [redacted] viciously retaliated against my friend, [redacted], who is a “person” under Rule 2.16(B). [redacted] properly assisted me with legal documents that pertained to my criminal case, as per my will and choice under the 6<sup>th</sup> amendment, which permits me to have the “counsel” of my choosing, who need not be a lawyer.

When [redacted] called out Judge [redacted] for his code violations against me, Judge [redacted] asked the [redacted] to investigate [redacted] for “ [redacted] ”

Under the 6<sup>th</sup> Amendment, I have the right to have the “counsel” of my choice, and that “counsel” is not required to be a lawyer. Still, the [redacted] barged ahead and wrongfully prosecuted [redacted]. However, he won. See:

[redacted] Court No. [redacted]. This forbidden and retaliatory action by Judge [redacted] violated Judicial Code Rule **2.16(B)**.

This illegal tantrum by Judge [redacted] injured me. While Judge [redacted] was chasing the [redacted], he should have exonerated me. Instead, I had to continue languishing for years and years in a dank prison, due to his wild machinations. See: **Exhibit “A.”**

Judge [redacted] also failed to comply with the Arizona Rules of Criminal Procedure, Nos. **33.1(f), 33.9(a) and 33(9)(b)**, which state as follows:

**Rule 33.1(f)** the failure to timely file a notice of post-conviction relief was not the defendant's fault;” *Rule 33.1 - Scope of Remedy, Ariz. R. Crim. P. 33.1*

My proper and valid Motion for Post Conviction Relief was denied by Judge [redacted] because it was “ [redacted]”. However, it was not my fault, because my new public defender, [redacted] abandoned me and would not file it for me. I was incapacitated, in prison without material or resources. She only sent me the file, and gave to the court a Letter of Compliance and a Letter of Completion, which said that I was properly convicted, and that there were no “Color of Law” violations. Wow!

This is where [redacted] stepped in. [redacted] looked at the file, found out that before my change of plea hearing, detective [redacted] was on a recorded phone call with my attorney [redacted] and the prosecutor, [redacted], and [redacted] recorded and admitted he did not know who shot first, or if the police obeyed their rules, yet he was the single witness that deceived the grand jury as to these facts. See: Addendum.

Being late was not my fault. My petition for Post Conviction Relief was more than sufficient for my vindication of all charges. If a problem existed with any of my claims, including my explanation for being tardy, it was only the other side – not Judge [redacted] – who could state that problem, *and convincingly accomplish their “ [redacted]”* to quash my claim. Otherwise, my claim of exoneration must be granted.

Judge [redacted] disregarded this true law. I disclosed it to him, but he ignored it, and did not correct his error, in violation of PCR Rule 33.1(f). Here is the true law:

**Rule 33.9(a) State's Response.** The State **must file** its response no later than **45 days** after the defendant files the petition. The court for good cause may grant the State a 30-day extension to file its response.

**(1) Contents.** The State’s response **must include** a memorandum that contains citations to relevant portions of the record and to relevant legal authorities, and must attach any affidavits, records, or other evidence that contradicts the petition's allegations. **The State must plead and prove any ground of preclusion by a preponderance of the evidence.** (emphasis added)

**(b) Defendant's Reply.** The defendant may file a reply 15 days after a response is served. The court for good cause may grant one extension of time, and additional extensions only for extraordinary circumstances.

**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.**