

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 23-141

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Judge:

Complainant:

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**ORDER**

August 28, 2023

The complainant alleged a superior court judge issued improper legal rulings in 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 Louis F. Dominguez did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on August 28, 2023.

COMP

2023-141

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

From:

**COMPLAINT AGAINST A JUDGE**

Judge's Name: Judge  
Court: Court,  
Location:

Case Name and Number:

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

\_\_\_\_\_  
Date

The further basis for this Complaint against Judge is the page document entitled "Addendum," which is attached and made a part of this Complaint.

Judge conspired with opposing interests to kill my true Petition for Post-Conviction Relief to reverse my false criminal conviction. Judge illegal color of law attack on me caused great harm and injury plus pain and suffering to me, due to his violation of the Arizona Code of Judicial Conduct Rules 1.1, 1.2, 2.2, 2.4, 2.6(A), 2.9(A), 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.

Judge will not comply with the 6<sup>th</sup> Amendment of the U.S. Constitution, or comply with Rule 33, of the Az. Rls. of Crim. Procedure. More specifically, in spite of massive fact and law presented to Judge, which irrevocably shows my innocence, Judge engages his invention of false law to deny justice for me.

**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.

On \_\_\_\_\_, I, \_\_\_\_\_, filed my "Notice Requesting Post Conviction Relief" to the Post-Conviction Relief Unit of \_\_\_\_\_ Court.

\_\_\_\_\_ days later, without waiting the required \_\_\_\_\_ days for the other side, being the \_\_\_\_\_ Prosecutor to respond, and another \_\_\_\_\_ days for me to reply, as per Rule 33.9(a)(1) and (b) of the Az. Rules of Criminal Procedure, which state:

**Rule 33.9(a) State's Response.** The State **must file** its response no later than \_\_\_\_\_ days after the defendant files the petition. The court for good cause may grant the State a \_\_\_\_\_-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 \_\_\_\_\_ days after a response is served. The court for good cause may grant one extension of time, and additional extensions only for extraordinary circumstances.

I repeat: the State, not Judge \_\_\_\_\_, must "**plead and prove**" any ground for preclusion. Judge \_\_\_\_\_ desecrated this rule. He did not do what he was required to do. He prematurely preempted the sole and strict duty of only the State – and not Judge \_\_\_\_\_ by his own false intervention – to state and prove that I must legally be denied consideration for my relief, based upon \_\_\_\_\_ not being my legal counsel.

By his misconduct, Judge \_\_\_\_\_ denied me my Rule 33 right to have my true and prescribed day in court. He also violated my 6<sup>th</sup> amendment right to be able to face my accusers, to force them to respond, and to back them down to regain my innocence.

More in particular, Judge \_\_\_\_\_ denied me my Sixth Amendment right to have the "counsel of my choice" to assist me to gain relief as to my criminal accusations.

To make this very clear, I repeat again my Sixth Amendment "right of counsel of my choice" as explained in my brief to him, and filed with the \_\_\_\_\_ Court on \_\_\_\_\_, which is entitled: "Original Filed With This Court On \_\_\_\_\_ (-) Amendment to Original is Now Filed on This Date of \_\_\_\_\_.

*See now:* top of page 4, which quotes my 6<sup>th</sup> Amendment rights as follows:

In all criminal prosecutions, the accused **shall enjoy** the right to... be **confronted with the witnesses against him;** to have compulsory processes for obtaining witnesses in his favor, and to have the **Assistance of Counsel** for his defence.

Nothing in the Amendment, or in any U.S. Supreme Court ruling requires that such "Counsel" must be a licensed attorney. Instead, all that is required is that said "Counsel" be my choice, and \_\_\_\_\_ is my choice to be my "Counsel" in this case.

All the other defense attorneys were incompetent, including \_\_\_\_\_ and \_\_\_\_\_. They did no research and they failed to present the true facts of my case, as shown in the attached \_\_\_\_\_ page Addendum, which is integral to this Complaint.

This -page Addendum was filed on to the Court and is now re-filled to Judge . The first page of this Addendum states:

The stated claim for million in damages is only from for 6<sup>th</sup> Amendment rights injury, which impugned his right to counsel of his choice, and ended right to repudiate his accusers. Also requested is that the rejected Notice Requesting Post-Conviction Relief be restored.

Judge illegally prevented my constitutional right to present my claims for relief. He wrongfully removed my original accuser, the State, out of my reach. I was entitled to force the reversal of the false charges that the State manufactured against me, but Judge wrongfully denied and prevented that right to be available to me.

Judge did not wait – as required by law – the full days for the “state” to **respond**, then **more days** for me to **reply**. Judge illegally **shielded** the State from having to answer and be accountable for its false charges against me.

Judge also violated **Rule 2.2 Impartiality and Fairness** which states: A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially. **Comment [1]** also states: To ensure impartiality and fairness to all parties, a judge must be objective and open-minded. Judge Wein did not do this.

**Rule 2.6(A) Ensuring the Right to be Heard** 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. He also violated **Comment [1]** as follows:

**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 failed to do his duty, by refusing to allow – as per law – that the other side respond to my claims of innocence, AND, that I be able to refute any claims by the other side, as granted by ARS § 12-820, which is now explained:

Arizona entities and employees are liable for their **negligence** and **omission** to obey true rules, which are designed to provide justice; it is the “failure” to “exercise” a duty, which terminates immunity and creates liability. See: *Galati v. Lake Havasu City*, 186 Ariz. 131, 920 P.2d 11 (1996), which is now quoted from the Arizona Supreme Court:

The immunity statute, however, provides immunity for the City’s “exercise” of a judicial or a legislative function, A.R.S. §12-820.01(A)(1). We interpret the term “exercise” to require action, not the absence of action. Arizona cases determining what is a judicial or a legislative act require an actual act, not a failure to make a decision. *Saggio v. Connelly*, 147 Ariz. 240, 241, 709 P.2d 847, 875 (1985). We hold, however, that the *absence* of a decision is not the *exercise* of a judicial or a legislative function entitled to immunity under A.R.S. section 12-820.01(A)(1). *C.F. Goss v. City of Globe*, 180 Ariz. 229, 231, 833 P.2d 466, 468. When an Arizona entity fails to perform the duty required by the established rules, they become liable for the injury they caused. A.R.S. § 12-820.01(A)(1).

Judge **did not do his duty and he can be sued!** He was enjoined to allow me, to have counsel of my choice, even if that person is not a licensed attorney, as per specific mandate from the 6<sup>th</sup> Amendment, now quoted again:

In all criminal prosecutions, the accused **shall enjoy** the right to... be **confronted with the witnesses against him;** to have compulsory processes for obtaining witnesses in his favor, and to have the **Assistance of Counsel** for his defence.

Judge is also enjoined by **Rule 33.9(a)(1) and (b) of the Arizona Rules of Criminal Procedure** to not prematurely dismiss my valid "Notice Requesting Post Conviction Relief," **signed only by me,** on yet Judge wrongfully dismissed my true motion, without any complaint against it being lodged by the single appropriate party, i.e., the prosecutor for the

Instead, Judge issued this Minute Entry, on , only days after my Notice Requesting Post Conviction Relief was filed, see: **Exhibit "A"** attached:

### UNAUTHORIZED PRACTICE OF LAW

The Court has received a document filed "Notice Requesting Post-Conviction Relief" that was filed on . The Court finds that the document does not comply with rule 31 of the Arizona Supreme Court Rules. The filing was submitted by is not authorized to practice law in the State of Arizona, nor is a certified legal document preparer under Arizona Code of Judicial Administration §7-208. has violated Rule 31(a)(2)(A)(1), (3) and (5), which prohibits an unauthorized person from preparing any document intended to affect or secure legal rights for a specific person, preparing or expressing legal opinions, and preparing any document for filing in any court.

IT IS ORDERED rejecting the "Notice Requesting Post-Conviction Relief".

IT IS FURTHER ORDERED the Post-Conviction Relief Management Unit must send a copy of this order to the so it can take such action as it deems appropriate.

The above Rule 31(a)(2)(A)(1), (3) and (5) does not say what Judge says it says. The true rule is now quoted:

#### **Rule 31, Jurisdiction**

**(a)** The has jurisdiction over any person or entity engaged in the **authorized or unauthorized** "practice of law" in Arizona, as that phrase is defined in (b) (several examples of law practice).

Point being, nothing is "prohibited." The simply has "jurisdiction" over what is practiced, be it authorized or unauthorized. In this case, everything did was authorized by me. I signed it, I agreed to it and I approve of it, in accordance to my right under the Sixth Amendment to the U.S. Constitution.

In the event Judge \_\_\_\_\_ wishes to have the \_\_\_\_\_ curtail in any way, including the notion that \_\_\_\_\_ is not a licensed lawyer, then Judge \_\_\_\_\_ must complain to the \_\_\_\_\_, **and**, perform the "burden of proof," and "convince," that \_\_\_\_\_ has no authority from me, \_\_\_\_\_, the statutory defendant in this case, as per my Sixth Amendment Rights.

Judge \_\_\_\_\_ did not correctly interpret the true law. He only "assumed" that because \_\_\_\_\_ is not a registered licensed attorney that \_\_\_\_\_ is not able, capable, qualified or authorized to assist me, which is my legal and constitutional right to do.

The \_\_\_\_\_ has taken no action, because the \_\_\_\_\_ is well aware that \_\_\_\_\_ as the legally authorized assistant to me and he has broken no law. \_\_\_\_\_ is entitled to help me, and to represent me, precisely due to the 6<sup>th</sup> Amendment as shown.

Judge \_\_\_\_\_ does not know the law and he is a bane to society. He injured me without cause. Any moral judicial officer would be thrilled to vindicate a wrongfully convicted person. However, Judge \_\_\_\_\_ wantonly denied my true 6<sup>th</sup> Amendment right to have the very-competent \_\_\_\_\_ assist me in my criminal matter.

On \_\_\_\_\_, Judge \_\_\_\_\_ also issued a separate and false Minute Entry, attached as **Exhibit "B,"** which amplified his violation of the law by stating as follows:

The Court is in receipt of and has reviewed Defendant's Motion to Restore Wrongful "Rejection" of My Proper Notice Requesting Post-Conviction Relief filed on \_\_\_\_\_

IT IS ORDERED denying Defendant's Motion. The Court cannot accept documents filed by a non-attorney. The Court may only accept motions filed by a party or a licensed attorney acting on behalf of a party.

The subject motion Judge \_\_\_\_\_ illegally "rejected" is attached as **Exhibit "C."**

First, \_\_\_\_\_ is authorized to help me as shown, so there is no disqualifier here. Second, this motion is signed by me. I am the responsible *defendant / party* who has official *standing*. I can represent myself or get assistance from who I want, and sign my own documents. This is the law, as per the 6<sup>th</sup> Amendment. The landmark U.S. Supreme Court Case of *Faretta v. California*, 422 U.S. 806 (1975) rules a defendant "**is entitled to preserve actual control over the case he chooses to present.**"

Also, it is prohibited by the Arizona Code of Judicial Conduct and the Arizona Rules of Criminal Procedure, as shown, for Judge \_\_\_\_\_ to "deny" out-of-hand, my true motion, without waiting the required \_\_\_\_\_-days for the other side to be the one – and not Judge \_\_\_\_\_ – to initiate any claim of refutation or preclusion.

My path to relief was denied with malicious intent, to protect the prosecutor from being exposed as deficient in the first place. This fact is drawn from the \_\_\_\_\_ letter dated \_\_\_\_\_, attached as Exhibit "B" which states:

The \_\_\_\_\_ has received information... that ( \_\_\_\_\_ ) asked to speak with someone at the \_\_\_\_\_ ( \_\_\_\_\_ ) regarding \_\_\_\_\_ conviction.

Neither I, \_\_\_\_\_, nor \_\_\_\_\_, ever told Judge \_\_\_\_\_ that had ever spoken to anybody at \_\_\_\_\_ about my case. However, it did happen.

**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.**