

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 23-158

Judge:

Complainant:

ORDER

July 14, 2023

The complainant alleged a superior court judge failed to make a record while conducting hearings 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 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).

Copies of this order were distributed to all appropriate persons on July 14, 2023.

CONFIDENTIAL

Arizona Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
Phoenix, Arizona 85007

FOR OFFICE USE ONLY

2023-158

COMPLAINT AGAINST A JUDGE

Name: _____ Judge's Name: _____

Instructions: Use this form or plain paper of the same size to file a complaint. Describe in your own words what you believe the judge did that constitutes judicial misconduct. Be specific and list all of the names, dates, times, and places that will help the commission understand your concerns. Additional pages may be attached along with copies (not originals) of relevant court documents. Please complete one side of the paper only, and keep a copy of the complaint for your records.

In this case, it is the Judge _____, who is in charge of the courtroom, i.e., Captain of the Ship; in _____ Pursuant to the ARIZ. REV. STAT. §§ 12-221 and 12-231, the judge appoints both the Court Reporter (Stenographer) and the Bailiff to prescribe their duties and to take the official oath by the judge.

In this case Judge _____ failed to adhere to the Standards set forth by the Arizona Code of Judicial Administration, Pt. 1: Chapt. 6: §1-602. On 10/28/15 during Claimant's trial both the Stenographer (_____ "hereinafter") and the Bailiff (_____ "hereinafter") Stenograph and FTR malfunctioned almost simultaneously, whereby permitting the prosecutor to bring in a Courtroom Projector and the dimming of the Courtroom lights to show the jurors non-disclosed, non-admissible evidence of Claimant's Laptop Viewings of "_____". As a result, important events, evidence and footage of the trial was not recorded by _____ and was lost. (ROA - _____)

Furthermore, as a result of the Courts malfunctioning electronic recorders/recording devices and the Stenographer's Realtime Feed and Stenograph Freezing when Claimant filed his Motion for New trial on _____ and when he filed an Direct Appeal on _____, the evidence, testimony of Witness _____, and footage of the Prosecutor's misconduct was not available for Claimant's use.

However, in _____, the OPDS assigned an Expert Witness,
from _____. He is familiar with
the courtroom recording systems and qualifies as an expert
in facial recognition software.

On _____, claimants P.I., _____ wrote him
a letter informing claimant of _____
if the FTR had been edited. _____
"Official Report" as to
stated that, "_____,"

"See, (Exhibit B)

THE FACTS:

(1.) That, the defendant, _____ trial occurred on _____
During trial the prosecutor called witness, _____ (i.e. "hereinafter")
to the stand to give testimony on behalf of her deceased husband. See,
(FTR at _____ OR R.T. _____, pg. _____, lines _____). The Prosecutor
asked. the following:

Q. _____ (i.e. "hereinafter")? Before answering,
rises from the witness chair and states very loudly that, "
"This testimony does not appear in defendant's
transcripts. The transcribed answer is simply " " "

(2.) That, at the same time _____ Stenograph Froze and did not
record. testimony stating, "_____," is the same
time the Court's FTR (operated by _____) also failed to record

statements, and as a matter of fact, the COURT'S FTR failed to record pages - , lines - and page - , lines of P.I.

(3.) ON , defendants P.I., interviewed who explained that, "

para. #30). " See, (EXHIBIT A,

(4.) That, further in (Exhibit A, para's #7, 8, 13) states that, she never had to have her Stenograph Machine repaired, certified or inspected.

(5.) That, in (Exhibit A, para #6) goes on to explain that, ~~she was~~ as a Stenographer she was responsible for the purchase of the Stenograph machine and the software to run the machine.

(6.) That, stated that, "

" " "

(7.) That, was unable to provide P.I. with audio files of the trial as the Stenographer machine was

#12.)

See, (Exhibit A,

(8.) That, at _____, P.I. received a text message from _____ advising him to examine pgs. _____ and: See (EXHIBIT A, para. # 30)

(9.) That, the ~~defendants~~⁽¹¹⁾ missing testimony of _____, the prosecution's playing of defendants' _____ "located on his laptop computer that was shown to the jurors on the Courts Projector after the dimming of the courtroom lights and, ⁽¹³⁾ the prosecution's statement to the jurors informing the jurors that, "

_____ " all began on ^{R.F.} line _____ through of page _____ thru pgs. _____, lines 1.)

10. That, defendant first made his claims of the above events in his MOTION FOR NEW TRIAL filed _____ about _____ weeks after his trial, on _____ (ROA and _____ and _____; pp. 1 and _____ para's 5, 11 and 13) while the court's misconduct and events were fresh on defendant's mind.

(11.) That, it was not until approximately _____ that defendant was notified by his P.I. of the Experts' (_____) forensic findings " that the Court pulled a "Switcheroo", i.e., ~~Camera~~ "Camera Switch" of the electronic recording devices during trial. See (Exhibit B) ^{Phrase} (the term "Camera Switch" is ambiguous. It could mean that there is an actual switch located in the FTA system or the Courts switched Camera's during trial. This is left up to the Courts discretion of speaking to Mr. Neumaster. It could also be an "out-of-the-switch" or to not record the prosecution's misconduct.

(12.) That, previously, for the past _____ years defendant had believed that the FTA had been edited, deleted and as to why the courtroom events were not present in the Stenographers transcripts and/or on the Courts electronic recording device. ROA.

(13.) That, when defendant filed his MOTION FOR NEW TRIAL, and his Appeal, and Rule 32 on the same issue (Missing transcripts and FTR), no one, not the Courts, Prosecutors, defense Counsel, Rule 32 counsel or appeal counsel ever informed defendant of the "Switcheroo" of the trials electronic recording devices or as to the Stenographers Stenographer's REALTIME FEED FROZE, Simultaneously.

(14.) That, it is doubtful now that the State or Court will produce their Switcheroo FTR recordings because this will show ~~how~~ a Conspiracy. First, the ~~State~~ were never disclosed to defendant. ROA: Secondly, defendant filed a motion to PRECLUDE THE Evidence. ROA: Thirdly, the State Responded to MOTION IN LIMINE TO Preclude ROA also see, ROA , , , . Whereas, the State vowed in Court that they would not bring-up the ~~State~~ and ruled defendant's MOTION as GRANTED. Fourthly, ~~in~~ ~~the~~ ~~see~~, ~~ROA~~ (ROA. pg. , para #5) FOURTHLY, during trial on ~~the~~ while No remained on the Stand, the prosecutor took the Liberty while ~~the~~ was repairing her Stenograph, to dim the courtroom lights, bring out the Court's PROJECTOR and show the juror's the ~~State~~ from defendant's Laptop, to include: "How to steal a PIN number and use a manual credit card embosser, how to remove/disable GPS chips on iPads....." See, (Exhibit C, Det. Sullivan Computer Crimes Unit Forensics.)

(15.) ON ~~the~~ P.I. interviewed ~~the~~ the Judicial Staff Trainer in charge of the Bestiffs. Stated that, "

**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.**