

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 23-166

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Judge:

Complainant:

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**ORDER**

September 29, 2023

The complainant alleged a superior court judge violated his rights in a criminal case by denying the complainant from making a record on an objection, failing to recuse, and hearing a motion addressed to another judge.

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 Barbara Brown and Joseph C. Kreamer did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on September 29, 2023.

2023-166

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.

(1) The judge in said matter denied me right to put an objection on the record during a motion hearing two times I advised the judge that per Fed rules criminal procedure 51(b) 52(b) and Puckett v US that I have a right to object and he stated twice:

(put objection on the record).

(2) Judge would not recuse himself after I filed a motion for him too based on same rights violations (denial to object). He would not recuse himself after I said he was biased & prejudiced against me and unfair.

(3) Judge heard my motion that was addressed to another judge. He is not even Honorable judge who was presiding judge before him and decided my motion addressed to her which I feel is wrong, prejudiced, and biased also.

(4) Judge seems to just violate peoples rights and due process at will and simply because he feels he has the power to.

I am seeking some kind of relief from the commission. I have attached documents in support of this complaint (please see documents attached) I believe this judge is using his bench of power to violate peoples rights and due process.

Name: \_\_\_\_\_

Booking No: \_\_\_\_\_

Phone No: \_\_\_\_\_

Mailing address: \_\_\_\_\_

IN THE OF ARIZONA STATE  
IN AND FOR THE COUNTY OF

STATE OF ARIZONA,

Plaintiff,

VS.

Defendant.

Case No. \_\_\_\_\_

Defendant's motion to Dismiss Prosecution due to willful disobedience of the Arizona and United States Constitution, denial of due process rights, and Unlawful pre-trial detention of the Defendant.

(Honorable \_\_\_\_\_)

The Defendant respectfully submits this motion to Dismiss Prosecution due to willful disobedience of the Constitution, denial of due process rights, and Unlawful pre-trial detention of the Defendant, and in doing so gives notice of the principle of enunciation as stated in Haines v. Kerner, 414 U.S. 519 (1972), wherein the Court has directed that those unschooled in law making, pleadings, and complaints shall have the Court look to the substance of their pleadings much rather than the form. The Defendant hereby makes the following pleadings and Memorandum of points and Authorities:

# MEMORANDUM OF POINTS AND AUTHORITIES

1. Under Arizona Rules of Criminal Procedure, Rule 4.2 (a)(4)(6)(8), at the initial appearance hearing the magistrate must:

- (2) inform the Defendant of the charges and, if available, provide the person with a copy of the Complaint, information or indictment;
- (4) determine whether there is probable cause for purposes of release from custody, and if no probable cause is found, immediately release the person from custody;
- (6) permit and consider any victim's oral or written comments concerning the defendant's possible release and conditions of release;
- (8) determine whether probable cause exists to believe:
  - (A) the defendant committed a capital offense or any felony offense committed while the person was on pretrial release for a separate felony charge; or
  - (B) the defendant committed a felony for which release on bail is prohibited because the defendant poses a substantial danger and no conditions of release will reasonably assure the safety of the victim, any other person, or the community based on the considerations provided in Rule 7.2 (b)(3).

2. Under Arizona Rules of Criminal Procedure, Rule 5.4(a),

- (a) If a magistrate finds that there is probable cause to believe that an offense has been committed and that the defendant committed it, the magistrate must file a written order holding the defendant to answer for the offense before the court. Upon request, the magistrate may reconsider the conditions of release. Upon the State's request, this rule's requirements are satisfied if a probable cause or proof evident or presumption great finding was made at a bail eligibility hearing under Rule 7.2(c)(4).

3. Under A.R.S. Const. Art. 2 § 4, Due process of law,

Section 4. No person shall be deprived of life, liberty, or property without due process of law.

# ARGUMENT

The Defendant has not been afforded legal representation during the prior hearings. During the initial appearance hearing the Defendant was not given the privilege to consult counsel or be represented by counsel. The Defendant has not been given notice of nature and cause of the accusations against him during any of the prior hearings. The Defendant does not know what exactly is occurring in his case or what the state is alleging he did and why he is charged. The Defendant has not received a copy of the direct Complaint.

During the initial appearance hearing, the states counsel (the complaining party) was not present. Court commenced in the absence of all parties present, and the state did not waive its right to be present. Probable cause was not presented to the court, sworn under oath, recited for the record, it was not reviewed by the court or established for the record in compliance with Rule 4.2, A.R.C.P. and Rule 5.4, A.R.C.P. yet bail eligibility was determined and the court set a bail that the states counsel did not request for the record. The Defendant was the only person present during this hearing. This prosecution is not legally correct, how can the court set a bail and approve pre-trial detention of the defendant when no probable cause was presented and established to warrant pre-trial detention. Furthermore, the arresting police had never read the Defendant his miranda rights pursuant to *Miranda v. Arizona*, 384 U.S. 436 (1966).

In addition to this, there is not an order holding the Defendant to answer for an offense before the court in compliance with Rule 5.4 A.R.C.P. A bind over order was not entered by the court during the initial appearance hearing or post initial appearance hearing in this prosecution. A legal authority does not exist to hold the Defendant to answer for the offenses

charged in this case (see case record). The Defendant is unlawfully detained pursuant to U.S.C.A. Const. Amend. 4. As a result of the lack of a Bind over order (a legal Authority) existing in this case the Court lacks Jurisdiction over this case matter.

The Defendants due process rights have been violated pursuant to U.S.C.A. Const. Amends. 5 and 14. The legality of this prosecution is compromised. The Integrity of this prosecution's procedure(s) is tainted. The defendant is being prosecuted by an Alternative form of government. This case must be dismissed. The Defendants equal protection rights are violated pursuant to U.S.C.A. Const. Amend. 14. The Judge is biased.

lastly, the Defendant has not received discovery. The Defendant was not afforded the opportunity to submit a trevius letter to the state in which the Defendant could request to present exonerating evidence to the Grandjury in the likelihood the state proceeded forth with a Grandjury Indictment because an attorney was not assigned to the case at the time. This is outrageous government misconduct. An attorney hasnt even Filed a notice of appearance on behalf of the defendant. The Defendant is indigent and cannot afford to retain counsel, This court should have assigned the Defendant an attorney at the Initial appearance hearing. This conduct is inexcusable.

Even if the Defendant has errored in one of the issues he presented for resolution, the other issues mere existence constitutes a dismissal. The Defendant has never witnessed such reckless disregard for the law. The Court and the State have engaged in willful disobedience of the law. The Defendant should of been released from custody during the initial appearance hearing when Probable cause was not Presented or established.

**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.**