

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 23-275

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Judge:

Complainant:

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**ORDER**

October 24, 2023

The Complainant alleged a superior court pro tem judge failed to dismiss his criminal case for a Rule 8 speedy trial violation.

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 Christopher P. Staring did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on October 24, 2023.

**CONFIDENTIAL**

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

**FOR OFFICE USE ONLY**

2023-275

**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 \_\_\_\_\_ I was charged with aggravated assault with a deadly weapon. \_\_\_\_\_ I did not know I had been charged because the paperwork was sent to an address I have never lived at. I was informed by a friend of mine that she had read online that I had been charge with a felony. I contacted my lawyer \_\_\_\_\_ and he represented me at the initial arraignment. The arraignment was held on \_\_\_\_\_ At that arraignment, I plead not guilty and asked to exercise my 6th Amendment right to a speedy trial. The judge assigned to this case was \_\_\_\_\_. He ordered that the Judicial Assistant set the matter for trial. I was not arrested nor booked on charges. I was not given any restrictions and was released.

On \_\_\_\_\_ we had a pretrial conference and my attorney again asked that the matter be set for trial. \_\_\_\_\_ again ordered that the matter be set for trial.

In \_\_\_\_\_, the same individual involved in the first case had someone call the police and tell them I tried to pay them to kill her. I was arrested without warrant on \_\_\_\_\_ and booked into the \_\_\_\_\_ Jail for attempted first degree murder. No one had attempted to murder anyone but that is what the charges are at this point. The case number for that case is \_\_\_\_\_ and I am currently still incarcerated.

Judge \_\_\_\_\_ was also assigned to this new case. However, after the probable cause hearing, my lawyer requested a change of judge and for a new probable cause hearing.

The new judge on case \_\_\_\_\_ was to be \_\_\_\_\_. On \_\_\_\_\_ we had a release hearing for that case. During that hearing, we were informed he was also " \_\_\_\_\_ " the first case. He said it " \_\_\_\_\_ " on his calendar and that we should have a case management hearing on that case since it was " \_\_\_\_\_ ". The judge stated that it looked like I was released OR on \_\_\_\_\_ and that I should continue to be held no bond, no bail for \_\_\_\_\_ based on rule 7.2 (b)1b. \_\_\_\_\_ argued that no pretrial conditions existed on \_\_\_\_\_. The judge told \_\_\_\_\_ he was responsible for explaining the OR restrictions to his client even though we were never given restrictions. The judge rule i would be continued to be held but that time would not count towards \_\_\_\_\_

Another Case management hearing was held on \_\_\_\_\_ but nothing was discussed about case \_\_\_\_\_

On \_\_\_\_\_ a case management hearing was done and the District Attorney, \_\_\_\_\_ said she was going to request that \_\_\_\_\_ be set for trial first, since it was the first in time.

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On \_\_\_\_\_ the County Attorney submitted notice of request to be placed on trial setting list for \_\_\_\_\_

On \_\_\_\_\_ my lawyer filed a request for trial and a notice of Speedy trial Limits on \_\_\_\_\_ . He stated that Rule 8 expired on \_\_\_\_\_

On \_\_\_\_\_ Judge \_\_\_\_\_ gave an order regarding \_\_\_\_\_ . He stated that on \_\_\_\_\_ the court had issued an Administrative Order \_\_\_\_\_ regarding a protocol for setting jury trails in \_\_\_\_\_ County. He said that the defense council was notified several times and that the AO was effective as of \_\_\_\_\_ . In that order he states "

\_\_\_\_\_ filed the COR on \_\_\_\_\_

On \_\_\_\_\_ filed a motion to dismiss pursuant to Rule 8.2 of the Criminal Rules and the 6th Amendment of the US constitution. He further emphasized that I had asked for a jury trial in \_\_\_\_\_ . In \_\_\_\_\_ I filed a notice of Rule 8 time limits and the judge at that time, \_\_\_\_\_ order the matter be set for trial. On \_\_\_\_\_ I filed notice with the court that Rule 8 would expire on \_\_\_\_\_ The state has not responded to date.

The impending deadline was calculated as if I were out of custody. I am not. I have been incarcerated for \_\_\_\_\_ months, no bail and no bond.

I am asking for justice in this matter because I feel my 6th Amendment rights have been violated by the judge. I don't understand why the Judge \_\_\_\_\_ is requiring us to file a COR on a case that had been ordered to be set for trial twice before by another judge long before the AO even ever existed. Or why they are recalculating the Rule 8 time limits. The County's Attorneys office has admitted on multiple occasions that she has " \_\_\_\_\_ " in this case. It is my contention that my case has been deliberately delayed in order to continue holding me in jail on \_\_\_\_\_ and Rule 7.2.

Thank for your attention to this matter,

\*\*\*Electronically Filed\*\*\*

COURT OF ARIZONA  
COUNTY

JUDGE: PRESIDING JUDGE BY: DEPUTY CLERK

CASE NUMBER: DATE:  
START:  
END:

STATE OF ARIZONA, PLAINTIFF

VS

COUNTY ADULT PROBATION [EM]  
COUNTY ATTORNEY'S OFFICE [EM]

JUDICIAL ASSISTANT

DEFENDANT

MINUTE ENTRY: ARRAIGNMENT / CONTESTED PRELIMINARY HEARING

PRESENT: , DEFENDANT; ATTORNEY FOR THE  
DEFENDANT; , DEPUTY COUNTY ATTORNEY;  
COUNTY SHERIFF'S OFFICE.

LET THE RECORD SHOW this is the date and time set for a/n Contested Preliminary Hearing in the above-captioned matter.

The Court has received and endorses the 17.2 Advisory.

is sworn and testifies.

Upon request and there being no objections, State's Exhibit '1' is admitted.

The parties present videos for review.

The Court finds probable cause as to Count 1.

provides an Offer of Proof to the Court.

Court proceeds with arraignment.

The Defendant:  appears in person  waives personal appearance and enters a plea of not guilty.

The Defendant's correct name is:  shown on the Information  corrected to be \_\_\_\_\_.

Defendant waives the reading of the charge(s).

Plea:  Not Guilty  Guilty  No Contest

Release conditions:  Own Recognizance  Bond \$\_\_\_\_\_.

IT IS HEREBY ORDERED that the Judicial Assistant set this matter for Trial by an Order of the Court. Hearing concludes.

If allowed by the Court, the parties may appear via Zoom Conference by **calling** \_\_\_\_\_ and using **Meeting ID:** \_\_\_\_\_, **Password:** \_\_\_\_\_. Please be on Zoom five (5) minutes prior to the hearing.

\*\*\*Electronically Filed\*\*\*

COURT OF ARIZONA  
COUNTY

JUDGE: , PRESIDING  
JUDGE

BY: , DEPUTY CLERK

CASE NUMBER:

DATE:  
START:  
END:

STATE OF ARIZONA, PLAINTIFF

COUNTY ADULT PROBATION [EM]  
COUNTY ATTORNEY'S OFFICE [EM]

VS

JUDICIAL ASSISTANT

, DEFENDANT

MINUTE ENTRY: CASE MANAGEMENT CONFERENCE

PRESENT BY ZOOM: , DEFENDANT.

PRESENT: , ATTORNEY FOR THE DEFENDANT; DEPUTY  
COUNTY ATTORNEY AND ADULT PROBATION DEPARTMENT.

LET THE RECORD SHOW this is the date and time set for a/n Case Management Conference in the above-captioned matter.

Court and counsel discuss the status and direction of the case.

requests that the Court set this matter for Trial.

IT IS HEREBY ORDERED that the Judicial Assistant set this matter for Trial by an Order of the Court.

The Defendant is directed to keep in contact with his attorney.

Hearing concludes.

IN THE COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF \_\_\_\_\_  
PRESIDING JUDGE

Judge Pro Tem

By: \_\_\_\_\_, Judicial Administrative Assistant

STATE OF ARIZONA,

Plaintiff,

Case No:

vs.

Date:

Defendant.

ORDER

The Court is in receipt of the State's "Notice – Request to be Placed on Trial Setting List" in compliance with the \_\_\_\_\_ County Superior Court's Administrative Order No. \_\_\_\_\_ ("the AO"). The Court also received Defendant's "Request for Trial/Notice of Speedy Trial Limits." The Court has not received a Notice and Request re Trial Setting nor a Motion for Trial and Certificate of Readiness from the Defendant.

On \_\_\_\_\_, the Court issued Administrative Order \_\_\_\_\_ regarding the protocol for setting Jury Trials in \_\_\_\_\_ County. On \_\_\_\_\_, the Administrative Order and proposed templates were emailed to all regularly appearing criminal counsel, including Defense counsel in this matter. On \_\_\_\_\_, Defense Counsel emailed the Court and indicated he had received the email with the Administrative Order and the attachments. The Court has also discussed the AO with Defense Counsel several times. The AO was effective as of \_\_\_\_\_.

Defense Counsel is directed to review and comply with the AO in representing his client's best interests. The Court appreciates counsel's notice and calculations of Rule 8 time limits, but because the calculations do not comply with the AO, they are incorrect. At a minimum, counsel's calculations of time from \_\_\_\_\_ until \_\_\_\_\_ will be and are excluded unless and until counsel complies with the AO. So, \_\_\_\_\_ days of the \_\_\_\_\_ days noted by counsel would not apply through \_\_\_\_\_.

Because the State has filed its Notice and Request, it appears that this case could proceed towards trial quite speedily if counsel for Defendant complies with the AO. The Court stands ready to comply with its obligations in a timely manner.

Date: \_\_\_\_\_

\_\_\_\_\_  
Honorable  
County Superior Court

**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.**