

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 23-366

Judge:

Complainant:

ORDER

February 23, 2024

The Complainant alleged a superior court commissioner failed to disqualify himself and made improper 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 member Denise K. Aguilar did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on February 23, 2024.

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

FOR OFFICE USE ONLY

2023-366

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.

I am writing this letter to shed light on this complaint against Judge _____ in the case of _____ I, _____ am writing this letter on behalf of _____ because he is incarcerated at this moment and I also serve as his POA. _____ was accused of the allegations that he was and he was not in front a judge who was fair and impartial. _____ was before Judge _____ for his case which ended in a _____ day trial beginning _____ ending in a _____ year prison sentence as well as a lifetime registration and a permanent mark on his record. He is _____ years old and this entire situation has severely impacted his future. He is not just another case number. He is not another file. He is a person with a bright future, a family, a full life. While, the actions of Judge _____ is not the only issue that arose during this case, but it did have a very large impact overall in this case.

Day _____ of the trial is where the first issued arose and this was during jury selection. There was a gentlemen who stated that he knew the prosecutor, knew Judge _____ and his family, as well being a retired _____ While I know that the rules have changed since COVID so as long as people say that they wont be biased, they can serve. However, this gentlemen got to serve on the jury and I believe that it had a factor in it. I believe that Judge _____ should have addressed it when the juror said this as it showed a conflict of interest, a favoring to the prosecution and court side. As I believe the prosecutor should have as well. Look at it from the defendants standpoint, this jury member admitting to knowing the prosecutor and judges family and now had a hand in deciding his fate and we are supposed to trust and assume that he has not already made up his mind before the trial began. How do we know he went back into deliberation and was adamant about making sure the jury all agreed on guilty. We do not know just as much as the next but with the connection that he had to the Judge and prosecutor, it could have very well been the situation. Judge _____ should have spoke up and acknowledge the connection between them and this jury member. It is in the Day _____ trial transcripts for the jury member stating the relation.

Day _____ came around and the guilty verdict was read after a _____ deliberation, which was obviously devastating for the defendant. _____ was then taken into custody after Judge _____ ordered it per the states " _____. Now fast forward to _____, sentencing day. _____ had _____ character letters and _____ people speak in person on behalf of his character. However, Judge _____ still found it in his reasoning to sentence _____ to what he imposed. However, to get to that point there were a few back and fourths between the judge and prosecutor. Judge _____ was initaly going to not make _____ register as he did not feel it was warranted, however, the prosecutor referenced a case and then all of a sudden Judge _____ changed his mind. Same thing with sentencing. These allegations were brought up in _____ had not served jail time and he attended every single hearing, as well as his family. He showed he had strong ties to the community as well as the desire and determination to continue to be a good citizen despite what these allegations and trial was doing to him. However, once the verdict was read the prosecution spoke up and asked that _____ be taken into custody as he could be a danger outside. He had not displayed any signs of that nor gave any violent indications. However, _____ felt he had the upper hand, requested this and Judge _____ ordered it. This occured a few times, where the prosecutor, _____ was the one calling the shots and making the decisions and the Judge _____ would retract what he said and change it either/or rule in favor of the prosecution. Whatever _____ wanted, happened.

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(CONTINUED)

The jury forms were given incorrectly which that was put on the record. While, _____ was found not guilty on one of the charges, only guilty forms were given to start with and I feel like that could give the wrong impression to the juror members. While this may not have been in the direct hands of Judge _____ I wanted this situation to be heard as well because _____ did a minute speech on making sure that the jury checks the guilty box... so what are the odds that only guilty forms are given at the beginning. That is persuading the jury.

Lastly, the restitution hearing came about on _____ We sat through this hearing and at the end of the Victim Advocate Supervisor testifying to the ledger, Judge _____ puts on the record that he knows her from a personal/professional standpoint. In this hearing he offered to remove himself from this hearing if the defendant wanted. The defendant, _____ did request that he be removed and it be reassigned. This was now the second conflict of interest that has occurred in this case and in regards with Judge _____

I have brought these things to light in hopes that these actions will have the proper response to them. While someone reading this might not think much of it, this is someones life. This was someones future that was in the hands of this judge in court and _____ was at a disadvantage from the start. He did not get a fair trial due to the not one but two conflicts of interest with the judge as well as the prosecutor making the decisions.

Judge _____ might have put on the record the second time but it does not excuse it or the other situations. These situations are shown through the trial, sentencing and restitution hearing transcripts which I have read through and double checked myself. Even though, _____ should be home, he is at least serving the least amount in sentencing which is good. Thats not the point though, he should have went home after trial. However, looking back and witnessing the events that occurred, there is a strong will to see that Judge _____ showed a lack of fairness and did not treat this as a normal case. It was apperant that there was an imbalance favoring the prosecution side.

I appreciate the time that you have taken to read my complaint. I hope that the right steps are taken to correct this as now we are sitting here trying to piece our life together after going through that trial. Can you imagine sitting in there watching this go on knowing that they can say whatever they want and there is nothing you can do about it? Feeling outnumbered. Feeling the uneven balance in the justice system. It was not innocent until proven guilty. It was they can do and say whatever they please and that is what goes. That is not acceptable. That is not justice served. Judge _____ and the prosecution did wrong and I hope that justice can be served how it should be. There should have been no conflicts of interest and that man should have most definitely been excused from serving on the jury but why would Judge _____ or the prosecutor say anything considering it could only benefit them. I have the documentation to back up all of these complaints as well as paperwork for POA if needed but right now we are the voice for _____ because that was taken away at trial when Judge _____ and the court system allowed for these things to go on, knowing that this was someones future being decided. This is an unacceptable way to act and I really hope that at the end of this, justice will be served the way it should have the first time and that the people are held accountable for this.