State of Arizona

COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 23-367

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.

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

FOR OFFICE USE ONLY

2023-367

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 complaint in regards to Commissioner Judge . My son was before him in trial in of . Judge is a highly controversial figure within the legal community, with many believing that he exhibits a clear bias in his rulings. One particularly concerning incident involves his allowance of a trial jury member to serve as a juror, despite having personal and professional connections with this individual. Not only did the jury member know Judge personally, but they also had ties to the juror member's family.

Moreover, it has come to light that this jury member also had a close relationship with the prosecutor involved in the trial, both professionally and personally. This raises serious questions about the impartiality and fairness of the trial proceedings, as it seems that numerous individuals involved in the case had preexisting connections that could potentially sway their judgment.

In addition to these concerns, Judge distributed forms to the jury members that only included the option of a guilty verdict. This blatant exclusion of alternative options undermines the fundamental principle of a fair and unbiased trial. It suggests that Judge has a predetermined outcome in mind and is actively manipulating the jury's decision-making process.

These actions and behaviors cast doubt on Judge suitability to serve as a trial judge or a judge who sentences defendants after verdicts. They highlight a lack of knowledge, diligence, and good character, qualities that are essential for a judge to possess in order to uphold justice and ensure a fair legal process.

In the case of , the defendant was found not guilty of aggravated assault by a jury, with no findings of any aggravated factors causing physical, emotional, or financial harm to the victim. Despite this verdict, Judge proceeded with a restitution hearing, allowing the prosecutor to present a witness representing the victim service fund in order to seek reimbursement.

During the hearing, the witness testified and provided evidence in support of the victim service fund's claim for restitution. At this point, Judge acknowledged that he knew the witness well and asked the defendant if he would like him to recuse himself due to this conflict of interest. However, it is important to note that this conflict of interest should not have arisen in the first place, as there should not have been a restitution hearing if the defendant had been found not guilty of all aggravated charges.

By disregarding the jury's verdict and proceeding with the restitution hearing, Judge appears to have shown a disregard for the legal principle of "innocent until proven guilty." The decision to allow the prosecutor to present a witness seeking restitution, despite the lack of evidence for aggravated charges, raises concerns about the fairness and impartiality of the proceedings.

In the United States legal system, the acquittal of a defendant on all aggravated related charges is typically considered a final resolution, indicating that the defendant is not responsible for the alleged crimes. Therefore, it is questionable why Judge allowed the restitution hearing to proceed in this case, especially considering the lack of evidence for aggravated charges.

This situation raises concerns about the potential infringement of the defendant's rights and the possible violation of due process. It may be necessary to review the actions of Judge and evaluate whether the restitution hearing was conducted in accordance with legal standards and principles.

It is essential that such instances of bias and misconduct are thoroughly investigated, as they undermine public trust in the judicial system and jeopardize the rights of defendants. The appointment and retention of judges must be based on their ability to impartially uphold the law, rather than personal connections or biases

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