

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 10-336

Complainant: No. 1407510206A

Judge: No. 1407510206B

ORDER

The complainant alleged that a superior court judge disregarded the law by issuing a corrected sentencing order that referenced probation for sexual assault instead of removing the probation. After reviewing the allegation, the commission found no ethical misconduct on the part of the judge. The commission is not a court and cannot review cases to determine if the judge ruled properly. Accordingly, the complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: March 15, 2011.

FOR THE COMMISSION

/s/ Keith Stott

Executive Director

Copies of this order were mailed to the complainant and the judge on March 15, 2011.

This order may not be used as a basis for disqualification of a judge.

RECEIVED

1 ETHICS COUNSEL / ~~Commission~~ ^{DEC 16 2008} ON JUDICIAL CONDUCT
2 STATE BAR OF ARIZONA State Bar Of Arizona
3 4201 NORTH 24TH ST SUITE 200
4 PHOENIX, ARIZONA, 85016-6288
5

6 STATEMENT OF FACTS (CR 2001-)
7

8 On June 12/20/2002,
9 was sentence to (7) seven
10 years to the Department of Corrections
11 by Honorable
12 OF SUPERIOR COURT STATE OF ARIZONA, FOR
13 MARICOPA COUNTY.
14

15 At the time of sentencing Honorable
16 was aware under
17 A.R.S. § 13-1406 (B) Probation is not avail-
18 able for sexual Assault. At the time
19 of sentencing the Court was aware
20 that Probation was not available
21 under A.R.S. § 13-1406.
22

23 On 8/25/2010 Honorable
24 resentence
25 to additional intensive
26

1
2
3 Probation, See Docket Code 022 form
4 R000A Pg 1 Dated 8/25/2010
5

6 On 8/25/2010 Honorable
7 and the trial Court erred
8 when it corrected the minute entry
9 dated June 20, 2002, "SENTENCING",
10 pursuant to Rule 24.4 of the ARIZONA
11 Rules of Criminal Procedure (ARIZ. R.
12 Crim. P.) for "CLERICAL ERROR" is only
13 to correct minor mistakes or inadvertence,
14 esp., in writing or copying
15 something on the record, and not from
16 judicial reasoning or determination.

17 Furthermore the statute of
18 limitations has run out for correction
19 of an illegal sentence, pursuant to
20 Rule 24.3, Modification of sentence,
21 which clearly states: "The Court may
22 correct any unlawful sentence or
23 one imposed in an unlawful manner
24 within 60 days of the entry of
25 Judgment and sentence but before the
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3 defendant appeal, if any, is perfected.
4 See, ARIZ. R. CRIM P. Rule 24.3, waived
5 by state. The Appellant was sentenced
6 on June 20 2002, wherefore it is
7 evident that more than 8 years &
8 2 months have passed.

9
10
11 HONORABLE
12 is in violation of Rules of ETHIC
13 conduct and is Bias and Prejudice
14 and show's cause of Harassment
15 against through
16 All Judicial Proceedings.

17
18 See CANON 1.

19 A Judge shall uphold and promote
20 the Independence, Integrity, and
21 Impartiality of the Judiciary
22 and shall avoid Impropriety and
23 the Appearance of Impropriety
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CANON CONTSee Rule 1.1Compliance with Law.

A Judge shall comply with the Law, including the code of Judicial Conduct.

See Rule 1.2.See Comments

Actual improprieties include violations of law, court rules, or provision of this code. The test for appearance of impropriety is whether the conduct would create in reasonable mind a perception that the judge violated this code or engaged in other conduct that reflects adversely on the Judge's honesty, impartiality, temperament or fitness to serve as a Judge.

CANON CONTRule 2.2Impartiality and Fairness.

A Judge shall uphold and apply the law, and shall perform all duties of Judicial office fairly and impartially.

Rule 2.3. Bias, Prejudice and Harassment.

(A) A Judge shall perform the duties of Judicial office, including administrative duties, without bias or prejudice.

(B) A Judge shall not, in the performance of Judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice or harassment.

CANON CONTSee Comment

(1) A Judge who manifests bias or prejudice in a proceeding impairs the fairness of the proceeding and brings the Judiciary into disrepute.

Rule 2.06.

Ensuring the right to be heard.

(A) A Judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.

CR 2001-

AFFIDAVITPursuant to 28 U.S.C. § 1746.I

declare under penalty of
perjury that the foregoing
is true and correct.

Executed and Dated
this 16th day of ^{December} 2010.

By