

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 12-113

Complainant: No. 0014110791A

Judge: No. 0014110791B

ORDER

The complainant alleged that a superior court judge unfairly attacked him for a statement he made in a brief.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the judge engaged in conduct that violated the provisions of Article 6.1 of the Arizona Constitution or the Code of Judicial Conduct and, if so, to take appropriate disciplinary action. The purpose and authority of the commission is limited to this mission.

After reviewing the information provided by the complainant, which included the transcript of the hearing, the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. Accordingly, the complaint is dismissed in its entirety pursuant to Rules 16(a) and 23.

Dated: June 26, 2012.

FOR THE COMMISSION

/s/ George Riemer

George A. Riemer
Executive Director

Copies of this order were mailed
to the complainant and the judge
on June 26, 2012.

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

MAY 02 2012

1 May 2012

Commission on Judicial Conduct
1501 West Washington
Suite 229
Phoenix, Arizona 85007

Dear Commission,

I am writing regarding the conduct of Judge at the hearing in State v. CR 2011-, which took place at the Superior Court on March 20, 2012.

A rule 10 Motion is not available to my client.

The Judge's conduct relates to her reaction to the following statement, found on page 2 of the enclosed Supplement:

"Truth be known, the State would totally eradicate the Bill of Rights if it could."

from the Attorney's Office represents the State.

No one had mentioned the statement when the Judge spontaneously attacked me about it with anger and spite.

At that time I did not know that the Judge had been a prosecutor with office prior to taking the bench.

The Judge clearly took my statement personally.

I have ordered the transcript from the hearing and will forward it to you upon receipt.

The Judge asked me what proof I had that would eradicate the Bill of Rights if she could.

I told that the Judge that my statement was directed at the State and not that if I meant that I would have mentioned her by name.

I told the Judge that I wrote what I believed.

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The Judge told me that what I had written was both unprofessional and unethical.

I was being an advocate for my client, standing up for what I believe to be his constitutional rights.

However, I wouldn't be writing this letter if the story ended there.

A few minutes later, having moved on to something else, the Judge brought this up a second time. She started in on me again about what proof I had that would eradicate the Bill of Rights.

For the second time I responded that this was not about

This case is the State versus my client. I was talking about the State.

I have never been treated like this by a Judge in 37 years. It chills my blood to think of the Judge calling me unethical in open Court.

Vastly more important is the effect that this has had upon

He believes, and I agree, that he will not get a fair trial from this Judge.

I explained to my twenty-four year old client that we can't Notice the Judge as of right nor for cause at this point yet that I could file a pleading asking the Judge to remove herself from the case if he would sign an Affidavit stating his feelings.

He is afraid to do that, believing that she will not remove herself and will punish him for asking her to do so.

This is an intolerable situation.

I regret that there was no video in the Courtroom capturing the Judge's voice and facial expressions.

It was one of the low points in legal history.

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A few days after the hearing I spoke with about this matter in her office.

She told me that she had not taken my statement personally, that she knew that I was referring to the State and not to her.

I assume that this is why she had not brought this up prior to the Judge's conduct.

I think that what I wrote pressed some button with the Judge and that for those moments during which I was being raked over the coals that the Judge forgot that she was the Judge and had become a prosecutor again. I think that what I wrote triggered something having to do with something that took place when the Judge was still a prosecutor.

Be that as it may, my client is paying the price for the attack.

As a citizen I am deeply disturbed by the Judge's unjustified attack, an attack which has a chilling effect upon liberty and freedom.

I believe that Sections 1.2, 2.2, 2.3(A) and (B) and 2.8(B) of the Code of Judicial Conduct have been violated and that per Section 2.11(A)(1) the Judge should be disqualified from my client's case.

Sincerely,