

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 14-350

Judge:

Complainant:

ORDER

The complainant alleged a pro tem superior court judge failed to recuse himself when required and sentenced him to an unlawful term of imprisonment.

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.

The commission does not have jurisdiction to review the legal sufficiency of the judge's rulings. In addition, 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: February 2, 2015

FOR THE COMMISSION

/s/ George A. Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on February 2, 2015.

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

1 Complainant,

Comp

2014-350

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BEFORE THE COMMISSION ON JUDICIAL CONDUCT
IN THE MATTER OF

Complaint

13

Respondent. /

14

the Complainant;

bring this

15

complaint against the named Respondent requesting an

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investigation into the allegations here-in-to, made

17

against the Respondent surrounding his conduct.

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(1) The Honorable Judge

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Presided over the case of,

20

in the

Court Case No.

21

, During Trial and Sentencing -

22

(2) The County

23

, Appeared on behalf of the State -

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(3) The Complainant

Appeared as

25

an Pro, Re Litigant up to the middle of Trial after the

26

First witness for the State, was called and excused.

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(4) The Legal Defender (Assistant Legal Defender)

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appeared as Legal advisor up till of the time

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excusing the first State's witness and then was

30

appointed to become lead counsel, by the Hon.

31

Judge

and;

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1 (5) The Complainant does understand that the Commission
 2 does NOT have authority to reverse a court order or
 3 assign a Judge.

4 A) - FACTS IN SUPPORT OF COMPLAINT:

5 The Complainant's Case was originally assigned to
 6 the Hon. Judge , whom
 7 Complainant had Filed a Rule 10.1 motion requesting a
 8 change of Judge that was denied by the Presiding Judge,
 9 and Filed an Complaint against to this Commission
 10 that found nothing wrong. Approximately a month
 11 later Judge , Filed an order
 12 recusing From Complainant's Case and assigned
 13 the Hon. Judge

14 Complainant immediately Filed on motion for
 15 change of Judge From Judge

16 on , never receiving any notice nor
 17 ruling to this motion in a timely fashion.

18 on , the Complainant was taken before
 19 the Hon. Judge , for an Unschedule

20 Status Conference where Judge , appeared

21 before Complainant and advised him that Complainant

22 had Filed on Rule 10.2 motion and he has been

23 assigned to Preside over Complainant's Case, but

24 the law requires for him to advise Complainant that

25 at the time his Case was pending he was an

26 for the County

27 , but if he (Complainant) has no

28 objections he will Preside over the Case.

1 At this point in time Complainant specifically objected
 2 to the entire Proceedings before that Court, also he
 3 informed Judge , that he never received any
 4 notice to his assignment and that he had eight (8)
 5 Pretrial motions including an Rule 16.6 motion to
 6 Dismiss Prosecution that he could not file cause he
 7 had no Judge assigned to his case - Judge
 8 order that Complainant's unfiled Pretrial motions will
 9 remain in full force and set trial to commence on
 10 and
 11 told Complainant that he was aware of his Pro, Per status.
 12 See, Enclosed - order by Judge , assigning Judge
 13
 14 ; and see, Enclosed - Minute Entry, unschedule
 15 Status Conference, dated
 16 on , The Complaint was taken before
 17 the Hon. Judge , for Trial
 18 and Complainant refused to participate in any of the
 19 Proceedings before that Court and Judge , made
 20 several attempts to get Complainant to relinquish his
 21 Pro, Per status and allow the Assistant Legal Defender,
 22 , who was Complainant's legal advisor
 23 to resume representation of the Complainant. However,
 24 Complainant objected to the entire Proceedings before
 25 that Court without participation in any of the
 26 Proceedings from the commence of trial from the
 27 time Judge , appointed the legal advisor
 28 to resume representation of the
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1 Complainant in which was after the first state's
2 witness was called and excused. The Complainant was
3 convicted on all counts on
4 approximately a week after Complainant's conviction
5 he received in the mail from the legal defender's
6 office, a notice re: reassignment, showing that
7 in fact the Hon. Judge
8 was assigned to Complainant's case for trial on
9 , that is stamped received by the
10 County legal defender's office on , and
11 further investigation by Complainant shows that Judge
12 , was never assigned to Complainant's
13 case and there is no records that indicate such. See,
14 enclosed notice re: reassignment, dated
15

16 Prior to sentencing on Pretrial Service Investigation
17 report was completed showing that Complainant could
18 not receive over the maximum sentence of three and
19 a half ($3\frac{1}{2}$ or 3.5) years of imprisonment.

20 Judge , sentenced the Complainant
21 approximately five (5) years more to each count by
22 imposing an 8 years sentence in count one, to a
23 of an , a Class four
24 (4) felony, and an 8 years sentence in count two, to
25 a of an an
26 Class four (4) felony, where Complainant was
27 found to have only one (1) historical prior.

28 (Page 4-6)

B). THE RESPONDENT VIOLATED THE CANONS OF THE CODE OF JUDICIAL CONDUCT, RULES OF THE ARIZONA SUPREME COURT:

The Respondent, , an Judge Pro Tempore, of the County Superior Court, in , violated the Canons of the Code of Judicial Conduct, Rules of the Arizona Supreme Court, by;

(1). Intentionally committed acts which the Judge knew were beyond his lawful power which involved actual malice as the motivation for the Judge acting Ultra Vires,

(2). Committing willful misconduct in office, action taken in bad faith contrary to the laws of this state, for an corrupt purpose,

(3). Failing to comply with the law, including the Code of Judicial Conduct,

(4). Participated in activities that interfered with the proper performance of the Judge Judicial duties, by Presiding over the Complainant's case that he was not assigned to, and Presiding over Complainant's case where he was an at the time.

Complainant's case was before that office;

(5). Fail to accord Complainant a timely Pretrial hearing to hear unfiled Pretrial motions, so that Complainant could build an Defense, denying Complainant a right to be heard accordingly to law,

(6). Participating in ex Parte null Proceedings with
(Page 5-6)

**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.**