

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 21-050

Judges:

Complainant:

ORDER

May 19, 2021

The Complainant alleged three superior court judges allowed a premature ruling on his request for post-conviction relief.

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 Christopher W. Ames did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on May 19, 2021.

2021-050

Commission on Judicial Conduct
% Executive Director Dawnie
1501 W. Wash. St., Suite 229
Phoenix, AZ. 85007

Re: Judicial Complaint

I, _____, files this formal, written, judicial
complaint against _____ County _____ Court Judges

and _____ . I am alleging
the judges violated my constitutional rights of Due Process and
Equal Protection as established under our states legislatures and
Courts. The judges violated procedural and substantive law denying
me the right to be heard fully and fairly, which is fundamental
to our judicial system of justice.

The following shall set forth my reasoning as shown by the
exhibits attached. I swear that the following is true to the best
of my ability, I do so swear.

Established Rules

1. Filing a Notice.

In Arizona, as in all states and federal courts, a defendant starts a Rule 32 proceeding by filing a non-substantive form (24b) in which all that is required is the caption of the original crime or cases and all information shown in Rule 41, Form 24(b). No preliminary statement of the issues on appeal are required. That is reserved for the actual petition.

Our Court has recognized this non-substantial requirement since (Boe v Flores-Ortega, 528 U.S. 470 (2000)) and affirmed recently in Garza v Idaho, 139 S.Ct. 738 (2019) "Filing such a notice is a purely ministerial task..." The Courts rejected the requirement of specifying the points or merits of the underlying claims in a notice.

In County our laws have been well defined as to the role and duty of the Courts by the addition of Rule 4.5 (see exhibit 1). This requires the Rule 32 Management Unit finalize all preliminary stages before submitting my case for ruling.

2. Denial of Due Process of law

I have filed for Post-Conviction Relief (PCR) each time I discover a basis for my claim(s). But, each time the Courts in County fail to follow the mandated rules of the court. Denying me the guaranteed right of Due Process (U.S.C.A. 14).

I have enclosed my documents to show this Commission the steps I've taken and the courts actions. (Exhibits 2-6).

3. In Brief

a) I filed a Notice of _____ on _____.

As I was preparing motions and my actual brief I received:

b) A _____ stating my case was already submitted for a ruling on _____ (Before any preliminary stages were completed).

c) On _____ the Trial Court issued a ruling on a notice only, making its own arguments (standing in for the State). Without the benefit of allowing me to file any arguments, points, authority, reasons for relief etc.

d) I file a Motion for Reconsideration but was denied "any relief or ability to file actual " " or " " and " "

4. Judicial Complaint

Therefore, I am prompted to file a Judicial Complaint against Judges _____ and _____.

It is my understanding that I am not alone in this denial of DVE PROCESS, making this a " " " "

I thank this Commission for its time and consideration. I know you cannot aide me in _____ matters. None the less I must file this complaint as it is a duty I must perform for the integrity and preservation of defendants right to DVE PROCESS.

Sincerely,

X

Supplement

I. Rules of the Court

This court is bound by the rules of the court. See:

- a) US Constitution Amendment Fourteen.
- b) Stone v. Powell, 428 US 465, 96 S. Ct. 3037 (1976)
- c) Canion v. Cole, 210 Ariz. 598, 115 P.3d 1261 (2005).

This court must provide filed copies to all interested parties see: Ariz. Rules of Crim. Pro. Rule 32.4 (b)(4)(A), also: (c).

II. Newly Discovered Evidence; Rule 32.1(e).

A) Text to video of legislatures discussion of House Bill 2283.

This text to video evidence was discovered on or about

. It was brought to me by a fellow inmate who received it by his attorney of and

. It is material evidence of why the legislature made the necessary amendments. It reinforces, by its relation back to the previous Rule 32 of a significant change in law. It tends to prove:

- a) The enactments may be retroactive on collateral review.
- b) The statutes were and still are unconstitutional.
- c) Relief is appropriate by way of reversal on conviction, with prejudice.

III. Constitutional Challenge to vague and over broad Statutes; a Rule 32.1(a)(b) and (c) claim; (e).

This claim " to the previous but has not been adjudicated on the merits, not raisable on direct appeal under Rule 31 or Rule 24 and raises a violation of a constitutional right that can only be waived knowingly, voluntarily, and personally

by this Petitioner pursuant to the newly amended Rules of Crim. Proc. Rule 32.2(3).

This claim is now ripe for presentation as they were never knowingly, voluntarily, or personally waived and brought to the Courts attention within of its discovery (Rule 32.1(c)), but also fall under Rule 32.1(a). The text of video to is material and legislatures proof of constitutionality, then and now.

IV Substantial Procedural Changes

The Ariz. Ct. made substantial changes which apply to this Petitioner (See Order No.). Relevant changes are:

1) Rule 32.2(a)(3) (Removal of Procedural Bar),

Made exceptions to the preclusion of a claim if a Rule 32.1(a) issue was "

" (Even if Ineffective Counsel was had). Now, it is no longer precluded if not "

" Which this Petitioner swears affirmatively these claims were not known nor personally waived.

2) Rule 32.2(b). (Renamed as "Claims Not Precluded")

Made clear that claims based on Rule 32.1(a) and (b) are no longer precluded. Thus, claims based on Rule 32.1 (b) through (h) are " precluded and can be brought in an untimely or successive.

All is required is for the Petitioner to state why it wasn't raised in an earlier Appeal. And, the Court must now show by a preponderance of the evidence that the claim is precluded.

This Petitioner was not aware the claims were present and once did brought them to the Courts attention within of discovery. Full authority to be in the brief. *

**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.**