

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 24-102

Judge:

Complainant:

ORDER

August 14, 2024

The Complainant alleged a conflict of interest and improper legal rulings by a superior court judge hearing 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 members Joseph C. Kreamer and Delia R. Neal did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on August 14, 2024.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2024-102

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.

The complainant in this matter alleges misconduct by the judge for calling the complainant a liar in his response to the complainant's motion to remove counsel. The judge talks about his 25 year friendship with the counsel who the complainant had tried to remove 4 times through motions to the court for ineffective counsel. The judge made statements from the bench showing bias and also prejudice in his response. (See attached exhibit that shows judges statement and remarks. - page #5 and #6)

The judge states that he doubts complainant's accusations (even though letters from were enclosed with motion and even 2 bar complaints complainant filed against that lawyer to the bar. The judges out right statement that " is basically calling the complainant a liar. This judge has also been ruling on the motions by complainant outside the court and outside the complainant's presence not allowing for the complainant to respond or argue the motions.

Exhibit A (Front & back)

SUPERIOR COURT OF ARIZONA
COUNTY

14. Defendant's "Motion to suppress evidence unlawfully seized - Illegal Search and seizure IV amend." filed

IT IS ORDERED directing the State to file a Response to this Motion no later than
The Defendant may file a Reply no later than

15. Defendant's " " filed

IT IS ORDERED DENYING the Motion because the Defendant is incorrect in his assertion that just because he files a judicial complaint against the judge requires the judge to recuse himself. Moreover, this Court has no bias against the Defendant and can assure the Defendant he will receive fair and impartial rulings.

16. Defendant's " " filed

Defendant's Motion argues a change of venue is warranted because the Defendant perceives this judge to be biased, that he will not get a fair trial and the Court will somehow engage in a campaign of negative publicity. The allegations are not true but even if they were, a change of venue is not the proper remedy. **IT IS ORDERED DENYING** the Motion for Change of Venue.

17. Defendant's " " filed

Defendant's " "

" filed

The Defendant represents himself in this matter. Advisory counsel is an attorney assigned to a case by the Court to answer specific legal questions of the client. Advisory counsel is also appointed by the Court to be available in the event the client changes his mind and no longer wants to represent himself. At that point, advisory counsel is converted to " " and is expected to step in and try the case or what's left of it. Advisory counsel is not expected to meet with the client to " " or formulate defenses. Advisory counsel does **not** file motions on behalf of the client or even suggest what motions to file. Advisory counsel does **not** suggest cross examination techniques or questions for any of the witnesses. Advisory counsel is not a " " for the client and, therefore, does **not** research issues for the client. During trial, advisory counsel does not interfere with the examination of any witness with suggested objections or questions. In short, advisory counsel plays a very passive role in the case. If the client has a legal question, advisory counsel answers it to the best of his ability. Because of the very limited role that advisory counsel plays, advisory counsel cannot be " ". The

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COUNTY

Defendant has made serious accusations against advisory counsel, which this Court very much doubts to be true. This Court's experience with advisory counsel over the past 25 years is that while advisory counsel can be abrasive, argumentative and even combative, he is a passionate and effective advocate of his clients regardless of that client's race, gender, sexual orientation, etc. With that said, it appears the relationship is irretrievably broken and the Court fears that if the Defendant should decide he no longer wants to represent himself and have advisory counsel step in to conduct the trial, different counsel is needed.

IT IS ORDERED GRANTING the request for new advisory counsel and appointing new advisory counsel through the Office of Public Defense Services. **IT IS FURTHER ORDERED DENYING** the requests to dismiss this case based on the Defendant's allegations regarding advisory counsel.

18. Defendant's "
filed

The Defendant's main allegation is that his habeas corpus motions were not addressed in a timely manner as well as generalizations that all his motions were not addressed in a timely manner. Defendant would first need to establish that his underlying habeas motions are valid, he has not. Secondly, as has been outlined before, this Court was not required to accept Defendant's pro per Motions when he was represented by counsel and therefore the Court addressing them now is not untimely. **IT IS ORDERED DENYING** the Motion because the Defendant cites no specific factual or statutory authority as to why dismissal is appropriate.

19. Defendant's "
filed

It is believed the Defendant is requesting that his trial be severed from the co-defendant's trial. The Defendant cites his Motions for recusal of this judge as well as complaints about this judge as the reason supporting severance. Those are not legal reasons to sever defendants for trial. The Court also notes the two Defendants currently have separate trial dates effectively severing them for the time being which makes this request moot. If files a Motion to join the Defendants for trial, the Defendant will have an opportunity to file an objection and the Court will rule at that time.

IT IS ORDERED DENYING the Defendant's Motion to Dismiss for violation of due process as the Court finds no violation of due process.

20. Defendant's "
filed