

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 24-512

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Judge:

Complainant:

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**ORDER**

February 20, 2025

The Complainant alleged a superior court commissioner committed prosecutorial misconduct as a county attorney during a second-degree murder trial.

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 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 Delia R. Neal and Christopher P. Staring did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on February 20, 2025.

Comp

2024-512

Judiciary Board

1501 W Washington St

Phoenix, AZ 85007-3232

Dear Members of the Judiciary Board,

Subject: Allegation of Prosecutorial Misconduct in

I am writing to formally allege prosecutorial misconduct in the case of \_\_\_\_\_, specifically concerning the actions of \_\_\_\_\_. It has come to my attention that the prosecutor allowed testimony from the state witnesses that he knew to be untrue, as evidenced by prior transcripts and established case law in Arizona. Intent refers to a person's mental state of mind which is the main key and objective to this case. The defendant's self-serving statement is not contradicted by the state's evidence and witness, it is the defendant's alibi and witness too. I am enclosing statements which contradict the prosecution's claim and support factual allegations of actual innocence.

Background of the Case

In this case, the overzealous prosecutor misled the grand jury in the \_\_\_\_\_ indictment by stating the death of \_\_\_\_\_ and the alleged victim wasn't dead (exhibit A). This raises fundamental questions about whether an attempt to commit murder can be charged when the alleged victim is alive leading to legal complications. The prosecutor knew there was clear

evidence that there was no intent . He was overreaching and his charges were unfounded as the attached (exhibits) evidence shows. He knew the defendant had a weapon but no intent, just a moral obligation {Exhibit L pg 152:18-19, 21-25}. He knew that many of the state witnesses said they thought had literally got hit including {Exhibit R pg 51:11}. The prosecutor's main victim/witness said he thought had gotten hit and said the same thing. was that close. This is another denial of due process under the 14th Amendment. He knew the witness story was not accurate reflections of what happened that night. The prosecutor knew that the streets had no streetlights and many of the witnesses said it was super dark {Exhibit J pg7:10-11,15, Exhibit O pg. 6, 7, 8,11,Exhibit P pg 6:3-4,21-22}. The prosecutor knew that the interview technique done by the officers were flawed. There is evidence of conflicting facts and evidence of narrative integration used by law enforcement to identify a suspect. Upon examination of the transcript and audio you will see and hear how many of the state witnesses said that it was pitch black dark and there were no streetlights and it was pitch black dark. According to the audio and written depositions , the prosecutor was aware that the witnesses testimonies was in error. He had a duty to disclose evidence and not add on evidence with the assistance of the witness and coercing by the police department. The prosecutor knew these statements alone called all of his witnesses except credibility in question. The integrity of our judicial system relies heavily on truthful testimony and ethical conduct from all parties involved, particularly those representing the state. The prosecutor's role is not only to seek justice but also to ensure that all evidence presented is accurate and reliable. Based on the records of evidence it is obvious to see that based on the transcripts that all of the evidence was not accurate nor reliable. In legal proceedings, the integrity of witness statements is paramount. The prosecutor allowed , and to add and modify their original statement which raises significant legal issues. Although witnesses are allowed to expand on their testimonies it became problematic in this case because those additions changed the substance of what was originally recorded. This violated the right of the defendant and undermined the fairness of the trial process. The jurors had no knowledge that the testimonies had been changed but the prosecutor did.

## Allegations of Misconduct

The specific misconducts I wish to bring to your attention involves A.R.S.-13-2401, the prosecutor and [redacted] knew that his testimony was false and hearsay {Exhibit B}, {Exhibit E}, {Exhibit M pg2,3,4,} {Exhibit N pg 4:10, pg 6:12-13, 15-16,20-24, pg7}. His testimony was not credible but the prosecutor put him on the stand at trial swearing to tell the whole truth and nothing else but he lied. According to previous transcripts from the state' witness it is clear that the statements made by them contradict earlier testimonies. For example, during the State's response to defense motion to remand {Exhibit B}, Prosecutor [redacted] stated that [redacted] reported in his initial interview that he could not remember the incident in details, which directly conflicts with the testimony in the Jury trial. There are too many discrepancies with the state's witness showing the pattern of alleged misconduct by [redacted] with supported evidence. These are not just harmless errors, it is a violation of the defendant's constitutional rights to a fair and just trial.

Moreover, Arizona law clearly outlines the responsibilities of prosecutors regarding witness credibility. Under Arizona Revised Statutes § 13-2412, it is unlawful for any person to knowingly present false evidence. Additionally, in *State v. Smith*, 202 Ariz. 366 (2002), the court emphasized that prosecutors must not only refrain from presenting false evidence but also take steps to correct any misinformation presented during trial. The exhibit of evidence presented shows that this was not done in any form of fashion in accordance with the law and the constitution.

By allowing these false testimony without objection or correction, it appears that [redacted] has violated these legal standards. There is also a violation of A.R.S. 13-2702 which cannot be ignored. This raises serious concerns about the fairness of the trial and undermines public confidence in our judicial system. Rule 3.3 prohibits attorneys from knowingly making a false statement or failing to disclose material facts. Rule 8.4 addresses conduct involving dishonesty, fraud, deceit or misrepresentation. Prosecutors are required to disclose evidence that may exonerate a defendant. The evidence highlighted and attached as exhibits shows the prosecutor had knowledge that the witnesses testimonies did not match their court testimony. He allowed

misleading information to influence the guilty outcome of case . Specifically, Rule 3.8 mandates that prosecutors must refrain from making statements that have no substantial basis in facts or law. “

{ExhibitC } This was said to sway the jury and to invoke sympathy. His comment was biased and prejudicial. failed to correct the misstatement to the jurors of spending days in the hospital when the records show he was only there for a day and discharged {Exhibit D}. made the statement to the jury that had a severe injury(washed and rinsed with saline) which caused him to spend days in the hospital. The evidence shows that arrival time was and he was checked in on and released on . Once again it shows misleading and misrepresentation to the jurors with false reports. {Exhibit E pg 33}. The prosecutor has an obligation to ensure that all evidence presented is truthful and accurate and this is not what happened in the case of . There is evidence of constitutional and civil violations through the presentation of false testimonies and resorting to emotional appeal in closing. He is in violation of the Rules of Professional Conduct 3.8. He knowingly overlooked aggressive behavior directed at the EMT personnel and the fact that said that had to be sedated because of his aggressiveness toward the hospital staff and for the safety of the hospital. The original charge was a single count of Attp 1st degree murder and 2 months later it kept expanding to more charges and added on victims just to make a case. Our system of the administration of justice suffers when any accused is treated unfairly. The evidence in this case prove that the witness statements were added onto the indictment even tho the proof showed they were not in that exact position {Exhibit G pg4, Exhibit H pg2, pg 6;13,18, Exhibit I pg.3:8-10, 4:20, 5:3-4,19, 12:18-19,Exhibit F, F (a), Exhibit H pg 2:22, pg 6:4,5,13,18, Exhibit L pg 88:1-2, {Exhibit S pg 21:3,5-6}. There were 3 placement of where were located and along with the Det a diagram was made to fit them in to align with the projectile of the bullet which Prosecutor knew all of this and that the crime scene was contaminated and the

casing was not the original placement. Prosecutor            did not act in a fair and just manner in this case. He sought to get a conviction in spite of the fairness of justice..

### Evidence Presented

The defendant's story is not self-serving and is not contradicted by the state's witness by the evidence in the transcripts. The evidence shows that the loud music with the bass was heard by            and            which made it impossible for the defendant to hear            scream. The evidence presented shows that the state witness said that when drunk            voice could barely be heard {Exhibit R-pg 24:1-4}. Many of the state witnesses said the car came close to hitting him or looked like it came close to hitting            who was out in the street by himself. The evidence presented shows that            , nor            was not in the exact position of where the diagram misled the jurors to believe they were. The evidence shows that statements were added onto at trial which were not reported in the original transcripts of factual allegations.            gave the juror instructions "            " knowing full well that all evidence of credibility had not fully been disclosed. The evidence presented that Prosecutor            is guilty of introducing false testimony and evidence in court including allowing witnesses to provide perjured testimonies or fabricating evidence. This misleading conduct involved presenting misleading arguments and omitting facts.

### Request for Investigation

In the case trial of            the prosecutor had evidence to show which he failed to disclose for the indictment that            behavior was aggressive and that this was not a case of road rage. He had the transcripts which shows that            and            sworn testimony was not accurate but he went ahead to get a conviction anyway. He had evidence of            past aggressiveness and starting fights. In these exhibit it will show that the witness lied about the defendant getting out with the gun in his hand {Exhibit G pg3:2-3,4:21-22, Exhibit H pg 8:20, pg 9:12-13,pg 13:16, Exhibit I pg 6:9,Exhibit L jury trial 6 pg 139:2-7 contradicts what the original statements taken by the police said,and it did not come out until after he had warned

**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.**