

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 23-434

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Judge:

Complainant:

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**ORDER**

April 5, 2024

The Complainant alleged 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 member Delia R. Neal did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on April 5, 2024.

BEFORE THE COMMISSION ON JUDICIAL  
CONDUCT

2023-434

IN THE MATTER OF, THE HON. } Case No. \_\_\_\_\_  
Judge, } IN (to be supplied by the Commission).  
and for the County of } County Case No. \_\_\_\_\_  
RESPONDENT; AND, } COMPLAINT  
REAL PARTY IN INTEREST. }

The Complainant, \_\_\_\_\_, bring this Complaint  
before the Commission on Judicial Conduct, alleged against  
the Hon. Judge, \_\_\_\_\_, the Respondent and Real Party  
in interest, to request that the Commission on Judicial  
Conduct, investigate the conduct of the Hon. Judge,

who violated the Canons of the Code of Judicial Conduct,  
for cause states as follow:

I. STATEMENT OF THE CASE:

the Hon. Judge, \_\_\_\_\_, knowingly and willfully acted  
outside of his judicial role to unlawfully applied an  
repealed law A.R.S. §13-701 state is allegations of aggravated  
circumstances filed by the \_\_\_\_\_ County Attorney,  
and his Deputy County Attorney, \_\_\_\_\_, see,  
Exhibit "A", which is the "State's Allegation of Aggravating  
Circumstances Pursuant to A.R.S. §13-701-Page's 1-4".

II. COMPLAINANT CLAIMS:

the conduct of the Hon. Judge, \_\_\_\_\_, violated the  
canons of the Code on Judicial Conduct, BY ;  
(Page 1 of 3)

1 1). Acting outside his Judicial Role to knowingly and willfully  
2 accepting an Unlawful instrument from the  
3 County Attorney, at exhibit "A" to  
4 aggravate the Complainant charges who is a first  
5 time offender;

6  
7 2). Judge, \_\_\_\_\_, conduct <sup>reflected</sup> ~~reflected~~ adversely upon  
8 the Judge's impartiality, to act without discretion  
9 and legal Authority;

10  
11 3). The Judge acted out of extreme prejudice resulting in  
12 misconduct, through the use of an unlawful  
13 instrument to impose an aggravating sentence  
14 against the Complainant that the Judge knew was  
15 unlawful; and,

16  
17 4). Any other violation that the Commission may find just  
18 and appropriate that the Judge may have violated under  
19 the Code of Judicial Misconduct.

### 20 III. RELIEF:

21 Complainant request the Commission remove the Judge from  
22 office and/or any other actions the Commission may find  
23 just and appropriate.

24 Signed, this \_\_\_\_\_ day of \_\_\_\_\_,

25 By \_\_\_\_\_,

26 Complainant,

Original Copy Sent, This \_\_\_\_\_ day of \_\_\_\_\_,

10;

The Commission on Judicial Conduct  
1501 West Washington Street, Suite 229  
Phoenix, ARIZ. 85007. (Original Copy)

EXHIBIT A, Page's 1-4

“THE STATE'S ALLEGATION OF AGGRAVATING  
CIRCUMSTANCES PURSUANT TO A.R.S. §13-701”

Signed, This \_\_\_\_\_ day of \_\_\_\_\_,

By \_\_\_\_\_

Complainant,

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COUNTY ATTORNEY

Deputy County Attorney  
Bar Id #:

Telephone:  
Facsimile:  
Email:  
Attorney for Plaintiff

IN THE COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF

THE STATE OF ARIZONA, )  
)  
Plaintiff, )  
)  
vs. )  
)  
)  
Defendant. )

**STATE'S ALLEGATION OF  
AGGRAVATING CIRCUMSTANCES  
PURSUANT TO A.R.S. §13-701**

(Honorable )

The State of Arizona, by and through undersigned counsel, pursuant to A.R.S. § 13-701 and Rule 13.5, Arizona Rules of Criminal Procedure, amends the Indictment to allege the following aggravating circumstances. Any additional aggravating circumstances will be alleged in a reasonable time after they become known to the state.

A.R.S. §13-701(D)(1): The offense(s) involved the infliction or threatened infliction of serious physical injury. \*

\* Except if this circumstance is an essential element of the offense of conviction or has been utilized to enhance the range of punishment under §13-704, pursuant to A.R.S. §§13-701(d)(1) and (2).

AIF

□ A.R.S. §13-701(D)(2): The offense(s) involved the use, threatened use or possession of a deadly weapon or dangerous instrument during the commission of the crime. \*

□ A.R.S. §13-701(D)(9): The offense(s) caused physical, emotional or financial harm to the victim; or, if the victim has died as a result of the conduct of the defendant, the offense(s) caused emotional or financial harm to the victim's immediate family.

□ A.R.S. §13-701(D)(24): Any other factor that the state alleges is relevant to the defendant's character or background or to the nature or circumstances of the crime, to wit: see following.

#### **A CIRCUMSTANCES OF THE OFFENSE**

1. The offense(s) involved recklessness in handling a gun. *State v. Harvey*, 193 Ariz. 472, 477 (App. 1998)
2. The Defendant's actions required the victim to have surgery shortly after the offense(s) had been committed. *State v. Molina*, 211 Ariz. 130 (App. 2005)
3. The way the Defendant assaulted or attacked the victim caused the victim severe or extreme pain. *State v. Molina*, 211 Ariz. 130 (App. 2005)
4. This was a serious offense that involved premeditation. *State v. Currie*, 150 Ariz. 59, 60 (App. 1986)
5. The Defendant had an opportunity to walk away from a confrontation. *State v. Harvey*, 193 Ariz. 472 (App. 1998)

#### **B DEFENDANT'S ACTIONS IN THIS OFFENSE**

1. The Defendant's actions had a deliberate quality in this serious offense. *State v. Harvey*, 193 Ariz. 472 (App. 1998)
2. The Defendant did not seek help for the victim. *State v. Jenkins*, 193 Ariz. 115, 122 (App. 1998)
3. The Defendant failed to act responsibly during this offense. *State v. Ruggiero*, 211 Ariz. 262 (App. 2005)

**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.**