



MARICOPA COUNTY SHERIFF'S OFFICE

JOSEPH M. ARPAIO
SHERIFF



November 30, 2009

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

Re: Judicial Complaint Regarding Retired Judge Anna Baca

Dear Commissioners:

Please accept this letter as a formal complaint against Retired Judge Anna Baca for her violating the judicial canons, failing to uphold the integrity and independence of the judiciary, failing to perform the duties of her office impartially, and displaying conduct that brings the judiciary into disrepute.

My name is David Hendershott and I am the Chief Deputy of the Maricopa County Sheriff's Office, 100 West Washington Suite 1900 Phoenix, Arizona 85003, My telephone number is: 602.876.1801.

I respectfully request that the Commission investigate Judge Baca for conduct that may violate the Judicial Code of Conduct. The incidents that may violate the Judicial Code are specifically alleged below as follows:

First, upon information and belief, Judge Baca (and perhaps Chief Judge Barbara Mundell) induced the Maricopa County Public Defenders Office and other court agencies to file suit against the Sheriff's Office. On or about November 13, 2007, the Public Defenders' Office sued the Maricopa County Sheriff's Office because the Sheriff's Office changed visitation hours. (*State v. Ozzie Washington*). The Sheriff's Office changed visitation hours partially in response to an anticipated budget shortfall discovered at the end of the immediately preceding fiscal quarter. Immediately after the Public Defender brought suit, the Sheriff learned, and later confirmed, that other court-related agencies such as court interpreters and adult probation officers may have been induced to join in the suit. The Sheriff's Office made a public records request to the Maricopa County Superior Court for communication records and emails belonging to Judge Mundell, Judge Baca and court administrators. The Sheriff's Office made this request in an attempt to discover and/or verify which court personnel and/or

administrators had enlisted or compelled various parties to serve as plaintiffs in the Public Defenders' groundless lawsuit. The Public Defenders' suit has continued on for more than two years as Judge Baca and Judge Mundell continue to conceal the public record communications between themselves and other court personnel in the one-month period before the Public Defenders filed suit. Moreover, witnesses subordinate to Judges Mundell and Baca have refused to comment to the Sheriff's Office investigators regarding this matter. Judge Baca's conduct in this matter raises a troubling specter of impropriety. I therefore request a thorough investigation to insure that Judge Baca and other members of the Maricopa County Judiciary did not use their own subordinates and /or their personal bias to aid the Public Defenders in a meritless lawsuit.

Second, on information and belief, Judge Baca and Judge Mundell selected Retired Judge Kenneth Fields, a judge openly hostile to the Sheriff's Office and the Maricopa County Attorney's Office ("MCAO"), to preside over a criminal matter involving the Sheriff's investigation of County Supervisor Donald T. Stapley, Jr., CR2008-009242 . At the time, Judge Baca was the Criminal Presiding Judge. Several weeks before selecting the presiding judge, a court employee, Robin Hoskins, told Judge Baca that Judge Fields made statements demonstrating hostility toward the MCAO. Judge Baca failed to disclose Ms. Hoskins' report to the MCAO and then failed to recuse herself from considering a pending motion challenging Judge Fields' appointment. Judge Baca maintained these positions even after she learned that Judge Fields had made public statements criticizing the MCAO and had submitted information to the Arizona State Bar resulting in a bar complaint against County Attorney Andrew Thomas. Moreover, when the State attempted to learn why the Court had assigned Judge Fields, Judge Baca refused to explain why the court had assigned a retired judge to the case. After a hearing in February 2009, the state learned that Judge Fields received the case because the Superior Court declared that it had a conflict. In fact, at a hearing requesting that the defendant, Mr. Stapley, be arraigned, Judge Baca refused to preside over the hearing and instead brought in another retired judge, Jonathan Schwartz. However, even after deciding that a conflict existed, Judge Baca continued to consider the State's motion to remove Judge Fields and the subsequent defense motion to disqualify the MCAO from the prosecution. Ultimately, Judge Baca refused to hear the motion to remove Judge Fields, focusing instead on the motion to disqualify the MCAO. Judge Baca even suggested that Mr. Stapley's defense file a motion claiming MCAO was biased. As the Stapley prosecution continued, Judge Baca also failed to sanction Mr. Stapley's counsel for filing a travel request document that misled the Court. Indeed, within a few minutes of denying the State's request for sanctions on the misleading travel request, Judge Baca told the MCAO prosecutor she would take up the State's failure to sign the joint statement prepared by the defense at a later date, inferring some type of misconduct on the State's part while ignoring the clear-cut ethical violations caused by the defense motion. If a conflict prevented the Maricopa County Superior Court from hearing basic arraignment proceedings, then Judge Baca abused her discretion and acted improperly by presiding over other matters involving the MCAO. In fact, the Arizona Court of Appeals found that Judge Baca exceeded her authority against the Sheriff, and the Sheriff ultimately prevailed in the matter. (See CA-SA-07-0267 Dept. A, filed 2/26/08).

I affirm, under penalty of perjury, that the foregoing information and the allegations contained in the attached complaint are true and correct.

Signature *[Handwritten Signature]* Date: 11/30/09

Sworn before me this 30th day of November, 2009

[Handwritten Signature: Lyzandra Ovist]
(Signature of Notary Public)

My Commission Expires:

