

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 06-062

Complainant: No. 1270100374A

Judge: No. 1270100374B

ORDER

An initial review of the complaint filed in this matter reveals that the issues raised are solely legal or appellate in nature and do not involve allegations of ethical misconduct.

If a judge makes an incorrect decision, the party or parties must file an appeal to a higher court. Because the commission is not an appellate court and cannot change a judge's decisions, the complaint is dismissed pursuant to Rule 16(a).

Dated: March 14, 2006.

FOR THE COMMISSION

/s/ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on March 14, 2006.

This order may not be used as a basis for disqualification of a judge.

STATEMENT OF FACTS

CJC-06-062

February 27, 2006

Dear Commission on Judicial Conduct,

In browsing your website I see that "Fairness" is touted as a primary concern in divorce cases. I take issue with statements made by my government that are not true nor supported in practice. The dealings I have had throughout my divorce have been most unfair. My Ex-wife filed for divorce in [] and the Judge finally got around to signing the decree in [] With the exception of one commissioner's single decision there has not been another decision made where fairness was considered. Your judges have little to no interest in knowing or discovering the facts, a simple guess as to who is right seems to fine with them. I am in total disbelief that this could happen or would be allowed in our country.

Judge [] has been no exception to this decision making philosophy of "Don't worry about the facts" "Just pick what looks good." While he has only been assigned to my case for a month and a half (totaling two 15 minute telephone hearings) he has made several decisions that are outrageous and in desperate need of correction to reflect fairness. I know that this complaint process boils down to judges watching over judges which lends itself to corruption but I hope that you will consider what is going on and take some action to facilitate the "fairness" you speak of on your website. It would be an awesome way to run a court system.

My divorce was filed in [] and final in [] I have yet to see this "fairness" as a concern of any legal folks involved, though this letter focus' on Judge [] I can understand a few bad decisions but at some point there needs to be some accountability to ensure their decisions are supported by the facts of the case. I have heard such things as "it is too difficult to reconstruct" and the best "the court doesn't have time."

Issue 1:

My ex wife, [] has been ordered several times in numerous hearings to sign [] IRS forms so that I can claim the kids. The court ordered that I get to claim all three kids for [] has made no attempt to sign the forms as ordered. Judge [] said he reviewed a judgment for over-payment of child support since [] He also knows that child support has been taken from my paycheck since [] Regardless of the obvious facts Judge [] declined to review the courts own child support payment history and gave my claim for the kids to her for [] Judge [] said he saw an entry by Judge [] that "indicates" I was in arrears and ignored the judgment against [] for overpayment since [] I think the facts are pretty clear, however, if there is confusion I think it is the courts responsibility to review the payments made. After all, the child support payment clearing house should be accessible to the court.

Issue 1A:

There are currently two judgments based on a very long trial issued by Judge [] one on [] against [] for over-payment of child support since [] in the amount of [] The other is for [] for an offset. [] has made no attempt to pay either. In

fact she paid off her house [] and removed her name, she told Judge [] because she was afraid I was coming after her home to collect.

[] told Judge [] that she hasn't followed these orders because she "doesn't know how to get the money to him." Judge [] thought this was lame yet promptly did nothing. I explained that she paid off her house in the amount of [] to avoid paying the judgments. One might think she has the money to pay the child support! [] requested I be punished for filing these judgments with the clerk's office. All Judge [] has done to penalize this contemptuous behavior is open the door to give her more money by telling her to file for attorneys fees. This is especially unusual in that he knows she does not have an attorney!

Judge [] states that it is "difficult to reconstruct" so he just guessed as to whom might be right and gave [] more than [] in taxes for [] on top of the child support she already received. This doesn't seem to be that difficult, after all the court maintains the child support payment records. Judge [] was able to use these records to discover that I have been overpaying since [] in excess of [] I can tell you from attending the hearings that Judge [] did not think it necessary to review any facts much like Judge [] to draw a conclusion. The fact of the matter is I have never been behind and should not be penalized for following the court's orders!

Issue 2:

[] was ordered to start the QDRO process in [] to divide my retirement accounts. She refused to do this until [] when I filed to enforce the divorce decree. She has not complied with one order the courts have issued since [] yet no one will hold her responsible for this behavior, thus encouraging future contempt. [] describes a ruling made by Judge [] "as concluding all matters of property." I agreed and advised the QDRO attorney of this. When [] demanded he file the QDRO he advised her she would need to return to the judge for clarification if she disagreed. Apparently there was enough for him to question this ruling. Judge [] eventually decided to reopen this issue yet still hasn't ruled on the numerous outstanding issues. I immediately did what was required for the QDRO process.

With very minimal facts and apparently no time to seek the whole story, Judge [] has held me in contempt for not participating in the QDRO? No contempt charges however, for [] not following the court's orders since [] Judge [] has even encouraged her to request attorney's fees knowing she hasn't had an attorney in years? He refers to this as "bringing conclusion to this case so you can both get on with your lives." This hasn't worked in [] years; however, I guarantee "fair" decisions would resolve ALL issues positively within one month. I would love conclusion, however. I would also like to see some fairness in the decision making process.

Issue 3:

Judge [] most recently has ordered that I will be held in contempt if I don't supply [] with a medical card. [] continues to tell him that I refuse to give her this. Had Judge [] examined the file, as he states, he would have noticed the continuous filings from [] stating she doesn't have the insurance information. He would also have noticed that the insurance has been the same for eighteen years. Nine of which we were living together! [] obviously had the information but always wants to make a complaint. Judge [] may have noticed that in every hearing since [] has lied and been caught, including his hearings.

As Judge [] said "You can't believe anything [] says and her husband is incredible." **No contempt** charges for lying!

Issue 4:

I realized I **have no alternative** but to file my concerns when Judge [] recently ordered my attorney to **file a request** on [] behalf so she could collect additional **child support** from me or he **would not correct** the wage assignment to reflect the current order **by Judge** []. The court is **currently taking** [] a month from my paycheck even though the current order is []. In addition while reviewing this information Judge [] **noticed that** [] has refused to supply any form of income records or any other **form of income verification** and tells the court her income is much lower than is possible for the **lifestyle she tells the court** she lives. [] has refused to supply tax records as ordered yet no contempt or perjury charges. The court even uses the numbers [] supplies though **obviously fraudulent**. **She currently owns** [] dollars in property, tells the court she spends [] a month on a [] a month household income? Can't be done. I think we can all figure out why she might lie about this but so there is no confusion it is so she can collect more child **support**.

Issue 5:

Judge [] reviewed the findings of Judge [] showing [] has been interfering in my relationship **with** the kids since []. These issues **have yet** to be addressed though I would like the court to **stop** her, not just notice her contemptuous **behavior**. Judge [] has not held her in contempt or **made** any attempt to correct the problem **that continues** today and will continue until **someone** takes action. It seems there is **never time** to deal with my concerns yet there is always enough time for another hearing.

Conclusion

Divorce should be "FAIR" not a financial windfall for either **party**. My ex-wife is now a millionaire yet continues to tell the court she has an income of [] per month. I don't care how much money she has or makes except that it **directly effects** how I have to live when she is allowed to lie about her income and is not held accountable to court orders. I cannot pay my **monthly bills** except for my wife's income and [] is paying off [] to avoid paying me [] of back ordered child support and on top of this the judge gives her the tax deductions based on my being behind in child support?

Had Judge [] reviewed the case he might have noticed **some things that are going** on such as:

- Constantly keeping the kids from me. Kept for 7 months **last** summer.
- Constantly calling the police and making false reports.
- Lying about her income.
- Failing to pay the courts orders.
- Failing to divide the property as ordered.
- Refusing to allow me to call my kids.
- Following me around to my home

If it has been ordered by the court [] has not done it and she will not be held **accountable**.

The court has been incredibly unfair with regard to my issues. All I ask is to be **treated** fairly. I would like decisions to be **based** on the facts and not retaliation because I filed a complaint

against a fellow Judge or the lack of interest to discover the facts. I cannot believe that a judge can simply state that "it is too difficult to reconstruct" to avoid his duty to discover the facts to make an informed responsible decision. My ex-wife has violated every order issued by the court and my repeated requests to hold her accountable are refused. It is very disheartening to be held accountable to court orders when the other party is not held to the same standards, in fact rewarded for violating the courts orders.

I ask that this Judge and all Judges be held accountable to make decisions based on the facts that support the decision not a guess because it was "difficult to reconstruct". I am not asking for anything I don't have a right too but I do want that which I do have a right. This requires that Judge [] and all judges, abandon laziness and make informed, fair decisions. I have to live with the inability to pay my bills because of these poor decisions while my ex-wife lives a lavish lifestyle.