

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 06-170

Complainant: No. 1289300091A

Judge: No. 1289300091B

ORDER

The commission reviewed the complaint filed in this matter, the judge's response, and the court file, and found no ethical misconduct on the part of the judge. The issues the complainant raised are factual and legal in nature and may only be considered by an appellate court.

The complaint is dismissed pursuant to Rule 16(a).

Dated: September 19, 2006.

FOR THE COMMISSION

/s/ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on September 19, 2006.

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

My ex-brother in-law, [redacted], sued for ex-parte for re-custody order for my sister's daughters [redacted] and [redacted] four days after my sister had past away and won. [redacted] is not the biological father to the girls and divorced their mother two years ago with a divorce decree of "Divorce with no Children". [redacted] for the past two years has not supported the girls in any way nor provided medical or dental coverage for them.

My sister died on [redacted] and her two girls [redacted] wanted to come home with me, [redacted] and my family. We were preparing for the funeral and having to move my sister's stuff out of her apartment within two days. Her rent was due and there was no money for the rent. A lot was going on and we were all trying to adjust to the loss of my sister and the girl's loss of their mother.

On [redacted] the police arrived at my house in [redacted] Arizona, to remove the girls from my home. I asked the [redacted] Police what the visit was all about. The officer told me that there was evidence of abuse or harm that had taken place. I asked "What harm?" The Officer reported that you will have to find out in court. They asked where the girls were. I told them that they went to the library with my husband. They dispatched an Officer to find them at the library. The Officer in my home asked if the girls were hurt in anyway. The girls reported that they were not. The Officer said that there was an order to remove the girls from my home. I couldn't believe it. The Officer informed me that [redacted] will be here soon to pick up the girls. He also reported that the girls needed to gather a few things together to take with them. I asked the Officers what evidence they have that the girls were harmed. The Officer reported the courts have it; we are just here to remove the girls from the home because of abuse. My nieces started screaming that no He wasn't there for us, he left mom for another woman. The youngest girl, [redacted] started to scream, "She never hurt us in any way. If I have to go with him I will kill myself". She refused to go. The Officers agreed to let [redacted] stay with me and my family. [redacted] agreed to go with [redacted] When they left we had no idea where [redacted] lived or if we would ever see [redacted] again. After [redacted] and the Officers left I looked closely at the paperwork the Officers left and it was for my sister, [redacted] and it never mentioned that she was dead. The Officers that were at my home that night they thought that I was my sister [redacted] When I called the Police Station that night and told them of the situation. They informed me that they could not even help me because it now was a civil case. I called C.P.S. and they told me that if they got involved the girls would have to go into foster care. I felt that was not the best thing considering all the girls have gone through lately. I did not know where to turn. I called the lawyer's office [redacted] and asked what the paper I received from the Police officers was all about. She told me that she could not give me any information without a lawyer. I then went to [redacted] Superior Court to get protection for [redacted] The Court Clerk they sent me to talk to Judge [redacted] I was informed by the Court Clerk that I could not go to her court that I had to go to Juvenile Court for these procedures because the girls are under aged and that Judge [redacted] court was a family court. As I was leaving the Court Clerk handed me a paper of [redacted] divorce procedures and I noticed that there was a return date for [redacted] to return on the [redacted] I asked what if [redacted] does not appear; the Court Clerk informed me that [redacted] would get full custody. I asked the Court Clerk how can he do that, she responded that she did not know. On [redacted] I went to Juvenile Court for an Emergency and Permanent Petition for Guardianship and my

CJC-06-170

petitions were granted. A court date was scheduled for [redacted] The Juvenile Court Clerk told me of a new law that was effective March 1, 2006 that all cases that were the same were filed together. She then asked me if I wanted to see the records and papers that [redacted] had filed. I indicated I would and she gave me the file to view in the record reviewing room. In the file I found [redacted] petition for guardianship which was denied by the Juvenile Courts. Then he proceeded to go to [redacted] Judge [redacted] and he filed several papers but not the one that the Police Officers brought with them on [redacted] In fact that particular paper that the Police Officers brought with them had not even been filed in court until [redacted] I also found out that there was not any Evidentiary Hearing ever scheduled.

I showed up on [redacted] in Judge [redacted] Courtroom really not knowing what to expect. I was only showing up because my sister could not. I was on time and I waited and waited for over an hour and then I was informed that we were waiting for [redacted] lawyer. I could not afford one. I feel [redacted] was surprised to see me at court. I was never properly served, nor my sister [redacted] because she was dead, nor the biological father. During the Opening Statements [redacted] lawyer brought up several points that had absolutely no bases in truth. It very much appeared that [redacted] and his lawyer were ill prepared because never expected anyone to contest the petition because it was drawn up against a dead person, and Judge [redacted] was very aware of that fact yet allowed the petition to stand anyway. During my testimony I felt Judge [redacted] couldn't understand what I was trying to do for my nieces. She asked why I was so upset. She could not see that losing my sister and having the police accusing me of abusing my nieces and removing one of them with improper court paperwork that has not even been filed on that day but over a full week after. Judge [redacted] told me she wanted me to dismiss my Juvenile Court hearing. I was told in the very beginning by Superior Court personnel that I could not file in Judge [redacted] court but had to go to Juvenile Court.

I contacted a lawyer because I felt the girls needed one. On [redacted] I showed up with my family and the girl's biological father in Juvenile Court. [redacted] showed up by himself. The Commissioner heard a little testimony from both sides. The Commissioner stated that he was going to send the case back to Judge [redacted] in Superior Court because that's what she wanted. So all the time and money I spent to have my sister's and nieces' stories be heard in the proper court with the proper jurisdiction was for not because Judge [redacted] was insistent that she wanted the case back in her court. With the announcement of the case going back to Judge [redacted] [redacted] literally cheered out loud; which made me and my family uncomfortable that [redacted] was so excited about the case remains, against legal protocol, in Judge [redacted] court. It appeared very suspicious. The Commissioner not willing to try the case in Juvenile Court and sending us back to Judge [redacted] cost us over \$1,500.00. I can't afford a lawyer but my nieces need to be heard. [redacted] the youngest, does not want to live with [redacted] [redacted] She told me that she was afraid of his new wife. [redacted] told my nieces that the only reason I wanted them was for the money. They further explained that he meant that I was only after the Social Security money.

My [redacted] niece, [redacted] who is staying with [redacted] told me that she received a phone call on [redacted] phone from Judge [redacted] She asked [redacted] to write a letter about me and my family. She wrote a letter that the Judge requested and [redacted]

[redacted] had it notarized. The Judge made a definitive statement that she did not like the idea of children testifying in court. She also reported that she did not like the idea of children being forced to write letters but in this case she allowed the letter to be added as evidence. [redacted] also wrote a letter and we were also going to present during trial but after the Judge bold statement in regards to having a child's letter presented in court we decided against it. [redacted] never received a phone call from the Judge. I know during trial that Judges outside of court are not suppose to have contact with either party and especial not made special request from one party and use that for evidence against the other party.

My nieces, [redacted] desperately need to be heard before [redacted] I fear for my niece's lives and future. They fear [redacted] new wife. [redacted] the older niece, is afraid to tell [redacted] anything because she, the step-mother, told her that she would kill her father too. [redacted] reports that she can't to her father about anything because he gets up and takes his heart medication and tells her you are going to kill me. [redacted] reports that she doesn't want to tell him how he really feels because he has had two heart attacks already, and doesn't want to be responsible for a third one. She fears if that was to happen her father's new wife would blame everything on her. She is only [redacted] years old she should be made to feel guilty or live with the emotional stress that if anything happened [redacted] she would be blamed. Please help us, [redacted] has been with [redacted] for [redacted] and is very depressed [redacted] needs a counselor. Appointed advocate for the girls told [redacted] that he needed to get counseling for [redacted] but ignored that directive. I want another judge to hear our case we have not been heard properly. There was no truth to any of [redacted] statements. I felt that the courts needed to hear the truth. But instead I was trying to defend my sister that could not represent herself. My sister already had to deal with judge [redacted] a year and a half ago. The children were never mentioned in the divorce. My sister was left with the house in foreclosure, left without a car, half of the bills, and he was supposed to pay [redacted] a month. He never gave the girls any support in any way, not even a treat every once in a while. His son from a previous marriage took my sisters identity and she couldn't get it back. [redacted] evidently lost his too, but heard that he was two or three years old on his social security records. His son is currently in prison for many offences. My sister feared her and her girls' life for years. Please help me; I just want my nieces to have a voice. They haven't been able to tell their side of the story, and now they're being forced to live with a man that is not their biological father they don't even hardly know him. He denied them once; please don't give him that chance to do it again. Please call me if I can help in any way.

