

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 07-055

Complainant: No. 1279200074A

Judge: No. 1279200074B

ORDER

The commission reviewed the complaint filed in this matter, as well as the attachments provided by the complainant, and found no ethical misconduct on the part of the judge. The commission also voted not to release any responses filed by the judge.

The complaint is dismissed pursuant to Rules 16(a) and 23(a).

Dated: March 23, 2007.

FOR THE COMMISSION

/s/ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on March 23, 2007.

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



CJC-07-055




February 16, 2007


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

RE: COMPLAINT AGAINST JUDGE



Dear Mr. Keith Stott,

COMPLAINANT /  NOTICES this Arizona
judicial commission that a member of the  Superior Court judicial
staff has committed acts of conduct and omissions of relevant evidence within his
family court that unless corrected give the Arizona judiciary and the state the
impression that the judge in question, Judge  is conducting a
biased and corrupt court in the state of Arizona with no regard for the child's
interest in family court matters which is unlawful.

As a member of the public and as a non attorney, it appears the judicial conduct
of  judges has become an issue after recent public media releases

regarding Judge [] Judge [] and Judge []

noted inappropriate conduct as judicial officers of this state.

The basis of this complaint is focused on Judge [] violations of numerous judicial cannons that call for a review by this judicial committee before filing charges in the Arizona Supreme Court.

Complainant informs the commission of acts by a family court judge herein referenced as a judge's conduct that violates the integrity and the public confidence of the judiciary. In a custody case, "the primary duty of the court is to safeguard the best interest and welfare of the children." In re Gove, 117. 324, 328, 572 P.2d 458, 462 (App. 1977).

Complainant is informed that the district attorney and prosecutors have enacted a new disclosure that all disciplinary complaints are public notice for the voting public so that the community will be so informed of a judges conduct.

Further, complainant requests to view the judges "response" to this complaint and the allegations of misconduct within his position as an elected official.

Complainant understands that the test is *"whether an objective, disinterested, fully informed observer would reasonably question the impartiality of the judge."*

Arizona Judicial Ethics Advisory Committee, Opinion 98-02 (March 24, 1998).

Respondent finds the judicial misconduct of [] as unacceptable, outrageous, and construed to extend to any deliberate violation of law, fraud or conspiracy, intentional violation of due process of law, deliberate disregard of material facts, and a deliberate violation of the Arizona and U.S. Constitutions.

Complainant, who is a litigant pro se in the judge's family court since [] finds that the judge in question has conducted his hearings with "regular and well-known" outburst of temper in which he has shouted at complainant. His frequent abuse of complainant and demeanor towards complainant being an unrepresented litigant, his ex-parte communications with the opposing counsel, and his tampering with the official court records, and his appearance of bias all taken together, demonstrate a pattern of misconduct and a consistent lack of regard for the high position he holds.

Complainant duly notices the [] Police department of this complaint with court testimony of [] that was conducted in Judge [] court indicating perjury, yet the judge in question has repeatedly disregarded "perjury" or "tax fraud" as a criminal offense in his court.

Complainant regrettably informs that the judge in question has been noticed of the inappropriate conduct of two attorneys in his court that should have been

reported to the State Bar of Arizona by Judge but were not.

In complete disregard for the professionalism of attorneys in his courtroom, the judge in question has not only allowed such conduct, but by this notification has actually awarded custody and expanded visitation to an attorney at law who has admitted as a litigant in family court that has numerous sexual problems with heterosexuals and homosexuals and has viewed pornographic material while employed at his law firm and while with young children.

Complainant had previously filed a complaint in and a motion to recuse indicating this judges continued bias and hostility towards complainant in which complainant believes he cannot receive a fair and impartial trial.

The family court judge upon being requested to recuse himself, refused.

Complainant believes that this commission will conclude that family court judge's conduct has violated Canons 1A, 2A, 2B, 3B(4), 3B(5), 3B(7), 3B(8), 3E(1) and the Professional Rules of Conduct Rule 42.

Complainant lists the occurrences of a biased and impartial court that appears prejudiced against persons representing themselves and a distinct favoritism toward litigants that are represented by counsel and are employed as attorneys.

Such practices by the judge are clearly biased and represented a corrupt court that has no regard for the children's safety and well being which is the courts primary duty. Judge [] misconduct has violated his primary duty.

The judge has apparently committed a gross and sickening contradiction in his court that indicates that the judge has shown a hostility and bias towards the complainant for filing past complaints which has resulted in the judge limiting complainants parenting time to 3 hours a week and demanding that complainant take a "psychosexual test" if he ever wants more than 3 hours a week with his child.

In complete and utter disregard to this ruling, the same judge has awarded another litigant who has admitted to being a sex offender and viewing internet porn within his scope of employment as an attorney in [] Arizona unsupervised overnights and custody of minor children.

Due to this contradiction of Arizona statute and the hostility and the continued misconduct of this family court judge - Complainant requests that the Honorable Judge [] be removed from his position as an elected official.

COMPLAINANT list the following violations:

COUNT 1 - The judge acted hostile towards complainant in a hearing.

Judge [] interrupted complainant as he was questioning his witness

on [] and screamed at Complainant not to look over at his ex-wife [] who was shrugging her shoulders. Judge [] repeated outburst are inappropriate as the extent of his berating and belittling the complainant for purportedly glancing over at his ex-wife who is still the mother of his daughter. Judge [] then threatened to immediately end the hearing right there if Complainant keeps looking over at his ex-wife.

Complainant informs that Judge [] makes a point every time a hearing is conducted to yell at complainant and show an improper judicial demeanor.

The most alarming incident continues to be the conduct displayed at a [] [] hearing in which Judge [] interrupted complainant and threatened that he would call the sheriff and have the complainant incarcerated for arguing.

Judge [] refused to let complainant answer a question of the court and alleged that he was in fact arguing with the judge.

Transcripts of the [] hearing to be forwarded upon request.

Complainant finds the judges continued behavior to be rude and unnecessary and his threatening manner exceeds behavior that might normally be tolerated or expected of a judge who regularly handles difficult cases. See In the matter of Michael Flourney No. JC-98-008. Complainant believes the judge violated Canons

1A, 2A, 3B(3) and 3B(4) of the Code of Judicial Conduct, Rule 81, Ariz. R. Sup. Ct., and constituted conduct prejudicial to the administration of justice within the meaning of article 6.1 section 4 of the Arizona Constitution. Transcripts of the [] will be transcribed and provided by March 1, 2007.

COUNT 2 - The judge acted inappropriately and laughed in court at Complainant when presented with a doctor's invoice indicating false molestation allegations.

Judge [] amusement and judicial demeanor during a hearing on [] [] over a very serious allegation of child molestation in which complainants ex-wife attempted to make a child molestation allegation to the child's pediatrician and demanded that the pediatrician examine the parties minor child's rectum.

The invoice and the affidavit clearly indicated the intent of a mother to make this criminal allegation. Because of the continued hostility displayed by this judge, his laughter when reviewing this doctors involve was totally unacceptable.

Complainant is "on the record" as indicating to Judge [] that his conduct was inappropriate and that he did not feel there was anything to be laughing about in his family court concerning this serious allegation.

The judges lack of sensitivity in this regard was unbecoming of a judicial officer regarding an attempt by the mother to accuse the father / complainant of this

horrible allegation that is being used way too often in contested custody cases.

This state is aware of [] in our Supreme Court [] that later found that the mother had made a false allegation of sexual molest against the father. Custody was then awarded to the father on []

In fact, the [] Police department became very aware of the allegation in this custody case as [] was arrested for alleged child molestation of his daughter by the mother in a heated custody case and held on a [] bond.

That department found that the mother although not convicted or cited for false reporting of child molestation, had the specific intent to coach her daughter and to accuse the father of a felony action.

Judge [] in his continued hostility towards complainant refused to comprehend the intent behind [] attempt to make this same felony allegation. For Judge [] to laugh this off in his family court was unacceptable conduct for a judicial officer.

One would only have to read Judge [] ruling in the [] case to understand the seriousness of this charge that resulted in a change of custody.

Complainant submits the doctor's invoice indicating a mother's intent on [] [] to accuse a father of this felony allegation. SEE EXHIBIT A.

Complainant had previously on [] filed a Petition to Change Custody noting parental alienation and the false child molestation allegation by the mother. The judge denied a hearing due to his continued hostility towards the Complainant and ruled that "even if true," parental alienation and false child molestation allegations are not reasons to change custody. **SEE EXHIBIT B.**

The judge then awarded mother attorney fees of [] for having to respond to Father's Petition to Change Custody. The judge then ruled that complainant is require to take a psychosexual test before any expansion of parenting time.

Complainant believes the judge violated canons 1A, 2A, 3B(2) 3B(4) and 3B(5) of the code of Judicial Conduct, Rule 81, Ariz. R. Sup. Ct., and constituted conduct prejudicial to the administration of justice within the meaning of article 6.1 section 4 of the Arizona Constitution

COUNT 3 - The judge allowed perjury in his family court on []

Due to Judge [] continued hostility towards the complainant, the judge allowed a litigant being the mother / [] who is the founder of the [] to lie on the stand and testify that she had "*never made an allegation of child molestation to anyone*"

including a doctor." SEE EXHIBIT C, Transcripts [REDACTED]

Judge [REDACTED] later in [REDACTED] received [REDACTED] sworn affidavit in his court indicating perjury. SEE EXHIBIT D.

Complainant believes the judge violated Canons 1A, 2A and 3B(2) of the code of Judicial Conduct, Rule 81, Ariz. R. Sup. Ct., and constituted conduct prejudicial to the administration of justice within the meaning of article 6.1 section 4 of the Arizona Constitution.

COUNT 4 - The judge tampered with the official court record

Due to Judge [REDACTED] continued hostility towards the complainant, the judge on [REDACTED] argued with the complainant that because the doctor who was called to testify did not actually accuse the mother of making a child molestation and that no allegation was made. The doctor admitted that her statements indicating "child molestation" were correct and that the child heard her mother indicate that her Daddy made her bottom hurt.

Due to Judge [REDACTED] continued hostility towards the complainant, he tried to diffuse the testimony of the child's pediatrician [REDACTED] and eliminate her testimony from the record. In complete contrast, Judge [REDACTED] praise a detective

who was called by the mother that indicated she was an expert in high profile divorce cases. Complainant asked if she was familiar with the states most contested case with child molestation allegations being made by a mother in [REDACTED]. She answered No. Complainant found Detective [REDACTED] to be an extremely unknowledgeable witness and rehearsed by mothers counsel, yet Judge [REDACTED] only mentioned her expert testimony and not the reporting pediatrician's.

The judge then made a ruling on [REDACTED] that failed to mention that the child's pediatrician even testified or confirmed that the mother "subjected" the child to a rectum exam or had indicated that because the child spent the night with her father the child's bottom hurt. **SEE EXHIBIT 1**

Complainant finds that Judge [REDACTED] has deliberately omitted the testimony from the expert witness [REDACTED] in an effort to influence the pending appeal of [REDACTED] [REDACTED] in the Arizona Court of Appeals.

Judge [REDACTED] family court smells of corruption and conspiracy.

The judge again ruled that complainant was unreasonable and should again be assessed attorney fees for filing his Petition to Change Custody and then granted an injunction against the complainant that he could further not disseminate this case with "the media." **SEE EXHIBIT 1.**

Transcripts of the [] hearing to be provided to the []

Police and this commission by March 1, 2007.

Complainant believes the judge violated Canons 1A, 2A and 3B(2) and 3B(5) of the code of Judicial Conduct, Rule 81, Ariz. R. Sup. Ct., and constituted conduct prejudicial to the administration of justice within the meaning of article 6.1 section 4 of the Arizona Constitution.

COUNT 5 - The judge again allowed perjury in his family court

Due to Judge [] continued hostility towards the complainant, the judge again allowed a litigant being the mother / [] to lie under oath under questioning on []

[] indicated under oath that she and her children had been served by a process server only once in [] which constituted harassment of her children.

Complainant informed [] that she was under oath and to answer the question again - [] again answered that the only process server to serve her was for Father's Petition to Change Custody served on []

Complainant attempted to enter into evidence that [] had just lied in an official court proceeding as a lawsuit apparently was also filed on her children at her residence on []

Judge [] due to his continued hostility and bias towards complainant, refused to enter the exhibit showing that [] had just committed perjury.

Transcripts showing perjury to be provided by March 1, 2007.

Complainant submits the perjury document that judge [] refused to enter.

SEE EXHIBIT 2.

Complainant believes the judge violated Canons 1A, 2A and 3B(2) of the code of Judicial Conduct, Rule 81, Ariz. R. Sup. Ct., and constituted conduct prejudicial to the administration of justice within the meaning of article 6.1 section 4 of the Arizona Constitution.

COUNT 6 - The judge allowed an ex-parte communication from counsel

Judge [] accepted an ex-parte communication on [] that was hand-delivered to his office and copied to the presiding judges [] and []. The ex-parte communication from mothers counsel was filed and does not show that complainant was copied or served to complainant.

Judge [] accepted the ex-parte communication and set a hearing on [] knowing that he had just accepted an ex-parte communication.

SEE EXHIBIT 3.

Complainant believes the judge violated Canons 1A, 2A and 3B(7) of the code of Judicial Conduct, Rule 81, Ariz. R. Sup. Ct., and constitutes conduct prejudicial to the administration of justice within the meaning of article 6.1 section 4 of the Arizona Constitution.

COUNT 7 - The judge conducted gender biased in applying the law

Judge [] has misapplied state law A.R.S. 12-349 in the extreme.

Judge [] in response to sanctions and attorney fee awards requested by complainant, made a ruling on [] that A.R.S 12-349 is not applicable to family court matters. **SEE EXHIBIT E.**

A year later on [] Judge [] awarded attorney fees to the female litigant and further declared that fees were being awarded due to A.R.S. 12-349, which was now applicable to family court matters. **SEE EXHIBIT F.**

A judge should know the law. Same judge, same law, yet two different rulings in the same case regarding state legislature law.

Due to the judge sealing this case from public view in [] apparently the judge believes he can misapply the law and his conduct in his court to whatever biased version of the law he wants. Complainant has appealed these rulings.

Complainant believes the judge violated Canons 1A, 2A, 3B(2) and 3B(5) of the code of Judicial Conduct, Rule 81, Ariz. R. Sup. Ct., and constituted conduct prejudicial to the administration of justice within the meaning of article 6.1 section 4 of the Arizona Constitution.

COUNT 8 - The judge committed extreme discrimination, bias, prejudice in a related court case that involves unprofessional conduct of an attorney

Due to Judge [] continued hostility towards the complainant, the complainant has reviewed other similar cases to note a marked bias and prejudice towards complainant that shows that Judge [] is conducting a biased and corrupt family law court.

On [] the Honorable [] allowed an attorney / father to gain custody of minor children in this state in an unsupervised setting.

The attorney works for a large firm in [] and has signed [] affidavits that indicate that he has sexual deviancies and views internet pornography within his scope and business hours as an attorney at his law firm.

The attorney / father also indicates that he masturbates while viewing internet pornography and his work address and while at home with his minor children.

Complainant, upon reviewing the file of []

finds that Judge [] apparently approves of this type of behavior as a practicing attorney in this state and ultimately as a custodial parent. The affidavit and consent decree states that the litigant [] is prevented from ever having an expansion of parenting time or custody UNLESS he completes a psychosexual test.

Judge [] apparently let this individual have custody of children and DID NOT require this individual to be psychosexual tested as Judge [] has maintained in complainants case of []

Complainant finds the appearance of an impartial court that apparently disregards the best interest of children in Judge [] biased court.

Apparently, in this case he believes individuals that have a history of domestic violence and sexual deviancies as [] does, should be given custody of minor children simply because the system is corrupted and shows a favoritism to large attorney firms and litigants that are represented by counsel.

Complainant notices the prejudiced party in the [] case, being [] [] that the court has the distinct appearance of a biased court and does not resemble a court that follows the "due process clause" or one that a fully informed observer would believe is fair and impartial. Refer to the Affidavits of []

SEE EXHIBIT G.

In complete contradiction to the family court rules, Judge [] has continued his firm ruling that Complainant [] and only [] should be psychosexually tested before any expansion of parenting time or a change of custody, yet he did not require [] to be tested.

The court believed that because complainant and his then wife [] had sexual relations back in [] while as a married couple, and conducted video tapings before the parties child was born, should somehow constitute a need for psychosexual testing of the parents in this state.

Why Judge [] has an interest in the [] sex life before the child was even born in their custody case is unknown.

Why Judge [] has hidden the affidavit of [] and his sick sexual acts from the public would give the impression that Judge [] approves of this type of lifestyle as an attorney and as a custodial parent.

Such a ruling by a judicial officer to allow [] to be alone in the presence of young children is outrageous!

Complainant believes the judge violated Canons 1A, 2A, 3B(2) and 3B(5) of the code of Judicial Conduct, Rule 81, Ariz. R. Sup. Ct., and the Professional Rules of conduct, Rule 42, and constitute conduct prejudicial to the administration of justice

within the meaning of article 6.1 section 4 of the Arizona Constitution.

COUNT 9 - The judge has not maintained the high standards of attorney conduct.

Due to Judge [] impartiality towards attorneys, Judge [] has ignored the public policy to maintain the high standards of professional Rules of conduct.

In fact, Judge [] has allowed unethical conduct and conduct that was presented to his court of a practicing attorney that violates good moral character of attorneys in this state.

1. Attorney [] has been investigated by the State Bar of Arizona on [] allegations stemming from Judge [] family court. **SEE EXHIBIT H.**

1. Attorney [] submitted an affidavit into evidence in his [] [] stipulated decree that indicates he has enormous sexual deviancies and should not be permitted to practice law or have minor children in his presence.

SEE EXHIBIT G.

The affidavits indicates improper conduct that is alarming in nature:

1. Second Affidavit line 40 - *Then I started at [] Law firm*

2. Second Affidavit line 43 - *Between the months of [] and*

[] *I used AOL a great deal. I talked to many men, women, and transsexuals about connecting for sexual encounters. All during working hours.*

3. Second Affidavit line 57 - *Near the end of [] began a relapse. Initially it was only internet pornography at work - on two occasions.*

4. Second Affidavit line 62 - *My use of Internet pornography has been incessant since we bought our first computer in [] I have used it while the family was home and asleep. I have used it while alone with children.*

Judge [] has clearly allowed this misconduct of attorneys and had the responsibility to report this misconduct and sexual acts and viewing of Internet pornography during his scope within the offices of a professional law firm.

Why has this practicing attorney not completed his psychosexual testing that was agreed to by [] before he could ever be alone with children?

Why has judge [] maintained that [] should be psychosexually tested before any expansion of parenting time and not []

The public should be informed that Judge [] believes this conduct exhibited in [] affidavits is proper for an attorney and a parent to have sole custody of minor children with no supervision in the state of Arizona.

Rather than to forward [] affidavits to the state bar for an investigation, Judge [] instead chose to ignore the admissions of a litigant regarding sexual deviancies and cause the public to lose confidence in the judiciary.

The court has now permitted [] as well as the attorney litigant [] to avoid psychosexual testings in Judge [] court simply because of their occupation or their origin being from the judges home state [] which is a clear act of discrimination and an abuse of discretion by a judicial officer in the State of Arizona.

The court was informed of attorney [] Motion to Reconsider indicating [] "character and fitness." SEE EXHIBIT I.

Complainant also finds that Judge [] disregarded the affidavits and did not consider the admissions of sexual deviancy from a parent when making a custody determination in the [] case which is in direct violation to ARS 25-403(A)(J).

Judge [] had an obligation to report any misconduct of practicing attorneys not only to the law firm who employs this individual but the state bar.

Judge [] violated Canon 3B(5) in the extreme by designating custody solely on a litigants sexual deviancies and socioeconomic status as an attorney and by failing to report his misconduct as an attorney.

Complainant believes the judge violated Canons 1A, 2A and 3B(2) 3B(5) of the code of Judicial Conduct, Rule 81, Ariz. R. Sup. Ct., and Rules of Professional Conduct for attorneys Rule 42.

CONCLUSION

CJC-07-055

Courts have repeatedly held that positive proof of the partiality of a judge is not a requirement, only the appearance of partiality. Liljeberg v. Health Services Acquisition Corp., 486 U.S. 847, 108 S.Ct. 2194 (1988).

In 1994, the U.S. Supreme Court held that "Disqualification is required if an objective observer would entertain reasonable questions about the judge's impartiality of a judge's attitude or state of mind leads a detached observer to conclude that a fair and impartial hearing is unlikely, the judge must be disqualified." (Emphasis added). Liteky v. U.S., 114 S.Ct. 1147, 1162 (1994).

The state of Arizona and the entire nation have the right to become the objective observers of this judge's conduct and to be informed if the Arizona judiciary is compromised and has shown the appearance of a biased court.

Judge [] actions and misconducts indicate a trial court that is not only impartial and biased towards self-represented litigants, but also disregards the well-being and safety of minor children by awarding custody to parents that have admitted to be sexual deviants and domestic violence unfit parents.

Judge [] reluctance to view the acts of [] viewing internet pornography while at work and around young children coupled with his reluctance

to view [] attempts to falsely accuse complainant of child molestation and laugh about it later in his court will be hard for the public to accept.

The Arizona Supreme Court became aware of this serious charge of child molestation in a contested custody case that incarcerated a father until it was proven that the mother had lied to influence a custody case and custody was awarded to the father based on this allegation. []

The cases at hand in this complaint will show a fully informed disinterested person that the court is not impartial and is no longer safe for children. A brief comparison of the [] case shows the following inconsistencies and impartiality:

1. Both parties were restricted with parenting time until they took a psychosexual test, [] and his wife by way of a court order, [] by way of his admissions of sexual deviancy in his affidavits to the court and a stipulation that he could never expand his parenting time until tested.
2. Both parties petitioned the court in [] for a change of custody and to expand their parenting time, the court denied [] petition and denied setting a hearing and later sanctioned him [] for petitioning the court. The court later re-affirmed that [] couldn't expand his parenting time until he takes the psychosexual

tests in contradiction to the [] case. [] never committed the acts or admitted to any of the acts of violence, sexual deviancies or viewing of Internet pornography while during working hours at a [] lawfirm that [] does. It must be noted that [] had filed a judicial complaint and appeals against judge [] previous to this ruling.

The Court on the other hand granted [] a hearing and then awarded [] expanding his parenting time and a change of custody without [] completing the psychosexual testing that was agreed upon and filed in Court.

[] now has unsupervised custody and overnights with minor children and was not sanctioned for petitioning the court.

Complainant believes the commission and the public will be able to determine that the court has conducted an impartial and unfair court and has played a huge favoritism to a litigant solely on their socioeconomic status as a lawyer which is a violation of Canon 3B(5) by awarding custody to this party and sanctioning complainant for petitioning the court for the same relief.

The courts conduct and rulings in these two cases determines that this type of conduct by [] a litigant in a child custody case and as a lawyer in this state is proper and explains as only "exaggerated." The public is entitled to be

to be informed of the misconduct of an elected official.

WITH GOOD REASON, Complainant believes that the court is no longer proper to decide custody cases and the welfare of children if it is to display such extreme biases and disregards for the litigants and their children.

The amount of misconduct that has been committed by Judge [] in so short of a period from [] all after Complainant filed a Petition to Change Custody with good cause, have been actions that have been undertaken in his official capacity as a family court judge and therefore are directly harmful to the judicial system itself.

With the lack of regard Judge [] has for perjury being committed in his courtroom by litigant [] the omission of key evidence and expert testimony coupled with his utter disregard toward maintaining the high professional standards of attorneys as well as his complete lack of respect to unrepresented *pro se* litigants in his courtroom, Complainant believes that Judge [] removal from office constitutes the only appropriate discipline in this matter.

RESPECTFULLY SUBMITTED this 16th day of February, 2007

By: []

Complainant