

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 07-145

Complainant: No. 1311400279A

Judge: No. 1311400279B

ORDER

The commission reviewed the complaint and the recording of the proceeding and noted that the judge did not actually refer to the complainant as being "stupid". Even so, the commission decided to send the judge a private comment advising him to be more circumspect with his comments. Accordingly, the complaint is dismissed pursuant to Rules 16(a) and 23(a).

Dated: October 1, 2007.

FOR THE COMMISSION

lg\ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on October 1, 2007.

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

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

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May 23, 2007

Complaint against Judge Hotham

I represent the Wife, Shawn Fuzy, in a dissolution action. Husband is represented by Harvey Brown. Wife had filed for an order to show cause hearing to determine temporary child support and spousal maintenance. The court, Judge Hotham, set a resolution management conference, which is that standard procedure before setting a hearing on a request for temporary orders. The RMC conference was set for 30 minutes on May 22, 2007.

When the Judge entered the courtroom, he indicated that he was going to deal with the Wife's request for temporary money at that time, at the RMC. I, as counsel for Wife, was very happy as my client had no money and we did not want to have to wait weeks or even months for an evidentiary hearing on temporary orders. The Judge then proceeded to go through other issues - child access, etc. This went on for a while and then the Judge had the clerk call his JA to get a trial date. Normally, when you are in court for an RMC conference, the last thing the court does before dismissing you is to give you a court date. When the Judge indicated that he was giving us a court date I stood up and said, "what about the order to show cause hearing?" The Judge then said to me, and I am quoting, "**what are you stupid? I said twice that I was going to deal with those issues.**" I then replied that I could not believe he had said that, and that his comment was incredibly rude. The Judge responded with something along the lines of commenting that I was sitting at counsel table mad about something. First of all, whether I was mad or not made no difference and second of all, I was not mad, I was happy that I would be able to get my client some funds without having to wait and additionally, I don't get "mad" at a Judge for his or her decisions.

Do I even have to go on? I was floored, embarrassed for myself and for the court system. The Judge's comment is a comment that no attorney would ever make to another attorney, let alone if one were a Judge and in open court. Frankly, I would bet that most people, let alone a Judge in open court, have

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never uttered those words to another person. Obviously, if the Judge was frustrated with me, there would have been more professional ways to deal with his frustration.

Thank you for considering this matter. I know that Judge Hotham is retiring at the end of the month, I also know that domestic relations practice is hard and frustrating, but that does not give him the right to humiliate me and undermine the court system. I was going to let this matter go because he is retiring at the end of the month, but he is still a practicing attorney and presumably will be after retirement and thus it seemed important to me to bring his behavior to this commission's attention.

I have ordered a copy of the transcript and CD of the hearing and will supplement this complaint with those items upon receipt.

A handwritten signature in black ink, consisting of a large, stylized initial 'A' followed by a long horizontal line that extends to the right.