

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 08-197

Complainant: No. 1341410739A

Judge: No. 1341410739B

ORDER

The commission reviewed the complaint filed in this matter and found no ethical misconduct on the part of the judge. The issues raised involve factual determinations outside the jurisdiction of the commission. The commission is not a court and cannot review evidence to determine whether or not a judge's decision is correct, or whether or not parties in a hearing are telling the truth.

Therefore, the complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: September 15, 2008.

FOR THE COMMISSION

\s\ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on September 15, 2008.

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

Complaint Against the Honorable

We feel that Judge in her ruling, showed extreme prejudice, wrongfully made false statements about the on records that are accessible by the public, ignored (and even rewarded) inappropriate and unlawful acts by , and improperly removed a child from a home where she was properly cared for to place her in a home where the mother can not care for her special needs. In other words, Judge did not act in the child's best interest and placed her improperly into a risky and perhaps dangerous situation. We feel that Judge reworded testimony and evidence supporting our case, ignored evidence and testimony against the mother, and had a general prejudice against us.

1. When a person is faced with a decision, knows the choices and the consequences of each choice, is an adult and of sound mind, and then without any coercion chooses one of the options, are they not held responsible for the consequences of that choice? Judge does not seem to think so. In , we started to attend church at . Immediately, we started to go to pot luck dinner and bible study on Wednesday nights. This is attested to by (sister and witness) at the hearing. knew this fact when she asked to have parenting time on Wednesday nights in was an adult 23 years of age at this time. When presented with this proposal, said that a schedule this rigid would be impossible to comply with. There was Wednesday night bible study, ice skating, school activities, and other activities to consider that a growing girl may participate in. There was also a concern that was not and would not communicate properly with us. , our attorney suggested that we place the phrase "that they will communicate to make sure that the child is timely taken to any extracurricular activities" into the agreement. presented and explained this change to understood this change, including that Wednesday night bible study was an extracurricular activity (testimony on). had several choices at this point. She could have suggested another day, she did not. She could have asked for make up time, she did not. She could have suggested something else, she did not. , knowing the full consequence of her choice, agreed with the agreement, stated that she understood, and swore that she was not coerced in front of Judge (reference the agreement). Yet, according to Judge (the paternal grandfather) "admitted that he entered into the joint custody/parenting time arrangement with Mother knowing that the child was taken to church on Wednesdays, which they used as a reason to deny Mother's parenting time" (ruling). In other words, (the paternal grandfather) decided the whole thing for everyone and manipulated this situation. Therefore, he is the only one responsible for the outcome.

response and responsibilities were never considered. Obviously, [redacted] had no choice but to go along, even though she swore that she was not coerced. This is a horrible aberration of the truth and casts an undeserved disparaging shadow on [redacted] character. Facts not brought out in the hearing, but were stated in the inquiries are: [redacted] offered a ride to Wednesday night bible study and pot luck dinner every time he was available to provide transportation. This means that she would get to spend time with [redacted] (her daughter) and get a free meal. [redacted] did attend 4 to 6 times, then she chose to quit because "church was not her thing." When the [redacted] changed churches in [redacted] they immediately informed [redacted] of this fact and that they would no longer be attending Wednesday night bible study. [redacted] waited until [redacted] to request [redacted] on Wednesday nights. Judge [redacted] chose not to bring out or consider these facts. The [redacted] also brought up this very question when they consulted the Family Legal Assistance Program in [redacted]. They were advised to enforce the agreement verbatim, and, because [redacted] had had made her choices willingly that no make up time should be given to her. Therefore, another statement in the [redacted] ruling went directly against the advice given to the [redacted] by F.L.A.P.

2. [redacted] came to live with the [redacted], not [redacted] ([redacted] testimony on [redacted]).
3. The paternal grandparents "dictated the conditions of her (the mother's) parenting time." The mother constantly demanded to have [redacted] at times not in accordance with the agreement, often at the last minute or on the spur of the moment. Therefore, the [redacted] often had their lives, responsibilities, and plans upset. The [redacted] wondered if the mother's acts were appropriate and consulted F.L.A.P. They were told to enforce the agreement verbatim. Therefore, this was done according to the agreement of [redacted] and according to the advice given to them by F.L.A.P. Judge [redacted] seems not to know this.
4. The paternal grandparents "wrote a letter to the maternal grandparents saying the child would be inspected and questioned about abuse by Mother or her parents anytime the child returned from their care." This is an obvious misquote from the letter. The letter never said that the child would be questioned. We would not subject the child to such. However, when the child routinely returned from their care with bruises that looked like someone grabbed her, a mouth so bloody that the blood ran out of her mouth onto her jacket, an arm so badly seared that the skin was burned off, a refusal by the mother to get [redacted] proper medical attention for said burned arm, the second surgery on her right foot because a heavy object was dropped on it, routine refusal to allow [redacted] to receive needed medical care, and other scrapes and cuts of questionable location, we were concerned about circumstances and [redacted] would look for such things on [redacted] body as she bathed without [redacted] knowing that she was being examined. Judge [redacted] misquoted the statement and did not take the circumstances surrounding it into account. In other words, Judge [redacted]

implied that the [redacted] were wrong to be concerned, the [redacted] were not wrong in allowing such situations to occur (refer to letter to maternal grandparents). This letter was written also under advisement from F.L.A.P. We feel disturbed by such obvious false misquoting of the facts by a judge and by the negative connotations of such a misquote.

5. "Mother stated that she has no communication with Father, and that when she called to find out if Father was seeing the child, they told her it was none of her business." This is another wrongful misquote from our letter in [redacted] to [redacted] where it is stated, "What we do with our family and how we do it is none of your business, even if you hear that our son [redacted] is in town and that we are in contact with him." [redacted] and her parents tried to use the fact that our son [redacted] was in town and that we were seeing him as an excuse to try to tell us who we could see and how to run our personal finances. They were particularly incensed when [redacted] bought a motorcycle. They felt that the money going for the motorcycle purchase should be going to [redacted]. We could never understand their reasoning that paternal grandparents owed their daughter money because [redacted] had a child with [redacted] (our son). We still feel today that our social contacts, our finances, and other family business are still our business. [redacted] did, however, have a right to know whether or not [redacted] was seeing [redacted] and we did not try to hide that from her. In this instance, however, [redacted] was back in town and we were seeing him, but [redacted] was not. We arranged meetings with him when [redacted] was in school or when [redacted] was with her mother. When we told this to the [redacted], we were called liars. Then the [redacted] told us that we had no right to see our own son. This is another time Judge [redacted] improperly quoted us and did not determine the facts before issuing a statement.
6. "The Court has doubts about Father's motivation for seeking custody of the child; it appears that the Paternal Grandparents have engineered this situation so the child remains in their home." First of all, what situation did the paternal grandparents engineer? The Court ordered involvement of the Father in these proceedings on [redacted]. Being told that this order would eliminate their chances for custody, the paternal grandparents agreed only because they were told that it would be "a tough row to hoe" for them to obtain custody, an almost impossible task. This word was passed on to them by their attorney as words said by Judge [redacted] in a private conference with the attorneys on [redacted]. It was and still is the opinion of the paternal grandparents that [redacted] are the ones who should care for [redacted] if only because, to their knowledge, no one else can take care of obtaining insurance for her pre-existing and recurring physical needs with her foot. If not properly cared for, this condition can lead to deformity, loss of her toe, can be crippling, can cause the loss of her foot, and quite possibly loss of her life. We are of the opinion that this fact was not properly considered at all by Judge [redacted]. Yet the court order and attitude of Judge [redacted]

made it clear that custody by the grandparents was not to be considered. Yet it is clear that Judge knows about condition from her ruling as condition is mentioned a couple of times in it. Because of this, we feel that Judge did not rule in the child's best interest. We did not engineer foot condition, nor did we engineer the court order delivered on by Judge .

7. We have endured harassment, been assaulted, been lied about, have taken on extra burden, taken care of , and have tried every step of the way to work with and her parents, ask for legal advice when we were unsure how to proceed, ensure that we kept good records, gathered evidence for all of our claims, and just generally do what was right. For this, comments by Judge are unjust, twisted, false, prejudiced and even malicious. Statements like, "Paternal Grandparents regularly interfered with Mother's parenting time, and Father resides in their home and appears to be influenced by their wishes. For that reason, the Court has concern that Father would also interfere in Mother's parenting time if he were given sole custody." In other words, in spite of everything the paternal grandparents did to do right, they were totally responsible for choices and actions. This is how Judge decided to treat the Paternal Grandparents, and therefore their son.

So, how does Judge treat the ? Let's see.

1. On brought to stay with us because had been kicked out of her parents' home, had separated from her boyfriend, and had no place to go. Because of medical, dental, and scholastic needs of , we sought *in loco parentis* status. This was because the Mother was often hard to find and get in touch with, she would not keep us with an updated consent form so that we could take care of needs, and she was hard to convince that certain things and procedures needed to be followed when we could reach her. In , the agreement between and us was reached because still could not care for and we needed to have the authority to take care of her. In , petitioned for sole custody of Judge dismissed this petition stating "failure to allege adequate cause for a change of custody and parenting time." then petitioned in and by , although there were no physical, mental, moral, medical, or economic changes, Judge made it clear that custody would change.
2. knowingly and willfully made false statements under oath. In her petition, under oath, states that she "provides health insurance for " has never provided health insurance for knows definitely that her statement to the contrary is false and misleading. In petition, promises under oath to provide health insurance for and states a cost of doing so, yet she, to our knowledge, can not find health insurance for because of pre-existing and recurring

condition at any cost. In Court on _____ testifies that she has her daughter _____ five nights a week. _____ father, _____ testified that he has _____ three to five nights a week. Together, by their testimony, they have _____ eight to ten nights per week. There are only seven nights per week and their testimony has to be false. Yet, Judge _____ makes no mention of _____ knowingly making false statements under oath with the intention to mislead.

3. _____ knowingly and willingly defied court order. On _____, Judge _____ issued the Court order to follow the agreement until after the hearing. The agreement states that _____ will have _____ Friday night until 7:00 P.M. on Saturday. It also stated that major holidays were to be alternated. On _____ took _____ on a camping trip. This trip was to continue into Father's day on Sunday, _____ states that this act was in accordance with the agreement because Father's day is a major holiday and that we had _____ last year for Father's day. Our position was (and still is) that Father's day is not a major holiday by any known standard. However, if Father's day is a major holiday, then Mother's day is also. _____ has had _____ every Mother's day, including the one in 2007, yet she wanted Mother's day to be hers in 2008 as well, and, _____ on Mother's day 2008. If Father's day should be rotated from year to year, then _____ should have spent Mother's Day 2008 with us. Both days occurred after the Court order. Therefore, no matter how you look at it, _____ openly defied Court order. Nothing was said or done; _____ had to pay no penalty. Judge _____ did not even seem to notice, even when this subject was brought up at the _____ hearing.
4. _____ has a history of neglecting _____ medical needs. This is documented in lots of evidence. Judge _____ acts as if these acts of neglect do not exist.
5. _____ parents have engaged in the unlawful act of harassing the _____. This has been documented by taking _____ parents to Peoria court in _____.
6. _____ purposely asked her parents to interfere with the abiding by the agreement whenever _____ did not get her way with us. Her parents would call, yell at us, curse at us, and demand their way. When we hung up on them, they would come to our house and repeat the same behaviors until we mentioned calling the police. The maternal grandparents would call when they were specifically told not to call, and would come to our house when they were specifically told not to come. And, in one instance, _____ mother pushed _____ into the driver's side car mirror of our car which was parked in our driveway in an attempt to move _____ out of her way so that she could force her way into our home. None of these acts were ever mentioned or considered by Judge _____.
7. Judge _____ ignores the fact that _____ allowed and even solicited her parent's help in harassing us into violating the terms of the agreement.
8. "Mother will be able to turn for help with the child when necessary." Mother has called several times and not received _____ when it was her

time to do so because could find no transportation. This inability to find transportation concerns us because it means that there will be times that she will not be able to take to the doctor if she should need to go.

9. "Mother provided primary care of the child during her early years, and continues to do so during her parenting time." Again, this is false in the sense that has not provided medical care. In fact, often has stood in the way of receiving needed medical care for things like ear infections and medical care for seared arm.
10. "Mother has maintained a consistent parenting relationship with the child over the course of her life." Many times would wait for her Mother to pick her up because it was time to see would not show, nor would she call. Sometimes, this would be on a Friday, when should have had overnight. would sit waiting with her bag packed and ready to go. would not show up and did not call. Later, usually the next day, one of sisters would tell us that went to Las Vegas.
11. "Father has refused to communicate with Mother." When rarely speaks to any of us and tries to use the child to relay information to us, does not call or make it a point to be around us, and when she yells and screams, makes up stories about us, distorts our words into new meanings different from what was actually said, and cries and calls her parents every time she does not get her way or hear what she wants to hear the way she wants to hear it, has made herself unavailable.

What consideration does Judge give to ?

1. has gone through a lot of angst when she has heard her Mother and Maternal grandparents yell at us. has been over at their house, supposedly playing happily in their back yard when they were screaming at us over the phone. Then, has gotten into our car repeating almost every word of what they said (voluntarily, not because we quizzed her).
2. has a pre-existing and recurring condition in her right foot between the first and second meta-tarsal. This condition resulted in four surgeries and now her present course of treatment. If not treated, this condition will cause extreme pain and deformity as the mass building up presses against the meta-tarsal. This condition also has the ability to block blood flow to the toes, making it possible to lose toes. It has the possibility of blocking the blood flow to the foot, endangering the foot. And, it may cause blood clots which, if they break loose may even cause to lose her life. Her last procedure on this foot cost more than \$45,000.00. Most people do not have that kind of money available to them, therefore they buy insurance. Because this condition is pre-existing, no insurance company will provide with an individual policy. However, group insurance will cover her. At this time, to the best of our knowledge, only the can provide insurance through employment with .

This insurance can only be provided if [redacted] have custody of [redacted]. The Paternal Grandparents did not “engineer” this situation; this situation is just a fact! We do not feel that this was adequately evaluated by Judge [redacted] as she positioned [redacted] out of consideration on [redacted]. Then, in [redacted], Judge [redacted] placed [redacted] with her Mother who can not supply the insurance that she promised under oath to do. We feel that Judge [redacted] has, for this reason, placed [redacted] unrightfully in harm’s way. We feel that Judge [redacted], because of her prejudice, failed to adequately consider all options fairly.

We feel that Judge [REDACTED] has improperly discharged her duties as judge by considering unsubstantiated testimony by the Mother, dismissing evidence, deciding on issues without asking both sides, purposely misquoting statements made, showing prejudice, not considering the welfare of the child, distorting actual events in order to cast false negative image upon the [REDACTED] placing these false disparaging remarks in a document accessible to the public, ignoring and even endorsing open and reckless defiance of the law, and losing sight of her responsibilities to remain fair and impartial and to act in the best interest of the child.

We feel that the Honorable discouraged a proper hearing and encouraged a situation contrary to Arizona State law. We feel that Judge should have conducted a proper hearing and made a proper ruling. We also feel that he should have not encouraged or endorsed a situation disallowed by law (see attached agreement granting paternal grandparents and mother joint custody of a child).