

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 09-048

Complainant: No. 1247310739A

Judge: No. 1247310739B

ORDER

The commission reviewed the complaint filed in this matter and found no ethical misconduct on the part of the hearing officer.

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

Dated: May 5, 2009.

FOR THE COMMISSION

\s\ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on May 5, 2009.

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

CJC 09-048

COMPLAINT AGAINST A JUDGE

Your name:

Judge's name:

Date: 2/13/09

Instructions: Describe in your own words what the judge did that you believe constitutes misconduct. Please provide all of the important names, dates, times and places related to your complaint. You can use this form or plain paper of the same size to explain your complaint, and you may attach additional pages. Do not write on the back of any page. You may attach copies of any documents you believe will help us understand your complaint.

- 1. Judge made it AWARE she WAS very familiar with the case yet she made no exceptions for my disability.
- 2. Judge placed the burden of mailing/serving my exhibits evidence on the defendant when [rule 7C] states its the responsibility of the clerk of the court when a party has A protected Address.
- 3. Judge ALLOWED THE DEFENDANT TO present A WITNESS OVER MY OBJECTIONS. THIS IS ALSO A VIOLATION OF RULE 49 & 50 DISCLOSURE. I HAD NO TIME TO PREPARE, NOR WAS I INFORMED AS TO WHY THE TESTIMONY WAS material to the proceedings or who she WAS. PURSUANT TO Rule 7C I HAVE THE RIGHT TO RECIEVE A LIST OF WITNESSES 30 days prior to trial.
- 4. Judge actions showed misconduct when she violated Rule 76D by allowing ~~me~~ defendant to enter exhibits/evidence during trial. I objected as I would not have time to prepare A proper cross examination. Judge became visibly upset. SHE TOLD ME SHE WOULD GIVE ME 5 MINUTES TO LOOK OVER THE DEFENDANT'S EXHIBITS. MY FURTHER OBJECTIONS FURTHER UPSET JUDGE
- 5. Judge unfairly explained court proceedings & rules during my 50 min presentation. She constantly commented And corrected me, while answering any question the defendant posed. SHE constricted my exhibits by repeatedly saying "I Already know About the CASE! I don't think we need that!". SHE constantly reminded me of ~~me~~ the clock AND QUESTIONED ALMOST EVERY exhibit before i entered it. I felt like I HAD TO PROVE MY CASE TO HER FIRST, UNFAIRLY. THE DEFENDANT WAS FREE TO INTERRUPT WITH QUESTIONS AND OBJECTIONS AT WILL. JUDGE ACTED MORE AS AN ATTORNEY THAN A JUDGE!

SEE ADDITIONS *

(Attach additional sheets as needed)

Incident 1

Cannon 2B states "A judge shall not testify voluntarily as a character witness."

I Accuse Judge [redacted] of violating this as the defendant [redacted] attempted to enter a taped recording of a voice mail. I objected on the grounds that the recording had not been marked as evidence and should not be allowed and that the voice could not be proved to be mine. I was bluntly told by Judge [redacted] "I know what you sound like so I'll determine if it's you! I've heard you talk here today." The statement in itself is a testament to character. This was also a violation of rule 76D of discovery.

Incident 2

cannon 3 (b) 5 states " {c} A judge shall diligently discharge the judge's administrative responsibilities without bias or prejudice and maintain professional competence in judicial administration, and should cooperate with other judges and court officials in the administration of court business.

I accuse Judge [redacted] of also violating this Cannon by placing the responsibility and burden of serving the defendant solely on me when it states clearly *Judges shall diligently discharge the judges administrative responsibilities without bias or prejudice*. Judge [redacted] did not act in this capacity as she questioned me repeatedly on how and when I mailed the defendant copies of my exhibits as well as other documentation it clearly states it is the courts responsibility to forward to any party with a protected address. As stated in Rule 7A section C it is the responsibilities of the clerk of the court to serve documentation upon on parties with protected addresses. Such is the case as has been so for years in the defendants situation. As I tried in vain to point out some of the improprieties of the courtroom I was only reminded by Judge [redacted] that she was well aware of the case. Yet Judge [redacted] did not know or deliberately concealed these facts during the hearing.

Incident 3

Cannon 3(b) 5 States a judge must perform judicial duties impartially and fairly. A judge who manifest bias on any basis in a proceeding impairs the fairness of the proceeding and brings the judiciary into disrepute. Facial expressions and body language, in addition to oral communication, can give to parties or lawyers in the proceeding, jurors the media and others an appearance of judicial bias.

It further states in the commentary that "A judge shall must be alert to avoid behavior that may be perceived as prejudicial. Judge [redacted] allowed the defendant to present a witness over my objections. A violation of rules 49 & 50 disclosure. I had no time to prepare nor was I informed as to why the testimony of the witness ([redacted]) was even material to the proceedings. Pursuant to rule 77c I have a right to receive a list of witnesses 30 prior to trial.

Judge actions showed misconduct when she allowed the defendant to enter exhibits into evidence during the trial. I objected and Judge became visibly upset. She then told me she would give me 5 minute to look over the defendants exhibits. My further objections to this seemed only to further upset judge She initially explained to both side that we would have 50 min in which to complete our presentation. Then commenced to explain court proceedings, rules and regulations and answer any questions the defendant may have had. The defendant was not told one time that it was my allotted time to present my case yet I was told countless times that I had run out of time. She constricted several of my exhibits by stating she already knows the case. She constantly reminded me of the clock as the defendant was free to interrupt with questions and objections at will. During the hearing the fire alarm went off. This also seemed to irritate judge She made a small comment then dismissed the court.

Judge clearly used biased motions in her court when she'

1. heavily scrutinized each and every one of my exhibits to be entered while... accepting the defendants exhibits immediately unseen or challenged.
2. Intimidating me by constantly reminding me of the time frame while not once mentioning or making any kind of reference whatsoever pertaining to time to the defendant during her presentation.
3. Questioned my witness intensely on issues I had not planned on as well as dismissing most of her testimony as irrelevant as saying "what relevance does this have to the case" during my witness testimony while allowing the defense to present a surprise witness and allowing to speak freely over all of my objections. I was reprimanded for trying to object by an index finger in the air and a stern look defense was not to be interrupted.
4. On Feb 14 2009 Judge told me during a phone conference that "she was making this an Enforcement of visitation hearing". This statement constitutes a breach of impartial judgment as judge has clearly stated her intentions even though I filed as the petitioner for modification of custody. I can only believe this to be true as the courtroom has not addressed any of my issues pertaining to the modification of Custody instead Judge courtroom has entertained the defendants attempts to turn the trial into a Enforcement of visitation hearing. She never objected when the defendant went off base and asked several questions about visitation and child support. Judge not only corrected the defendant she made me answer the questions. I feel Judge has allowed the defendant to turn the trial into a petition for modification of custody into an enforcement of visitation/child support hearing.

Judge has on a few occasions displayed negative emotion during the proceedings I feel this will have a direct bearing on the outcome of this trial.

Thanks for your time

In conclusion

By allowing the defense to present exhibits/evidence as well as witnesses on such short notice Judge impaired my ability to present my case as I had planned. I have not been allowed to fairly present my own exhibits in their entirety or finish several of the questions I held because of Judge decision. My right to a fair trial has been violated

In conclusion if there are parts that are redundant I do apologize as I do suffer from Epilepsy and have a few issues remembering in short term as well as placing everything into a cumulative ending so please take this into consideration as well.

Thank you