

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 10-224

Complainant: No. 1356010065A

Judge: No. 1356010065B

ORDER

The complainant alleged that a justice of the peace made erroneous and unfair rulings in a child custody case. The commission reviewed the complaint and found no evidence of ethical misconduct on the part of the judge. Court rulings are within the discretion of the judge and outside the jurisdiction of the commission. The complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: October 22, 2010.

FOR THE COMMISSION

/s/ Keith Stott

Executive Director

Copies of this order were mailed to the complainant and the judge on October 22, 2010.

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

August 30, 2010

To whom it may concern:

I am writing to you to investigate what I consider to be especially egregious behavior by a sitting judge.

Her name is _____ and she presides in _____ County JP Court #1.

The matter I want to bring to your attention concerns a hearing (Case No. is D02010-_____ which took place on August 23, 2010 at 3:45 pm.

It was an IAH hearing in which the defendant (Mr. Gregory _____) was appealing an injunction granted by Judge _____ on July 9, 2010. My wife was the petitioner and I was a protected party.

We chose not to hire a lawyer and hence represented ourselves during the hearing.

Before I detail the events that took place I want to point out several problems with her decision which was issued on August 25, 2010:

1. In her decision she states in the section entitled STATEMENT OF THE CASE that the hearing took place on August 24. This is incorrect, it took place on August 23
2. Furthermore in the section entitled STATEMENT OF THE CASE she states that "Plaintiff was granted an ex parte Injunction Against Harassmen (sic) on July 9, 2010.
3. In her "Order" she states "The Injunction issued on July 7, 2010 is dismissed". The injunctions was issued on July 9, 2010

Clearly she, or her staff, have bungled the order as it cannot be left stand as sent out since it is factually incorrect and hence is invalid.

I will now cite the specific actions, rulings, etc by Judge _____

1. Mr _____ brought an attorney to represent him. Judge _____ asked if he was representing he said he was and she asked if he had filed a Notice of Appearance. He said no, but would hand write one out then and there. She allowed him to do this. It is my understanding that such paperwork needs to be filed prior to the hearing and all parties need to be notified.
2. Mr _____ (the lawyer) brought several items as exhibits which had not been previously disclosed, and Judge _____ allowed them to be entered into the record.
3. Two of the exhibits were newspaper articles which constitute hearsay and should not have been allowed.
4. Some of the quotes in the newspaper article were attributed to a spectator present in the court room. When we asked to call that person as a witness to verify or refute the authenticity of the statements, Judge _____ refused to allow him to be called to the stand.
5. After we made our opening statement, it was Mr. _____ turn. He began by stating he wanted to give a history of a number of events. We objected since the matter was dealing with specific

events, not a history of unrelated, distant events. Although she sustained this objection, Mr. [redacted] was able to enter into a long dissertation and cited many things that were factually untrue.

6. We then asked if we could present our side of the history, and clarify and correct the story that had just been presented, and she denied this since she did not want to hear the history and only wanted to deal with events specific to the matter at hand. **NOTE: The final sentence in her CONCLUSIONS OF LAW states "Given the history of the relationship....." So she used one side's history, which was factually incorrect, to base her decision on, and this is the concluding reason for dismissing the injunction.**
7. When Mr. [redacted] was questioning my wife, I raised an objection as to foundation. Judge [redacted] said "you cannot object you are not a lawyer". Since my wife was on the stand, and we were representing ourselves, it would be up to us to object.
8. Later in the hearing, Mr. [redacted] stood up and claimed I had mouthed something to him. This was false and Judge [redacted] then told me to leave the courtroom, even though I was one of the parties in the case. She never even asked me for my side of the event.
9. Additionally [redacted], Judge in Precinct #2, attended the hearing along with his fiancée Beth [redacted] who is still married to the defendant, [redacted] Mr. [redacted] has recused himself from all matters pertaining to us, but he still chose to attend. By being present, at a hearing at which he had no involvement in, has as such cast a possible ethical breach through his appearance and his relationship with Judge Maley.
10. Under Judge [redacted] PRINCIPLES OF LAW she cites A.R.S 12-1809 (R). However as was pointed out to her during the hearing ARS 13-2921 entitled Harassment; classification; definition states: A. A person commits harassment if, with intent or harass or with knowledge that the person is harassing another person, the person:

Surveils or causes another person to surveil a person for no legitimate purpose.

The fact that Mr. [redacted] was told to stop, the fact that he was videotaping us in our front yard as we were going about our own business was completely ignored by Judge [redacted] Mr. [redacted] knew he was harassing us, there was no legitimate purpose to videotape us in our yard, yet Judge [redacted] ignored this fact and ARS 13-2921.

11. Judge [redacted] states in point 3 of her FINDINGS OF FACT that "Plaintiff is not seen in the video tapes." This is factually incorrect, she chose not to see us in the video.
12. Mr. [redacted] argued that the videotaping was done to record Mr. [redacted] speed, and that was justification for his actions. None of the videos played in court showed his speedometer. When we asked to see the other tapes that had been made, our request was denied.

It was clear from the very start of the hearing that Judge [redacted] was in no way acting in an impartial manner. Mr. [redacted] was allowed to do whatever he wanted to do, to say what he wanted to say, etc. yet we were not. Such actions by a sitting Judge should not be allowed.

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I am asking you to investigate this matter fully. I will be happy to provide you with a CD of the hearing so you can not only hear the exact wording but also get the tone of the hearing. I think listening to the events that took place you will agree that this behavior is not appropriate for a sitting judge.

Thank you for your consideration,

A handwritten signature, possibly the initials 'A', written in black ink.