

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 10-351

Complainant: No. 1211110004A

Judge: No. 1211110004B

ORDER

The complainant alleged that the superior court lacked personal jurisdiction over him and, as a result, a superior court judge and a commissioner violated his rights by issuing rulings against him. The commission considered the allegations along with the online docket and minute entries and found no evidence of ethical misconduct on the part of the judge. The issues raised involve legal matters outside the jurisdiction of the commission. The complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: March 24, 2011.

FOR THE COMMISSION

/s/ Keith Stott

Executive Director

Copies of this order were mailed to the complainant and the judge on March 24, 2011.

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

CONFIDENTIAL

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

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2010-351

COMPLAINT AGAINST A JUDGE

Your Name:

Judge's Name:

Date: 12-01-10

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.

THE FACT THAT THE JUDICIAL COMMISSION HAS CONDONED OR SANCTIONED COMMISSIONER(S) TOBY GERST, CAROLYN PASSAMONTE, PRESIDING JUDGE(S) BARBARA MUNDRELL, ANNA BACA UNCONSTITUTIONAL STATE ACTIONS WHERE CLAIMANT WAS NOT PROPERLY SERVED WITH PETITION AND SUMMON, THE COURT LACKED PERSONAL JURISDICTION OVER CLAIMANT'S PERSON AND EXCEEDED ITS AUTHORITY TO CONDUCT AN ABSENTIA HEARING AND ENTERED AN ORDER OF CHILD SUPPORT WITHOUT DUE PROCESS OF LAW.

IN ADDITION TO, SUCH CONSTITUTED A VOID JUDGMENT. THEREFORE, JUDGE OF MARICOPA SUPERIOR COURT AND COMMISSIONER LACK JURISDICTION AND AUTHORITY TO DENY ALL OF CLAIMANT'S PLEADINGS NOTED IN THE COURT'S MINUTE ENTRIES DATED 11-01-10 AND 11-19-10, ATTACHED HERETO AS EXHIBIT(S) (A) AND (B). HENCE, CLAIMANT HAS STANDING TO LITIGATE A STATE AND FEDERAL CAUSE OF ACTION AGAINST THE JUDICIAL COMMISSION AND THE JUDGE(S) AND COMMISSIONER(S) THEREOF, IN THE STATE OF ARIZONA, MARICOPA COUNTY.

(Attach additional sheets as needed.)

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1501 W. Washington Street, Suite 229
Phoenix, Arizona 85007

2010-351

COMPLAINT AGAINST A JUDGE

Your Name: DOUGLAS ZOLNIERZ Judge's Name: COMMISSIONER JACKI IRELAND Date: 12-10-10

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.

IT IS THE CLAIMANT'S LEGAL CONTENTION(S); 1) THAT THE COMMISSIONER JACKI IRELAND EXCEEDED (HIS/HER) JURISDICTION WHERE THE COURT LACKED JURISDICTION OVER CLAIMANT'S PERSON TO ENTER AN ORDER TO DENY ALL OF CLAIMANT'S PLEADINGS, SPECIFICALLY DENYING MOTION TO SET ASIDE DEFAULT JUDGMENT AND ORDERS OF ASSIGNMENT AND MOTION FOR AN EVIDENTIARY HEARING, AND ORDER TO SHOW CAUSE. 2) THE FACT THAT THE PROCESS SERVER FALSIFIED THE RETURN SERVICE OF PROCESS AND COMMITTED AN ACT OF FRAUD UPON THE COURT, THE CLAIMANT HAS BEEN DENIED HIS DAY IN COURT WHERE COMMISSIONER TOBY GERST ENTERED A DEFAULT JUDGMENT AGAINST THE CLAIMANT AND CONDUCTED AN ABSENTIA HEARING. THE CLAIMANT'S INDEPENDENT ACTION ALLEGED THE DEPRIVATION OF HIS RIGHT TO BE HEARD AND RIGHT TO PETITION THE COURTS, AND RAISED A CONSTITUTIONAL TORT OF CONSPIRACY OF THOSE STATE AND JUDICIAL OFFICIALS WHO PARTICIPATED AND ACTED IN COLLUSION TO ABUSE THE PROCESS, THUS, ALLOWED THE PROCESS SERVER TO NOT PROPERLY SERVE THE CLAIMANT, AND COMMON-LAW TORT OF ABUSE OF THE PROCESS AND TORT OF CONVERSION WERE RAISED TO REDRESS CLAIMANT'S GRIEVANCES OR LEGAL CLAIMS AND ADJUDICATE THE MERIT OF THIS ILLEGAL PATERNITY ACTION. ACCORDING TO RULE 60(C) SUBSECTION (3) AND (4), OF THE ARIZONA RULES OF CIVIL PROCEDURE, SAID PROCEDURAL RULE ENTITLES THE CLAIMANT TO CONTEST THE FRAUD UPON THE COURT WHERE THE PROCESS SERVER FILED A FALSE RETURN SERVICE OF PROCESS

(Attach additional sheets as needed.)

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AND REQUEST EQUITABLE AND INJUNCTIVE RELIEF AS A MATTER OF LAW. HOWEVER, INSTEAD OF THE COMMISSIONER ACTING IN COMPLIANCE WITH THE ARIZONA CONSTITUTION, ARTICLE II SECTION(S) (3), (4), (5), (11), AND ARTICLE VI SECTION (14) SUBD (2), (3), (11), AND SECTION(S) (18), (21), AND BINDING PRECEDENT OF THE ARIZONA COURT OF APPEALS RULING IN MARTIN V. MARTIN, 182 ARIZ. 11, 893 P.2d 11 (Ct. App. 1994); THE COMMISSIONER SOUGHT TO NOT ADHERE TO ESTABLISHED LAW. IN MARTIN V. MARTIN, SUPRA, THE COURT OF APPEALS HELD "THAT WHEN A JUDGMENT IS VOID, THERE IS NO TIME LIMIT IN WHICH TO FILE A MOTION TO SET-ASIDE JUDGMENT FOR ABUSE OF THE PROCESS," AND FOR FRAUD UPON THE COURT.

THE COMMISSIONER ACTING CONTRARY TO CLEARLY ESTABLISHED LAW FURTHER SOUGHT TO ARBITRARILY DENY CLAIMANT OF HIS SUBSTANTIVE AND PROCEDURAL RIGHT TO PETITION THE COURTS, BE HEARD AND HAVE HIS DAY IN COURT TO REDRESS CLAIMANT'S GRIEVANCES WITHOUT DUE PROCESS OF LAW, AND SUMMARILY DISMISS CLAIMANT'S INDEPENDENT ACTION BROUGHT UNDER RULE 60(C) SUBSECTION(S) (3), (4), A.R.C.P., THAT CHALLENGED THE COURT'S LACK OF JURISDICTION OVER CLAIMANT'S PERSON AND DEFAULT JUDGMENT AS BEING VOID.

ALTHOUGH CLAIMANT'S MOTION TO SET-ASIDE JUDGMENT AND MOTION FOR EVIDENTIARY HEARING AND ORDER TO SHOW CAUSE

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RAISED CONSTITUTIONAL ISSUES THAT INVOLVED THE DEPRIVATION OF CLAIMANT'S FIRST AMENDMENT RIGHT TO PETITION THE COURTS, BE HEARD IN AN OPEN COURT TO REDRESS HIS GRIEVANCES, FIFTH AMENDMENT RIGHT TO NOT BE DEPRIVED OF PROPERTY, WITHOUT DUE PROCESS OF LAW, AND FOURTEENTH AMENDMENT RIGHT THAT PROHIBITS THE STATE FROM DEPRIVING ANY PERSON OF PROPERTY, WITHOUT DUE PROCESS OF LAW, AND DENYING ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAW SECURED UNDER THE U.S. CONSTITUTION; THE COMMISSIONER FAILED TO UPHOLD THE STATE AND FEDERAL CONSTITUTION AND THE LAWS OF THIS STATE, AND ALSO FAILED TO PROTECT THE CLAIMANT'S CONSTITUTIONAL RIGHTS GUARANTEED BY THE ARIZONA CONSTITUTION, ARTICLE II, SECTION(S) (3), (4), (5) AND CIVIL RIGHTS LAWS ENACTED OR PASSED BY THE U.S. CONGRESS NOTING THE ENFORCEMENT THEREOF.

THE FACTS AS ALLEGED HEREIN AND NOTED IN CLAIMANT'S LEGAL PLEADINGS SHOWS SUCH A WILLFUL MISCONDUCT WHILE ACTING IN THE CAPACITY OF COMMISSIONER, AND WILLFUL AND INTENTIONAL FAILURE TO PERFORM DUTIES IN AN IMPARTIAL AND UNBIAS MANNER, AND DELIBERATE FAILURE TO NOT ABIDE BY ESTABLISHED PRECEDENT OF MARTIN V. MARTIN, SUPRA, AND DARNELL V. DENTON, 137 ARIZ. 204, 669 P.2d 951 (Ct. App. 1983) "WHERE THE COURT OF APPEALS HELD THAT A VOID JUDGMENT

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MAY BE SET-ASIDE WITHOUT SUCH A SHOWING TO ENTITLE A LITIGANT TO RELIEF UNDER RULE 60(C) SUBD (1)(2)(3), A.R.C.P."

PRIOR TO THE SUBMISSION OF CLAIMANT'S LEGAL PLEADINGS THAT WERE SUPPOSELY REVIEWED BY THE COMMISSIONER, THE CLAIMANT'S SENT A "NOTICE OF CLAIM AGAINST THE STATE AND ITS AGENTS DATED 01-13-10 ADDRESSED TO THE RISK MANAGEMENT DIVISION, AND ALSO WROTE A COVER LETTER DATED 09-15-10 ADDRESSED TO MICHAEL K. JEANES, CLERK OF THE COURT, ADVISING EACH ENTITY ABOUT THE COURT FAILURE TO ADDRESS CLAIMANT'S COMMON-LAW TORT OF ABUSE OF THE PROCESS AND TORT OF CONVERSION, AND CONSTITUTIONAL TORTS GIVING RISE TO STATE AND FEDERAL CAUSE OF ACTION, AND AN INDEPENDENT ACTION TO CONTEST THE FRAUD UPON THE COURT AND THE COURT'S JURISDICTION OVER CLAIMANT'S PERSON. SEE EXHIBIT(S) (A) (B) (C).

THE PROFFERED DOCUMENTARY EVIDENCE CONSISTING AS SUCH AS EXHIBIT(S) (A)(B)(C) SHOWS THAT THE COMMISSIONER CONDUCT VIOLATED THE CODE OF JUDICIAL CONDUCT - GENERAL PRINCIPLES "THAT A JUDGE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE JUDICIARY AND SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY." FURTHER A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IM-

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PARTIALLY, COMPETENTLY, AND DILIGENTLY. SINCE THE PRESIDING JUDGE OF THE SUPERIOR COURT HAS FAILED TO EXERCISE SUCH ADMINISTRATIVE SUPERVISION OVER COMMISSIONERS AND PROVIDED NO PROCEDURAL SAFEGUARD AGAINST ANY OF THE COMMISSIONERS USURPATION OF POWER, THE CLAIMANT HEREBY REQUESTS THAT AN INVESTIGATION BE CONDUCTED AND DISCIPLINARY ACTIONS BE IMPOSED IN THIS MATTER.

THE UNETHICAL ACTS AS NOTED IN EXHIBIT (C) MINUTE ENTRY DATED 11-19-10 ATTACHED HERETO, THAT HAVE BEEN DEMONSTRATED BY THE COMMISSIONER'S JUDICIAL MISCONDUCT, MALFEASANCE, MISFEASANCE AND NON-FEASANCE SHOWS THAT THE COMMISSIONER'S JUDICIAL ACTION WAS PREJUDICIAL TO THE ADMINISTRATION OF JUSTICE. HENCE, THE CLAIMANT HAS MADE PRIMA FACIAL SHOWING THAT THE COMMISSIONER'S JUDICIAL CONDUCT TO ENTER A VOID JUDGMENT IS UNETHICAL, UNLAWFUL AND UNCONSTITUTIONAL, AND THAT THE COMMISSIONER ABUSED (HIS/HER) DISCRETION AND MISUSED (HIS/HER) AUTHORITY WHILE ACTING UNDER THE COLOR OF STATE LAW, THEREFORE THE CLAIMANT IS ENTITLED TO AN INVESTIGATION AND EQUITABLE RELIEF AS MATTER OF FACT AND LAW.

CLAIMANT FURTHER SAYTH NOT.

Douglas John Zolner
(12-10-10)

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