

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 12-026

Complainant: No. 1434510360A

Judge: No. 1434510360B

ORDER

The complainant alleged that a superior court judge failed to fully consider his position and rights in making a custody determination because of gender bias.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the judge engaged in conduct that violated the provisions of Article 6.1 of the Arizona Constitution or the Code of Judicial Conduct and, if so, to take appropriate disciplinary action. The purpose and authority of the commission is limited to this mission.

After reviewing the information provided by the complainant, along with electronic court records, the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. The commission does not have jurisdiction to investigate the legal sufficiency of the judge's ruling. Accordingly, the complaint is dismissed in its entirety pursuant to Rules 16(a) and 23.

Dated: March 5, 2012.

FOR THE COMMISSION

/s/ George Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on March 5, 2012.

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

COMPLAINT AGAINST A JUDGE**Your name:****Judge's name:****Date:** Jan 24, 2012**Case No:** FC2011-

Throughout this case, this Judge consistently showed a pattern of having prejudice towards the Father and displayed tendencies of having pre-conceived notion and stereotyping of the Indian culture as of the male being dominating/intimidating/controlling etc. This Judge seemed to have had made up her mind on the outcome of the case even before the trial started as can be observed in all her rulings. Even though the Judge agreed that the father was a loving and providing parent and was fully involved in the minor child's life and was the stable figure, she arbitrarily decided to put an unreasonably high weightage on the parenting conference provider's final report instead of looking at the big picture and awarded sole custody of the minor child to the mother.

1. Throughout the trial, this Judge showed great leniency or sided with the mother and her counsel when they time and again did not follow court procedure and/or fabricated or submitted false evidence or made unfair demands.
 - a. The Judge did not reprimand them when the opposing counsel submitted separate pre-trial statements a day before the trial hearing at 5pm even after the judge had ordered to not submit it.
 - b. The Judges sided with the mother's unfair visitation schedule of 1day/week and not agreeing to the equal and fair temporary parenting plan prepared by father before the final divorce trial leaving father with only 1 day/week visitation rights with his son during the duration of the trial. The father's pleading for at least 2 days/week as also met with opposition from the Judge.
 - c. By not following up with the mother's counsel when informed by father on multiple occasion that the evidence submitted by them was fabricated.
 - d. By not even allowing father to speak in court when he was not represented by counsel for the May 4th temp custody hearing.
 - e. By not reprimanding the mother and her counsel for using the police and court system to harass the father (procuring ex-parte temp custody order using falsified claims) throughout the divorce process
 - f. By not reprimanding the mother's counsel for their misconduct of excluding parts of email threads that fails to show the complete picture. It was noticed and brought to the attention of the court that the mother's counsel would send an entire email thread to father's counsel as copy of evidence being submitted but would actually submit only part of the email thread when actually submitting to court.
 - g. Just to delay the proceedings and take the focus of the court away from the issue at hand, the mother's counsel lied in open court during the temp custody hearing on May

4th by saying that the "mother does not speak English" even though the mother is a dentist by profession and has dental assisting and dental hygienist degrees. And then in the next trial, she takes the stand and speaks English fluently. But this Judge continued to ignore such blatant disregard for the sanctity of the oath by the mother's counsel which only encouraged them to continue such behavior and even up it a notch in all future proceedings of this divorce trial.

2. Father submits that this Judge was unfair and was prejudiced against the father and abused her discretionary powers when it only considered the interests of the mother and not the best interests of the minor child in issuing this ruling of giving sole custody to mother especially when the father had proved beyond any doubt that he is a very involved and loving and providing father and at the same time, the minor child is having issues with the mother ever since she has taken him away from his home and his father who was his primary care giver and now mother is seeking counseling for the minor child instead of accepting responsibility herself.
3. The Judge also considered the mother's testimony about "father being intimidating, aggressive and controlling" that was presented in court without any factual evidence. The only person that testified for the mother was her own mother who should NOT have even been considered as a reliable witness. At the same time, this Judge disregarded all factual evidence submitted by father along with witnesses (who are not directly related to father or mother) who testified about father's tremendous involvement in the minor child's life and mother's lack of the same.
4. In making her ruling that states that "the court does not believe that either parent is particularly supportive of the other's relationship", this Judge disregarded the fact that the Father has always wanted the minor child to have meaningful and quality relationship with both mother and father. Father stated this also in open court when he testified that he is open to Joint custody and his reasons for having the final decision making authority. Father's questionnaire submitted to parenting co-ordinator will testify to this fact. Father clearly explained to the court the reason for his putting the child on the order of protection against the mother because he was concerned about the mental state of the mother as he believed that she was depressed and suicidal and hence was gravely concerned that the minor child might come in harm's way.
5. This Judge not only ignored the fact that the minor child is not happy with the mother (mother testified that the minor child is being disrespectful to her) but twisted this fact to say that it is likely due to father's treatment of and comments about mother in front of the minor child. This opinion of this Judge is in fact contrary to all the factual and overwhelming evidence presented in court and is completely untrue because the mother herself testified in open court that the minor child started being disrespectful to her only after she left the house and took the child with her and father had no contact with the mother or the minor child. Father submits that such behavior of the minor child can be easily attributed to the fact that he was removed from his natural home and habitat where he has lived all his life and he was being forced to live in a strange new place with the mother who had never spend any quality time with him or had no idea on how to keep him occupied.
6. This Judge disregarded the evidence that mother was and is currently on medication for depression and anxiety about which mother herself testified to. This should have been one of the primary criteria in NOT even allowing final decision making authority to the mother let alone

providing sole custody to mother. Instead this judge in her ruling stated that the court is not aware of any significant mental or physical health issues.

7. The judge in her ruling played down the fact that mother got emergency custody order under false pretenses by stating that "the mother over-reacted". This incident was no over-reaction but a deliberate attempt by the mother and her counsel to prevent father from meeting his son as all the evidence submitted by the father clearly shows this fact.
8. This Judge disregarded the fact that the mother's counsel falsified and fabricated evidence and presented it in court even after father pointed it to the court. See evidence about an apparent Email from _____ on May 5th and April 17th.
9. This Judge disregarded the fact that the Father is well educated and an upstanding member of the community with great ties to the community and holds a decent and stable job for the last 13 years and has always provided for his family. He has worked for Intel as a Sr. Component Design Engineer for the last 8 years. He is also a stable figure in the minor child's life and the minor child is very attached to the father.
10. At the same time, this Judge disregarded all evidence of the fact that the mother has never been a stable force in the minor child's life and has never even been able to hold a permanent job even though she owns three different degrees in the dental profession.
11. This judge disregarded the testimony given by Father where he even explained the reason he waited so long to file for divorce was because he was concerned about the minor child's welfare.
12. This judge disregarded the fact that the father agreed to and is currently paying 3 times the legally required child support to mother. Before the Aug 24th evidentiary hearing, both father and mother's counsel had verbally reached an agreement of Joint custody with final decision making authority residing with Father and in return father agreeing to keep all the community debts and paying equalization fees and dividing his pension and stocks and at the same time not dividing any of mother's assets. But the mother's counsel again went back on their word on child custody in open court after they got all the financials taken care off in their favor as if they were sure that they were going to get a decision on custody in their favor.
13. This judge failed to comprehend or chose to ignore the fact that it is only natural that when one parent (in this case- the mother) is completely uninvolved in a minor child's life, the other parent (in this case – the father) usually over compensates to take care of the child's needs. The judge in her ruling states that "father's controlling behavior was apparent to the conference provider". Father had addressed this issue in the court about the unfortunate misunderstanding the parenting co-ordinator had when father was trying to explain to the mother what it meant for her when the mother said that she will leave the decision to keep or remove life support for the minor child to the doctor in charge instead of making it on her own. Also cultural differences have to be accounted for when making sweeping judgements that a person is aggressive or controlling or intimidating. In this multi-cultural America, some things that are normal for one person can very easily be mis-construed as rude by a person from another culture.

14. While father was able to prove using multiple evidence of his involvement in the minor child's life, mother could not provide a single evidence of her involvement in the child's life. But this judge states in her ruling that the perceived lack of involvement of the mother is attributed to the father taking charge of situation and imposing his will on her. This court arrived at this opinion without any factual evidence and just based on mother's self-serving allegations.
15. Father submits that he presented evidence at trial that demonstrated that Mother and/or her counsel engaged in misconduct that was calculated to deprive Father of parenting time with the minor child. Specifically, Father produced documentary evidence that Mother filed an *ex parte* Motion for Temporary Orders – that was granted by Judge _____ in Judge _____ absence – after it was fully known and proven that no emergency or danger to the minor child. Yet, instead of pulling back, or even voluntarily dismissing the same after learning of this information, Mother continued in her persistence of total denial of any parenting time to Father, and forced the issue to a hearing weeks later, at which time she withdrew her Motion in open Court. This Judge continued to allow this type of knowing, bad faith behavior in her court. Moreover, it raises significant concerns that a party who would engage in this (just one example of many) type of behavior to completely deny contact between parent and child, could be awarded *sole* legal custody by this Judge.
16. Father submits that this Judge is completely out of touch with the best interest of the minor child and is prejudiced against fathers and has pre-conceived ideas about fathers and other cultures (Indian culture in this case) in general as there seems no other reason for such a decision against a father who has studied and worked hard and lived all his life by the rules of the society and has provided for his family.

There is no justification for the ruling made by this judge as it defies all fairness and reasoning and the best interest of my son. Even drug addicts and criminals get some kind of legal custody of their children and I am this simple guy who has lived by the rules of society all my life and studied and worked hard and earned a decent living and paid my taxes and provided for my family and I was denied this basic right to call my son "my son" for no obvious reason. I am paying 3 times the legally required amount of child support to my ex-wife, I am a loving father to my son and would give my life for him if situation demands. This judge had the option of giving joint legal custody with final decision making residing with the mother. But she did not even consider that. She simply went too far with her ruling without realizing the damage she is causing to my son's life and mine. There is absolutely no justification for me not getting at least some form of legal custody especially when my ex-wife has so blatantly harassed me and kept me from seeing my son every opportunity she got and has never provided my son with her time.

There is something definitely not right here. An American court of law cannot be so wrong.

Sincerely,