

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 13-059

Judge:	No. 1463810622A
Complainant:	No. 1463810622B

ORDER

The complainant alleged a superior court judge was biased against him because he is male, has a self-acknowledged mental illness, and represented himself.

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 and several minute entry orders in the case, 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 review the legal sufficiency of the judge's rulings. Accordingly, the complaint is dismissed in its entirety pursuant to Rules 16(a) and 23.

Dated: April 19, 2013.

FOR THE COMMISSION

/s/ George Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on April 19, 2013.

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

COMPLAINT AGAINST JUDGE

December 10, 2012: I was facing the possibility of not seeing my son for the Christmas Holidays. The Mother had lied on a petition filed November 28, 2012 which stopped my visitation with my son. I was clear, direct and aggressive. I was professional, never raising my voice or doing something as inflammatory as making threats or using profanity or calling names. In fact, at one point the judge stated directly to me, "Don't interrupt me." My response was an apology and I completely abided by his directive. Judge [redacted] at one point called a Maricopa County Sheriff into the room because of my conduct. Nothing had occurred to warrant this response. This was a paranoid overreaction by the judge. My emotional quality to situation was in proportion to the reality of the situation. Clearly, Judge [redacted] had some kind of pre-conceived idea of the kind of person I was that affected his reaction to me. The fact is, between the two of us, I behaved more rationally than Judge [redacted] on December 10, 2012. Witnesses include

On November 5, 2012, the opposing attorney, [redacted] was far more aggressive than I was on December 10, 2012. At one point she approached the judge without permission even to the point of placing papers on his bench without his consent. The judge did not call in the Sherriff at that point. This was my first experience of the judge treating me differently than the other party. Witnesses include

December 10, 2012: The Judge had set two petitions for a hearing on July 22, 2013. My petition for an Order to Enforce the Parenting Plan and the Mother's petition to Modify the Parenting Plan. Because the hearing is set for 90 min the earliest available time was July 22, 2013. I requested the judge separate out the two petitions for the following reasons: One, because they have nothing to do with one another. Either the Mother is bringing the child as per the current Parenting Plan or she is not. Second, separating them out would substantially shorten the required time and lead to a hearing in January and not July. While making it clear that this could be done completely at his discretion, he refused. He gave no reason. This is the beginning of a pattern of ruling consistently against me. Witnesses include

I had filed the Order to Enforce in August of 2012 and for some reason this judge felt it reasonable I wait an entire year, until July 22, 2013, for a hearing.

November 5, 2012: The Mother requested in open court, via _____ that I sign HIPAA releases. This request was granted that I provide Mother's counsel with "behavioral health providers and pharmacies that have treated or diagnosed him, or provided medication within the last five (5) years." The Mother filed nothing. She simply asked for it. Witnesses include _____

On January 18, 2013, the Father made the exact same request of the Mother. This was done in open court. The Father's request was denied. He was instructed to file interrogatories. The two requests were identical. Once again, the judge was treating me differently than the Mother, i.e., with prejudice. Witnesses include _____

February 19, 2013: The judge issued an order, without a hearing, granting the Mother's Order to Compel regarding the Father's signing of HIPAA releases. He changed his position to include ALL providers, including primary care physicians. The Mother was required to provide no evidence that the Father's physical health is of issue in any way whatsoever. The judge just granted it to them. Once again, a pattern of granting the Mother almost all of what she asks for. And consistently ruling against me.

HIPAA exists to provide individuals with a level of privacy protection. This judge has provided me with none. None whatsoever. I signed mental health releases for the Mother providing them with prescription information, diagnosis, prognosis, treatment dates and compliance with treatment. The Mother requested that she have access to everything. She gave no proof of any kind that what was provided was not sufficient. She simply had to ask for more, and by more I mean EVERYTHING, and she got it. I interpreted the judge's order of November 5, 2012, moderately. This judge has interpreted the HIPAA law in the most wide-open manner possible. Once again, siding with the Mother and against me.

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February 27, 2013: Things regarding my HIPAA rights worsened. The Mother's counsel claimed, once again, that I had not signed all required HIPAA releases.

presented eight releases to be signed claiming I had not signed any of them. I pointed out to the judge I had signed four of them and had the evidence with me to prove it. Therefore, was presenting false information to the Court. The judge had no interest in my evidence of deceiving the Court. I have pointed out to the court no less than ten times that the Mother and have lied to the Court. This judge has done nothing to prevent that, even when I have the evidence right before him as I did in this instance. He has never admonished, warned, requested, disciplined the opposing counsel and/or the Mother once regarding being truthful. Witnesses include

February 27, 2013: I pointed out to the judge that four of the requested HIPAA releases by Mother's counsel were for physicians I had never seen. The judge ordered me to sign them claiming if I had never seen them I was protected because there was nothing to release. There has been no burden of proof applied to the Mother's counsel regarding what physicians I have seen or their relevance to the case. Once again, siding with the Mother and against me. A consistent pattern of prejudice against me is clearly being established. It is my position this judge has violated my HIPAA rights as granted under federal law. Witnesses include and

February 27, 2013: The judge allowed Ms. to go over allowed time of 25 minutes by approximately three minutes. When I was giving my self-testimony the judge cut me off at exactly 25 minutes and would not let me finish. Again, another example the preference showed to the attorney over me representing myself. Witnesses include

March 13, 2013: In a phone conference with the Court, the judge allowed Ms. to dominate 75% of the conference time while cutting me off. Once again, showing preference to the attorney over me representing myself. Witnesses include and

November 5, 2012: For the first time, the Father states the Mother is not bringing the child. He points out the Mother has brought the child for Father's parenting time exactly once in three months. The Father will continue to state this fact in following court appearances as well. This judge has never admonished the Mother to bring the child. This judge has never warned the Mother that not bringing the child as per the Parenting Plan could be illegal, i.e., access interference. This judge hasn't said a single word to the Mother, not once, regarding her moral and legal obligation to deliver the child to the Father as per the Parenting Plan. This is a consistent demonstration of how little this judge values the child's time with his Father.

February 27, 2013: The Father asked _____ if she had ever been instructed by the Mother to not deliver the child to the Father. Specifically, August 7, 2011. She stated yes. _____ was under oath. Once the Mother was sworn in the Father asked the Mother if she had ever instructed anyone in her family to not deliver the child to the Father. Specifically, August 7, 2011. She stated no. The Father asked the Mother to explain the contradiction. She could not. The Father pointed out to the judge that clearly, without question, either the Mother or _____ lied. Under oath. This judge said nothing regarding the perjury. He did nothing regarding the perjury. Once again, as he has done repeatedly with _____ he allows false statements and lying to go unchecked in his courtroom. Witnesses include _____

March 13, 2013: The Father had filed for a Change of Venue. In a phone conference the judge asked opposing counsel if she had any objection. Opposing counsel said, "I object." The judge denied my motion. Once again, the Mother and her counsel did not have to give any reason, none whatsoever, to get exactly what they wanted from the Court. I requested the counsel at least be required to file a response. The judge stated that would just cost them time and money. This judge has done nothing to save me my time and cost of filing responses. Once again, another example of the consistency with which the judge gives the Mother and her counsel preferential treatment.

February 27, 2013: The Father presented evidence and stated that the Mother had broken multiple laws. She had committed child abuse under the legal definition of Parental Alienation. She had hundreds of violations of the Parenting Plan. She had committed Access Interference. She violated the terms of sole custody by making "unilateral" decisions regarding the Father's parenting time in direct violation of the legal definition of sole custody. Finally, she no longer fulfilled the legal definition of sole

custody as the parent most likely to deliver the child for parenting time. Judge response was to set aside the issue of Parental Alienation. On the other four laws he refused to rule. When I asked him if it was his position that the Mother was not breaking the law he said, "You heard my ruling." No. I did not hear Judge ruling on those four matters because he did not rule on those four matters. This judge cannot even show me the professionalism of even bothering to rule against me. He just ignores me. Witnesses include

February 27, 2013: It is clear that it is Judge position that the Mother had not ever prevented the child from having contact with his Father as per the Parenting Plan. This is an idea this judge will not even consider. On this day, the judge ordered a therapeutic interventionist for the child and the Father. The Father requested the Mother attend. The judge refused. Once again, siding with the Mother and her attorney. It has been the Father's position that the Mother has demonstrated a pattern of intimidation and fear with the child to cause him to be afraid of her, not the Father, if he contacts his Father in anyway. Even though it is a fact that the child has spent over 95% of his time, since August of 2011, with the Mother this judge does not believe that during that amount of time the Mother has had any effect, of any kind, in any way, manner or form of how the child views his Father. Therefore, she is immune from any form of counseling. Witnesses include

February 27, 2013: The judge rejected every single one of my pieces of evidence. The judge allowed every single one of the opposing counsel's pieces of evidence. There is preference being shown here.

February 19, 2013: Judge issued an order stating, "Father shall disclose to Mother's counsel all health care (including mental health care) providers who have treated or diagnosed Father since January 1, 2008, and execute, and return to Mother's counsel, all HIPAA release forms that Mother's counsel has provided to Father (including any HIPAA release forms Mother's counsel provides to Father after her receipt of this minute entry). The list of health care providers shall include the full name of the provider, the provider's name and address, the date(s) the provider treated or diagnosed or treated Father, and a brief description of the services provided to Father. In executing the HIPAA releases, Father shall merely sign and date the releases and shall not otherwise alter the forms provided to him by Mother's counsel."

- a. January 18, 2013: The judge forcefully pointed out to the Father, and only to the Father, that there was a rule of law that provided for ten days to respond to communication between parties. In the order above, the judge gave me three days from the date of the order. I didn't even receive the order in the mail until the day it was due, i.e., February 22, 2013. That day was a Friday. It is as if the judge intentionally designed the order for me to fail. Why do I have to give the Mother's counsel ten days to respond to my request but I don't get ten days to respond to their request? Once again, the judge showed preference to the Mother's counsel.
- b. The judge changed his ruling from only mental health records (see November 5, 2012) to include all health care providers. He did this without the Mother even asking. He did this without allowing me to state a case for my privacy.
- c. He ordered me to sign the forms with no changes whatsoever. The Mother did not have to provide any proof of any form that she actually needed every scrap of paper associated with my records. To make matters worse, the Mother provide HIPAA forms with no expiration date. Which means when the litigation is over I must now contact every single health care provider and revoke my consent. This is a complete violation of the purpose and spirit of HIPAA. I believe it is also a direct violation of the law itself. This judge has provided me with no protection of privacy whatsoever under a law designed specifically for that purpose.

The following are the significant differences between the Mother and me:

1. **Mental Illness.** I have one. The Mother claims she does not. I believe she is hiding one but the judge has made it too difficult for me to access her records. It is my position that this is the number one factor in the judge's consistent prejudice towards me. He has a bias against individuals with a mental health diagnosis. This is the fourth judge assigned to our case and no other judge has reacted in nearly such a radical manner as this judge. Note how dramatically different he treat the attorney on November 5, 2012 and me on December 10, 20112.
2. **The Mother has an attorney.** I don't. This judge has shown remarkable preference towards the attorney as opposed to me who must appear pro per.
3. **Money.** This is a factor. I live on SSI only placing me below the federal poverty level. Because of this, I must represent myself. This should not be a significant

disadvantage. With this judge, it is. Because I could not afford a court reporter I was not allowed to depose the Mother. The judge could have ordered the Mother to accept a digital recording but he did not. Even though I asked. Finances have played a major role in this matter.

4. A willingness to lie. Lying is something that I find morally reprehensible. I won't do it. The Mother and her counsel will lie and have literally dozens of times. See February 27, 2013. In this court, lying is not discouraged, goes unpunished, and is actually rewarded.
5. Gender. The Mother is a woman. I am a male. Judge has a statistical anomaly of ruling in favor of women and against men. Look it up. I did.

This court claims to be concerned about "the best interests of the child." At best, that is sixth on the list of what is important in this matter. I don't believe it has actually ever been mentioned once in this court. What is important is not having completely diagnosable and controllable mental illness. What is important is being an attorney. What is important is having money and being a woman. What is important is having a willingness and ability to manipulate the truth and outright lie in court.

There is nothing in this court remotely resembling what is in the best interests of my son.

I have no confidence that I can possibly be treated fairly in this Court.