

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 06-128

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Complainant: No. 1285900139A

Judge: No. 1285900139B

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**ORDER**

A review of the complaint filed in this matter reveals that the issues raised are solely legal or appellate in nature and do not involve ethical misconduct. Whether a judge erred in awarding attorney's fees is a factual question that falls outside the commission's jurisdiction. The other allegations, including those regarding the interpretation of child support guidelines, are also legal in nature.

The commission is not an appellate court and cannot change a judge's decisions; therefore, the complaint is dismissed pursuant to Rule 16(a).

Amended July 12, 2006.

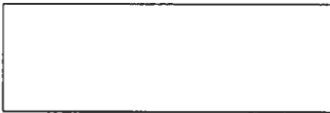
FOR THE COMMISSION

/s/ Keith Stott  
Executive Director

Copies of this order were mailed to the complainant and the judge on July 12, 2006.

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

May 10, 2006



Commission on Judicial Conduct  
1501 West Washington Street, Suite 229  
Phoenix, AZ 85007

**CJC-06-128**

Re:



Dear Commissioners:

My name is [redacted] I have two children, [redacted] whom lives with me and my daughter [redacted] whom lives with her mother in [redacted] I relocated to Arizona from [redacted] to be closer to my daughter [redacted] I am the Respondent in the above mentioned case.

My complaint is against Judge [redacted] County Superior Judge. I believe the Judge abused his power as a Superior Court Judge as his ruling in my case was unfair, potentially bias and not consistent with the Arizona Child Support Guidelines. Additionally, the Judge deviated from the Arizona Child Support Guidelines without stating his reason(s) in the order. The Arizona Child Support Guidelines state that the Judge may make deviations as long as the reasons are approved by the Supreme Court.

**Background**

My case was domesticated to [redacted] County from [redacted] in [redacted] Since [redacted] I have been tied up in litigation trying to determine what amount of child support I should be paying in Arizona. An evidentiary hearing was held in [redacted] in front of Judge [redacted] in [redacted] over a year since the original filing. The reason for the evidentiary hearing and the significant time between the domestication and evidentiary hearing was largely due to the Petitioner refusing to provide documentation that demonstrated her income. The unreasonableness of the Petitioner in this case is the main reason the litigation took so long to obtain a ruling. At the hearing, both party's presented evidence as to their earnings and what the Child Support should be set at. It should be noted that Petitioners calculations were incorrect and my attorney pointed the errors out to both the Judge and the Petitioners attorney. The errors made were the number of months in the calculations that made my income seem higher than it actually was. Petitioners attorney did acknowledge the errors. The errors were again mentioned in a Motion for Reconsideration and again in Respondents Reply to Petitioners Response to Motion for Reconsideration, attached herein.

The Petitioners calculations also indicated that my income was based on my current gross salary, presumed bonuses, and an automobile allowance. We argued, consistent with the Arizona Child Support Guidelines, that bonuses should not be considered unless there is a reoccurring pattern for at least two years and because there was not history of recurring amounts. Additionally, we argued that the automobile allowance is a reimbursement for utilizing my personal vehicle for company use. I am required to use my own vehicle for company business. We provided evidence in the form of mileage logs kept for use during tax season, that demonstrated the amount of mileage driven for company business times the amount allowable by the Federal Government is far greater than the benefit received. Consistent with the Arizona Child Support Guidelines, there is no benefit and therefore should not be considered as income. Under the Petitioners scenario, the presumed bonuses and the automobile allowance would add an additional [redacted] to my gross income, but is inconsistent with the Arizona Child Support Guidelines.

On [redacted] months after the case was domesticated to Arizona, we received the new Order of child support which included the additional [redacted] added to my gross income. My biggest issues with the order are the following:

1. Increase child support from [redacted] to [redacted] which resulted in arrears in the amount of [redacted]
2. Pay for the other party's attorney's fees and costs of approximately \$5800.
3. Excuse the Petitioner from approximately [redacted] in past due medical expenses owed to me.
4. Pay for medical insurance provided by Petitioner.

Argument

With respect to Item 1 above, the income used was not what I bring home as earnings and not consistent with the Arizona Child Support Guidelines. Inflating my income to over [redacted] per month unjustly enriched Petitioner and was unfair and potentially bias. The amount of child support ordered is unfair, especially considering that I have one of the minor children living with me. The arrears would not have occurred if the child support was set at a reasonable amount consistent with the Guidelines.

With respect to Item 2 above, I was more than reasonable providing documentation required during the discovery period of this case. Petitioner flat refused to provide requested information that would demonstrate her true earnings. In fact, we just learned in [redacted] that Petitioner had been employed by the [redacted] since [redacted] nearly a year later. She did not disclose that. We argued that there would have been no litigation at all had Petitioner just presented the information requested and advised of her employment with the [redacted] Ordering me to pay for attorney's fees when it was Petitioners behavior that caused the excessive attorney's fees is seemingly bias, unfair and unjustly enriches Petitioner at my expense.

With respect to Item 3 above, prior to [redacted] I had incurred approximately [redacted] in uncovered medical expenses. Petitioner was responsible for half of all uncovered medical expensed for the minor children under the previous [redacted] order or approximately [redacted] Petitioner was presented invoices as the expenses were incurred and she was ordered to pay me or the provider within 30 days of the receipt. She flatly refused to reimburse all of her portion of uncovered medical expenses or roughly [redacted] The balance was well over 500 days past due. The Judge ruled that I did not meet my burden of proof for the expenses even though he had all of the receipts and invoices as part of the evidence. Petitioner even acknowledged the expenses, but claimed that some of the expenses were not covered by the insurance providers. The original orders were clear and reiterated to both the Judge and apposing counsel – she was responsible for her portion of the expenses "whether or not covered by insurance". Releasing Petitioner from her responsibility to pay her portion of uncovered medical expenses is unfair, and unjustly burdens me. We felt that Petitioner was in contempt for not abiding by the previous courts orders. For some reason the Judge did not which is seemingly bias.

With respect to Item 4 above, I already provide insurance for my children. I also have two step children that I provide insurance for on the same policy. Ordering me to pay for Petitioners medical insurance when I already pay for a policy for the children causes me an unnecessary financial burden. It will not reduce my cost for medical insurance to drop my children from my policy as the family care plan is the same cost whether you have two children or 4 children. Ordering me to pay for Petitioners medical insurance was unfair and unjustly burdens me.

With our dissatisfaction of the [redacted] order, we filed for a Motion of Reconsideration which went to the Court in [redacted] Judge [redacted] almost immediately denied it, again without any reason for doing so. It is unconscionable to me that Arizona judges are allowed to behave and rule in such a manner that is completely inconsistent with the rules, laws and guidelines established to follow.

I have looked into the possibility of taking the matter to the appellate court, but have determined that the cost is too great for me. The bottom line is that if the [redacted] Court ruled fairly, I would not have had to consider the appellate court as a remedy for the complete and total biased decision by Judge [redacted] nor would I be wasting our time with this letter or this complaint.

I trusted that the Judge [redacted] to rule in a fair and unbiased manner that was consistent with the Arizona Child Support Guidelines. I am broken and have little faith in the Arizona court system. I encourage you to review and carefully look into this matter as the steward of judicial conduct. You should have an opportunity to see for yourself just how a [redacted] Judge is ruling and how it affects the people who trust these individuals to do what is fair. I believe you may consider this matter seemingly appellate in nature, but it is clear to me that we are not talking about a difference of opinion. Had the Judge offered his reasons for deviating from the Arizona Child Support Guidelines, I believe that may be an appellate matter. The Judges ruling would appear to be without merit as it does not state what his reasons are for deviating from the Guidelines and bias in that he awarded attorney's fees to the Petitioner when it was her behavior that caused the litigation in the first place. Why would he do such a thing if he was not abusing his power as a Superior Court Judge? I am passionate about the way the way my case was handled by Judge [redacted] I feel like I have been penalized for a crime I did not commit. Please call me at [redacted] my cell, if you have any questions.

Thank you for your consideration

[Redacted signature area]