

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 06-139

Complainant: No. 1286610638A

Judge: No. 1286610638B

ORDER

A review of the complaint filed in this matter reveals that the issues raised are solely legal or appellate in nature.

The commission is not a court of law. It cannot reevaluate the evidence or testimony introduced during a trial and cannot reverse or change a judge's decision.

The complaint is dismissed pursuant to Rule 16(a).

Dated: June 13, 2006.

FOR THE COMMISSION

/s/ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on June 13, 2006.

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



Issue: Order of Protection was dismissed on [redacted]

CJC-06-139

Order of Protection was applied for and given on [redacted] to [redacted]

[redacted] This Order provided for the following:

No contact from ex-spouse in any manner including electronically; EXCEPT for access to their one minor child.

Ex-spouse to not have access to [redacted] house or work places [redacted]
[redacted]

Ex-spouse was to voluntarily turn in within 24 hours his guns to the City of [redacted] Police Dept after being served the Order of Protection.

The judge issuing the Order of Protection did so upon receiving the application and hearing testimony from [redacted] He obviously felt that there was reason to extend the Order.

During the court proceedings on [redacted] the ex-spouse was questioned and did not deny that he had been involved, as stated, in the original incidents listed in the application for the Order of Protection made by [redacted]

He also testified, when questioned, as to turning in his guns per the Order of Protection that he did have guns but did not turn them in. He instead testified that he was told by the sheriffs, when served with the Order, that he was told he did not have to turn in the guns to the City of [redacted] as the order stated. He was asked a second time what the order stated and the ex-spouse verified he knew what the Order had stated but that he was told that he didn't need to turn in the guns. The Sheriff's Office was contacted and the officer that was spoken with, when told about the Order of Protection including the turning in of guns, stated that if the Order specifically calls for the turning in of weapons within a certain amount of time that the sheriffs serving the order would not advise anyone not to do so.

There was also testimony provided demonstrating acts of domestic violence including:

[redacted] and additional witness testimony that the ex-spouse had threatened to go [redacted] and to get [redacted] fired during this past year. The ex-spouse said he couldn't recall doing that.

[redacted] and additional witness testimony that the ex-spouse had threatened to break down the door at the cabin to gain access and did not care if [redacted] and the minor child were present or not.

[redacted]

CJC-06-139

There were numerous additional incidents included in the testimony as well.

Domestic violence is characterized as either or both verbal as well as physical violence. [redacted] and additional witness testimony was provided that her ex-spouse had threatened to "get her", "take her down", etc. on several occasions including the one on [redacted] that prompted [redacted] in petitioning the court for the Order of Protection.

Domestic violence is about having power and control over another person. The above threats were trying to do just that—have the power and control over [redacted]

The defense given to all of the above was that a box was checked on the divorce papers indicating that **no significant domestic violence had occurred** during the time of the marriage dissolution. And I did **check that box to keep the peace/harmony** and get the divorce finalized for the sake of the minor child and my parents who are not in the best health and in their 80's. The ex-spouse tried to bring them into the divorce proceedings by putting them on his witness list to testify about their finances. But, when on [redacted] [redacted] after the divorce was finalized on [redacted] the ex-spouse again made a threat to "come and get me" I decided **enough was enough**. The ex-spouse had found out he was being investigated by the [redacted] police dept. for a felony for withdrawing money from my personal account in [redacted] I had filed a complaint after trying to ask him for the money to be returned and he said **no—that he hadn't taken the money, couldn't have made a mistake...but as soon as he heard from the loan company that a loan payment had been made from my personal account; and that he was under investigation he called and told me "that he was going to get me."** He stated in court however, that he had just made a mistake about **withdrawing the money**.

In court I testified first and testified to **ONLY** issues dealing with the domestic violence incidents as did the **other witnesses that testified to corroborate** my testimony. The ex-spouse then testified and **was allowed to provide a character** assignment and other testimony that had nothing to do with the Order of Protection. I don't believe this was fair or provided anything but a lopsided view that was **not** pertaining to my feeling scared or threatened by the ex-spouse.

If anything, the Order should have been left as is to provide the assurance that the verbal and possibly physical threats would not happen at [redacted] house or workplace.

The ex-spouse was in violation of the Order when he testified that he did not turn in his guns to the City of [redacted] Police Dept. and shouldn't that have shown the court enough reason to NOT dismiss the Order as he doesn't feel that the laws are about him.

What about the woman who was just shot the other day at her workplace by her ex-spouse and then the ex-spouse went and shot her parents as well... all happened right in broad daylight in the middle of the day. Didn't she have the right to be safe? That's all

[redacted]

CJC-0.6-139

[redacted] was asking for—to be able to feel safe and secure in her own home and at work.
Nothing more, nothing less.

What is wrong about leaving the Order in place? I believe that the judge/commissioner as soon as she heard that the ex-spouse had not turned in his guns should have found the ex-spouse in violation of the order and left the Order as written no matter what the other testimony was. There was more than enough evidence that the ex-spouse had made threats and was abusive in his attitude and dealings with [redacted] to gain control and have power—all incidents are evidence of domestic violence.