

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 06-197

Complainant: No. 1291600408A

Judge: No. 1291600408B

ORDER

The commission reviewed the complaint filed in this matter and found no ethical misconduct on the part of the judge.

The complaint is dismissed pursuant to Rules 16(a) and 23(a).

Dated: November 3, 2006.

FOR THE COMMISSION

/s/ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on November 3, 2006.

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

Complaint Against A Judge

Your name: [] Judge's name: [] Date: July 10, 2006

I believe Judge [] has failed in his duties to be a fair and impartial arbiter of facts and law for the resolution of disputes in the dissolution of my marriage and in the resolution of equitable parenting time with my children. He has shown a clear bias in all of his rulings and continually based decisions on facts not presented while ignoring clear evidence of contempt from the opposing party. As my attorney advised me, any one ruling could be considered discretion of the Judge, but due to the numerous and continuous adverse findings he has demonstrated a clear bias and disregard for the basic canon of impartiality in his court room.

1. In Judge [] first minute order of [] Judge [] ruled that he could find no finding of contempt based on presented information. The record will show that respondent testified that she had not reimbursed me for any expenses for sports or music lessons ever. Claimed that their was a verbal agreement, not in the order, that we would each pay for the children's activities at our own residence. No evidence was provided to support the claim. The previous court order was that both parents pay for 50% of all medical and activity costs. Very little activity occurred at the respondents residence due the minimal time they spent there. His action vacated the legal court order that was in place for [] years and absolved the respondent from paying thousands in expenses she was legally bound to pay.
2. In the Ruling of [] in a preliminary hearing for temporary orders pending a divorce, Judge [] stated " She has demonstrated financial need" the transcript will show that she demonstrated no financial need, she stated she wanted it, Judge [] refused to allow us to present any information showing that she did not qualify. He further goes on to state that she is unable to provide a home for herself, ignoring the fact that we informed the court that she was building a home we estimated to be worth close to [] had signed a contract over 6 months earlier, had spent considerably more than [] on new custom furniture and was living with her parents rent free while this home was being built. The record will indicate that we also provided evidence that the Petitioner also had in excess of [] in her bank account. This statement alone shows the complete lack of truthfulness in his findings and the lack of attention to the facts presented. In the same [] ruling Judge [] goes to great lengths to insure Petitioner has the time she wants with our child forcing me to work around her schedule weekly ignoring or compromising by giving me the same rights around my work schedule. His ruling would be impossible for any reasonable person to find. It put me in a position of being told weekly when my times would be. How is this fair and impartial.

LAPC

3. In Judge [] notice of [] Judge [] finds that a parent that moves away from her children not once but twice has the right to essentially all vacation time with the children. He awarded the absent parent all breaks and the all Christmas's. I received 5 days at the beginning of the Christmas break or at the end, which would never include Christmas day, and 1 week out of 8 weeks for the summer. Essentially eliminating my ability to do family vacation skiing, an activity my children love. This is so far outside the Arizona guidelines that my attorney indicate that she could not come close to explaining it. A child psychologist who worked for the supreme court indicated that she had never seen such an award and indicated that it was extremely important that the primary parent have more than just the time with the children during the hectic school year. When I requested a reconsideration, he indicated "if the Petitioner wishes to give up the drudgery of his time with the children" I could give up custody. The state guidelines provide for both parents to have quality time. Judge [] then goes onto making the bold decision that both parents are not financially responsible for their children. It is ok for one not to work to be able to fully enjoy their time with the children. How many fathers would like to have that decision. He further goes onto to threaten me by saying "he could take judicial notice, of the rampant appreciation of real property values in [] He wants to predict what I will make to reduce her obligation while absolving her of any obligation. Again, I am told this is unheard of. I wish I could not work and maximize my time nurturing the children. If anything I need the time to help them with their homework, cook their meals and deal with their emotional and health issues. I work full time to provide a good living for my children and the parent who chose to move away, gets all the times when the children have no obligations, and gets rewarded for being what fathers get called as deadbeats! No where in the Arizona guidelines does it even come close to suggesting this type of skewed arrangement. Judge [] has used the guidelines for a non-custodial parent, living in close proximity and awarded the parent all the time possible due to their personal choice to move. To add insult, I am then ordered to pay travel expenses, she is waived of her responsibility for deductibles for health care, and then he voids her responsibility for a contract for her to pay 50% of the cost of braces for the kids. He then again ignores that she violate the original court order that required her to pay 50% of all medical and kids activities saying their was not proof of the expenses. Her own sworn statement was that she never reimbursed me for any activities the kids were involved in.
4. His [] reconsideration states that I have the weekends and further stated that quality of life for the children is enchanced more by quality time with a parent than by the "trips and toys" that adults need for quality time. What parent does not enjoy time with their children away from work and house and weekend homework. What family memory book is not filled with pictures of family vacations and what parent is not more relaxed when they are not having to clean the house grocery shop and spend most of the weekend preparing for the next week and catching up on house chores from the previous week. Family vacations

are the only time you can spend just playing with your children with no distractions. He further goes on to threaten to reverse my custody if want to give up the drudgery of my time with the children. Again a direct insult to the joy I have in being the sole provider and only parent the children have ever or could ever depend on to be there every day of their lives. He then further states that the mother would loose most of her parenting time if she worked as a reason not to hold her financially responsible for an equitable financial share of having children. This is inconsistent with the state guidelines and is an insult to every working parent in the country including myself. It further goes to show a clear bias toward me.

5. In a court ruling of [redacted] Judge [redacted] in a contempt case Judge [redacted] found that it is alright for a parent to violate an agreement once since in his opinion there was no harm. I presented significant information on the impact this action on a major Christmas event that was impacted the children tremendously. He defends his actions by stating that the agreement was not clear, even though the intent was presented by numerous counsel communications and was indisputable. My attorney has indicated that his ruling was clearly to avoid finding her in contempt and charging her for attorney's fee's. Contempt is contempt. This action shows continued bias of me in his court. I further testified that petitioner indicated that she would continue her actions until court ordered not to. We presented significant evidence both to her knowledge and to the significant detail in correspondence that was prior to the final agreement to preclude her actions. Again all this information was ignored and Judge [redacted] provided his own accounting of what the facts were. The court transcripts will verify his lack of supporting data.

6. In the court ruling of [redacted] in a reconsideration of the contempt finding Judge [redacted] goes on to define what contempt is. Even though all evidence supported his definition of contempt, as can be seen by the transcript. He then states that the decree did not contain a "first refusal" clause because I "did not accede to Petitioners request". We spent weeks and months negotiating a final agreement. Judge [redacted] implies an onerous one on me in numerous hearings that I should just have complied with all wishes of the Petitioner. Clearly Judge [redacted] feels that women have superior rights and men should just bow to all and any demands. This language supports complete bias in treating both parties in a fair and impartial manner. In the same ruling Judge [redacted] goes to great lengths to defend actions due to the decree clearly not stating the action was not prohibited. A decree would have to be 500 pages long to cover every possible situation. There was more than sufficient communication presented to show all intentions of the final agreement. It is the courts "DUTY" to apply a reasonability factor in evaluating actions of the parties. Judge [redacted] has indicated that unless it is absolutely indisputable prohibited by the language in the decree it cannot be contempt. Again the Judges duty to provide a non-bias determination and to expect the parties to adhere to the intent of the decree is lost. Not lost, just not expected of the petitioner, the woman in this case.

7. In his [redacted] ruling he ignored the fact presented that the agreement called for delivery of the items listed to be delivered a week before the hearing of dissolution. The list was provided after the agreed upon date and after statements in the court that respondent only wanted a few small personal items returned. The list provided after the date contained major household items that would have been worked out prior to an agreement finalized. Judge [redacted] ignored these facts in his ruling. Judge [redacted] also ignored the basic tenant of law by allowing respondent to keep a valuable gift to me during marriage, a [redacted]. He finds that I did not provide significant burden of proof. I indicated it was a gift, the Petitioner never once responded or made any indication that it was not a gift. Judge [redacted] made a ruling that was in direct opposition to the Arizona Supreme Court guidelines that indicate a gift is not community property. His ruling of that it is just a purchase, which created it not being a separate property item, is based not upon statements or evidence provide to the court. It is clearly an arbitrary and capricious finding to support the Petitioners malicious taking of separate property. Judge [redacted] goes on to expound that the Petitioner made numerous attempts to make a partial payment of a substantial sum of money in not finding the Petitioner in contempt. The evidence presented clearly showed that the Petitioner made 1 attempt to make a significantly reduced payment, that was presented as a take it or leave it offer. The final dissolution provide for no such negotiation, it was a clear pay by this date. No evidence of any further payment was ever presented or received. Again showing considerable bias toward me and rewarding the petitioner with unjust enrichment for keeping money for 6 months, realizing considerable interest on the money. In addition this cost me considerable amount of attorneys fees. By considering only the petitioners information, ignoring the facts of the agreement and not finding the petitioner in contempt Judge [redacted] again justified not charging the petitioner for my attorneys fees. He goes on to indicate that I was at fault for not giving the petitioner everything she requested without any consideration for all the things that she might have already taken. He formed an opinion based solely on what the petitioner requested without any evidence or further information about the complete separation of property. He even puts in his motion that "if not in complete performance of her request". Judge [redacted] then finds that I failed to perform on my part. No evidence was presented in court that I did not meet my full obligation. The petitioner paid some property taxes on property she was to receive, and I agreed to pay half of, and then during the final negotiation it was found, due to an error in the clearing house assignment of my wage, that I owed approximately [redacted] more in child support. This brought a total to less than [redacted]. The petitioner and attorney agreed to deduct this from the amount to be paid to me. This compared to [redacted] that was held back from me for 6 months. I am dumbfounded with the logic. The petitioner never once made any indication that I was in anyway trying to withhold payment. So I would challenge any indication on the record that I admitted to not performing. It is an out right lie and just another attempt to justify the continued bias he has shown.

I no longer understand the purpose of a court order. Judge [redacted] absolved none conformance, finds any reason to support contempt. My attorney has indicated that she will never represent a male in front of Judge [redacted] I would encourage you to call her for her impression. I would also ask that you obtain the court transcripts for all the hearings, to ascertain the amount of information provided that was ignored for rulings based clearly on personnel belief and bias toward me. According to Canon 3 of the Arizona Code of Judicial Conduct - 1993, "A judge shall perform the duties of judicial office impartially and diligently". I believe his numerous findings clearly indicate a lack of impartiality and that he has failed in his duties and has eroded public confidence in his ability to provide fair and sound decisions. I implore the Judicial review board to review the transcripts from not only my hearing's but also to examine other cases that he has ruled on, to ascertain his impartiality in similar cases. I have been in contact with one citizen in town who experienced the same lack of impartiality and attention to facts and sound legal decisions. We were both told we could appeal. As a citizen I should not have to spend [redacted] to appeal decisions of a judge who is bound to uphold the law and provide impartial and fair decisions. At a minimum Judge [redacted] has severely abused his discretion intentionally and repeatedly, and caused me harm in his decisions.

Thank you for your consideration in this matter.