

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 08-026

Complainant: No. 1327710321A

Judge: No. 1327710321B

ORDER

The commission reviewed the complaint filed in this matter, as well as the court file, and found no ethical misconduct on the part of the judge.

The commission is not an appellate court and cannot change a judge's decisions; therefore, the complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: June 30, 2008.

FOR THE COMMISSION

\s\ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on June 30, 2008.

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

January 28, 2008

E. Keith Stott, Jr., Executive Director
Commission on Judicial Conduct
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Phoenix, AZ 85007
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JAN 31 2008

Dear Executive Director E. Keith Stott, Jr.,

This letter is written on behalf of _____ by herself and her deeply concerned family members. _____ has been trapped in a ruinous divorce suit initiated by her spouse (the petitioner), _____ The presiding judge in this case is _____ We have been repeatedly perplexed and dismayed by this judge's actions and rulings in this case, and have appealed to three state authorities to date to seek an external review of Judge _____ conduct. Judge _____ was one of these authorities. He has refused to intervene in this case. We have also contacted the office of Senator _____, who has yet to formally respond to _____ plea for assistance. _____ position is now desperate. We believe that she has been unfairly placed in this position due to _____ inappropriate and biased conduct.

We ask that the Commission on Judicial Conduct consider as soon as possible a formal review of the complete trial record in this case, in order to determine whether _____ has acted inappropriately and should be removed as the presiding judge. We also humbly request that you consider the circumstances of _____ current financial and emotional position, as her ability to maintain her physical well-being and her home will soon be lost due to _____ handling of this trial process. The _____ trial has inexplicably been extended now beyond two full years, and there is presently no prospect for a resolution. In fact, little meaningful progress has been made. We contend that _____ has had the ability to quickly and fairly conclude this suit for well over a year, but has unaccountably failed to do so.

The following points are among the most grievous in our extensive list of complaints regarding Judge _____ handling of this trial. **Please consider our request**, as _____ is now wholly at the mercy of a legal procedure over which she has no control, within which she has received no satisfaction, and which seems to be a process designed solely to drain the last cent from her already impoverished retirement funds. She has no hope for her independent future at present, unless this commission is able to ensure that she receives fair treatment and a speedy resolution to this trial.

1. _____ ordered both parties to submit documentation of all finances, including income tax records, wages, and living situation costs. _____ has done this three times; but _____ has never to date been made by this judge to comply with this order. He has consequently supplied no financial information of use to the court for fairly concluding this trial.

(We believe that _____ currently earns an annual salary of approximately _____ He works for the _____)

2. based and set the present financial spousal allowance paid by then-outdated tax form found and supplied to the court by To date this spousal allowance has never been corrected or updated. The amount which is currently paid by does not adequately cover her basic (and court-ordered) housing expenses, even after her Social Security Medicare and monthly disability benefits are added to the spousal allowance. Their health insurance and mortgage payments are both consequently in arrears. is also presently petitioning the court to end his ordered payment of the monthly spousal allowance. If this is permitted, then will lose her ability to maintain her health and home.

(currently receives disability benefits monthly and receives Medicare benefits from Social Security. She is presently 63 years old. She has health insurance coverage—now in danger of lapsing—which helps to cover her prescriptions, but this coverage will end six months after the divorce. Her only source of medical coverage will then be Medicare, since her many years of illness make it impossible for her to obtain any private health insurance at a reasonable cost. In addition to monthly health insurance payments, also pays about \$130 per month in co-payments for prescriptions.)

3. The family house in which lives currently has a broken water main which insurance will not cover, since it was improperly installed by . The cost estimate to repair this water main is \$3000. Though this should have been addressed immediately, as there is a constant risk of freezing and consequent water shut-off to the house, has not permitted a review of this situation and has ordered nothing to correct the problem.

(Two building reports have been paid for by and submitted to court; these reports document the extensive damage to the home done by and the unsafe, unfinished conditions in which is currently living. Please take the time to read these reports. has apparently ignored them, just as he has ignored unnecessarily difficult living conditions and her health concerns.)

4. has ordered a retrial of 12-year established medical disability in the divorce court. We believe that this violates her rights to medical privacy. was declared unable to work by a federal agency (Social Security) in 2000. Before that date, she was declared disabled by her private employer in 1995. In an effort to overturn these rulings, has ordered to surrender twelve years of her private medical records to this court to be read and judged by non-medical and non-qualified people, i.e., a "vocational counselor" and lawyers.

Despite her reservations, has provided the court-ordered proof of her disability and inability to work from the Social Security administration numerous times to this court. She has also complied with all of Judge orders in regard to this issue, despite the fact that potential to return to work must be considered extremely limited. Aside from her aforementioned physical disability, she is now 63 years old (and was 61 when the trial began). This age factor should have been taken into consideration by , but was not. Furthermore, has allowed the disability retrial process to continue for one full year. The resulting legal costs have been especially damaging to who is on a very limited income. This questionable process and resulting extension is mortgaging her future.

Compensation Inquiry: We believe that lawyer, took this case in with full knowledge that had a Federal Social Security disability, which is beyond the jurisdiction of a local divorce court judge to retry (as has been repeatedly informed by Social Security). Thus, seems to have taken the case under false pretences and should perhaps be required to return legal fees in relation to this action, if it is judged inappropriate by the commission. Furthermore, lawyer, has unquestioningly responded to all of demands and Judge orders regarding the disability issue, without attempting to protect rights in the least. His non-objections and compliance have contributed greatly to the cost of legal fees. () We feel that both lawyers and Judge should have been fully aware of the inappropriateness of these actions. We therefore request consideration of compensation to for the unnecessary costs and delay which this has caused.

5. _____ has allowed all of his life insurance to lapse during these two years of court proceedings.
Judge _____ has never addressed this issue.

There are many other wrongs in this case in addition to those enumerated above. These are merely the points which we feel warrant a review of _____ conduct in this trial. We humbly ask that the Commission on Judicial Conduct obtain and examine the trial files. In view of our grievances, we also ask that you consider replacing _____ with a more competent judge who will hopefully bring these proceedings to a swift and fair end for both parties. Time is essential to _____ who is suffering at present and believes that she will inevitably lose her financial independence as a result of the continuance of this proceeding. Her next trial date is currently set for _____ though it is uncertain whether this date will be upheld. The last trial date was scheduled for a day in _____ but that session was postponed three days prior to the meeting due to Judge _____ personally initiated request for still more medical information from _____ This action alone has led to a six month delay.

Thank you very much for considering our complaints and concerns.

With our sincere gratitude,