

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 08-104

Complainant: No. 1333610613A

Judge: No. 1333610613B

ORDER

The commission reviewed the complaint filed in this matter and determined that the judge did not knowingly violate the ethical canons. Accordingly, the commission voted to issue a private comment to the judge and to dismiss the case.

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

Dated: December 12, 2008.

FOR THE COMMISSION

 \s\ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on December 12, 2008.

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

April 24, 2008

State of Arizona
E. Keith Stott, Jr., Executive Director
Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
Phoenix, AZ 85007

CJC-08-104

Dear Mr. Stott:

This is a formal written complaint against Judge [redacted] She has been the appointed judge on my Family court case since [redacted]. Since she took over the case, many instances have occurred where it is very apparent that she has based her decisions upon her own personal beliefs and did not base it upon the appropriate application of the law. There have also been several instances where she has not issued a prompt ruling (14 months and 2 motions have never been ruled on that are 1 – 2 years old). Furthermore, some of her rulings reflect that her findings were not based upon ethical and legal analysis of all exhibits submitted.

Below are several issues referring to the above:

1.) I filed a Notice of Change of Judge – Judge [redacted] neglected to address this until a hearing on [redacted] – 14 months after it was filed! At that time, Judge [redacted] addressed this Notice in court and I declined it at that time, however she also “let the record reflect” that I “still retained my right to a change of judicial officer in the future”.

[redacted], I filed a Notice to Change Judge and Judge [redacted] denied it. I filed a Motion to Reconsider and she denied it. She contradicted what she said in court on [redacted] she lead me to believe that I would continue to retain my right to a change of judicial officer. Had she acknowledged the Notice to Change Judge when it was originally filed 14 months prior, she would not have even presided over our case. Her failure and neglect has affected me tremendously.

2.) MINUTE ENTRY RULING: She ruled that I was in contempt for the following, “Petitioner is in contempt for failing to timely reimburse the funds she borrowed from the child’s trust account”

FACT: Please see attached exhibit. The [redacted] statement specifically states that the funds were a “renewed deposit”. That does NOT mean that it had just been deposited, it was a Time CD that rolled over at maturity. I filed a Motion to reconsider, attaching the exhibit once again, and she completely ignored it. Therefore, she erroneously found me in contempt and I suffered financially from her error.

3.) Petitioner is in contempt for relocating the children to Texas without first consulting the Respondent and/or seeking the permission of the court”.

FACT: The Respondent lives in the state of [redacted] and always has. Our divorce took place in [redacted] in [redacted]. There is nothing in our parenting plan that states either party has to seek permission from the other parent to move anywhere. I moved from [redacted] to Arizona after the divorce. Furthermore, under A.R.S. 25-408(B) “If by written agreement or court order both parents are entitled to custody or parenting time AND both parents reside in the state, at least sixty days’ advance notice shall be provided to the other parent before a parent may relocate...”. This statute does not apply to us, therefore, she found me in contempt for something that didn’t apply to our situation, per our parenting plan AND the A.R.S. I have suffered financial damage due to her error, as well. Father was awarded attorney fees for these contempt charges, even though I provided factual proof that I was NOT in contempt.

4.) HEARING : My minor child, [redacted], was present at court to testify. Judge [redacted] ordered that she leave the courtroom. She further informed me that for [redacted] to testify at the Trial on [redacted], I needed to file a Motion for [redacted] to testify on [redacted].

FACTS: Judge [redacted] did not answer my Motion for [redacted] to testify until right before the trial on [redacted] (5 days before court, therefore we didn’t know until we were at the trial). My daughter was then refused her right to testify during the Custody trial and Judge [redacted].

contradicted her instructions from the hearing . This caused tremendous emotional harm to as she wanted so desperately to speak to the Judge at this trial. Even though we did exactly what she instructed us to do, she went against her own instructions and denied us once again.

- 5.) Judge granted me Sole Custody and Father did not receive any specific parenting time. MINUTE ENTRY

Judge states, "The court did not find that Father is a threat to the minor child". MINUTE ENTRY Even though there are an extreme number of 911 calls to the police for domestic violence, numerous trips to the hospital for domestic violence, numerous orders of protection against Father, affidavits from the children avowing to Fathers abusive actions and their fear of him, a founded CPS case against Father for raping my oldest daughter.

Judge ordered that Father's name be added to the minor child's bank accounts MINUTE ENTRY

- Neither party requested this. By Father's name being added to the minor child's bank accounts, that would give Father access to everyone's bank accounts in this house – all members bank accounts of the same household are linked together. This would violate everyone's private matters. Judge also ordered our address protected and by Father having access to the bank accounts, he would have access to our address. Additionally, who is 17 years old, submitted an affidavit stating that she does not want him on her accounts. Furthermore, I have sole custody of and Father does not have any visitation rights, we have been divorced for 11 ½ years and Father has never been on any of the children's accounts in the past. Judge contradicts many of her orders.

- 6.) MINUTE ENTRY : Judge states: "It is further ordered denying Father's Petition for Contempt".

FACT: Judge still ordered me to reimburse Father \$1,000 for attorney fees. Based upon all applicable laws: A.R.S. §25-503 (E), 25-403.8, 25-414, 25-408 and 25-324, the Respondent was NOT entitled to an award of attorney fees. Yet, Judge still gave him the award, as usual. My attorney filed the necessary documents for reconsideration, but she denied all of that, as usual. I feel as though no matter what transpires, Judge will always award him attorney fees. There appears to be an egregious financial disparity in Judge sanctions and decisions as evidenced by her rulings.

- 7.) MINUTE ENTRY: She ruled TWICE. She filed an Order on regarding this issue and then filed the exact same order on on this issue. I think this also shows that she is not keeping things straight in this case.

- 8.) We were in court again on She made a couple of comments during the hearing about my winning sole custody and "this is how I wanted it" and that I "took the kids away from him". Those comments were completely out of line, were not based upon her previous rulings for sole custody and address protection and showed that she is holding that over my head, I believe based upon her own personal beliefs. No matter what kind of proof I confront her with, she will always find a way to sanction me. She awarded Father more attorney fees and gave me 30 days to pay. I told her in court that I could not afford to pay it. And, that is when she threw out the comments about me taking the kids from Father and this is how I wanted it. I told her that sole custody has no bearing on the financial resources of each parent. Additionally, her comments about me having sole custody had no bearing on that hearing and that shows that she is holding that over me and is making me pay for winning custody by sanctioning me with attorney fees over and over again.

- 9.) In court on she gave me 1 business day to add Father to bank accounts. Even though we have been divorced for 11 ½ years, Father has never been on the accounts, does not want him on her accounts, I have sole custody, we have address protection, we have a current order of protection against Father. Putting him on her bank accounts completely goes against all of that. I told her that I can't do it because I have to protect my children and myself. She also stated in her minute entry that I "had the ability to meet the requirements of the court's orders, but has willfully failed and refused". I told her that I do not have the money to pay the attorney fees. She has failed to take into consideration the financial resources of both parties. She has failed to view the fact that Father's parents

pay the attorney fees for him. I explained to her that I went in the hospital for surgery and suffered severe complications from it and have serious financial medical obligations from that and have suffered financial loss from not being able to work from that. She refused to listen to any of it. She is 100% biased against me, I believe, and is punishing me for getting sole custody of my children.

The following is a brief Recap:

- She did not address the Notice to Change Judge until 14 months later.
- She let the record reflect that I retained my right to a change of judicial officer and then recanted her words.
- She let the record reflect that we were to go through mediation in the future and not through her courtroom. She has recanted on that order every time thereafter.
- She found me in contempt several times for issues that I had 100% positive proof that I was not in contempt.
- She has awarded the Respondent attorney fees without following the specific guidelines under A.R.S. 25-324. I even pointed that out to her in court and she ignored that fact. She has never acknowledged the great disparity of financial resources between the parties, per A.R.S. 25-324. She has failed to take into consideration that Father does not pay the attorney fees, his parents do, per the attorney bills submitted. Under 17B A.R.S. Rules Fam.Law Proc., Rule 91, **S. Attorneys' Fees, Costs, and Expenses.** In any post-decree/post-judgment proceeding in which an award of attorneys' fees, costs, and expenses is an issue, both parties shall file a completed Affidavit of Financial Information. If sought by the applicant, the Affidavit of Financial Information shall be filed with the petition and served upon the opposing party along with a blank copy of an Affidavit of Financial Information. The opposing party shall respond by filing a completed Affidavit of Financial Information that shall be provided to the applicant's attorney, or if unrepresented, to the applicant, as soon as possible after service but in no event less than three (3) judicial days prior to the scheduled hearing, unless another specific time is ordered by the court. If the opposing party initiates a request for attorneys' fees, costs, and expenses, a completed Affidavit of Financial Information shall be filed with the court and served upon the applicant's attorney or, if unrepresented, the applicant within five (5) ~~business~~ days after service and the applicant shall respond by filing a completed Affidavit of Financial Information to be provided to the opposing party's attorney, or if unrepresented, the opposing party, not less than three (3) ~~business~~ days prior to the scheduled hearing, unless another specific time is ordered by the court. These guidelines have never been followed and she is not enforcing the legal guidelines.
- She gave me specific instructions to allow my daughter to testify in court and then when we had the trial, she recanted her words again.
- She awarded me sole custody of my daughter and awarded us address protection, but then orders me to put the father on the child's bank accounts. That is very contradictory of sole custody and address protection.
- She has ruled/submitted minute entries twice on 3 separate occasions, which blatantly shows she is not well organized and has some confusion as to what she has and has not done with this case.
- On one minute entry she stated that father was not a threat and then orders our address protection because father is a threat. Complete contradiction.
- On 2 separate occasions, 2 different motions were filed that she still, to this day, has not acknowledged.
 - Motion for Instructions
 - Motion to Extend Time to Respond to Family Court Conference Center Status Report

I believe it is quite apparent that Judge has continually contradicted many of her own orders in this case. I do not believe that I have in the past or can in the future obtain a fair and impartial hearing conducted by Judge She is either very biased against me or is, perhaps, bringing her own personal beliefs into this courtroom. I also believe that as long as she continues to be on this case, she will turn deaf ears to anything I bring into the courtroom and the safety of myself and my children are in jeopardy. Lastly, what I believe are her personal beliefs has caused a lot of financial harm to me.