

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 08-147

Complainant: No. 1336510658A

Judge: No. 1336510658B

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.

Dated: September 10, 2008.

FOR THE COMMISSION

 \s\ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on September 10, 2008.

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

CJC - 08 - 147
Letter

To: State of Arizona Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
Phoenix, AZ 85007

Date: Thursday, June 05, 2008 at 9:45:50 AM

Office: **Fax:**
Attn: Complaint Department

Commission of Judicial Conduct,

Although there are many issues that warrant complaint regarding the manner in which this case has been ruled upon however, that will have to wait until this much more urgent matter is resolved

The following is to serve as the substantive elements of my complaint against Judge _____ for his conduct regarding his ruling on an Ex-parte Motion To Continue a Hearing for an Order To Appear and Show Cause For regarding the Civil Contempt of Court on the part of the Petitioner in this case are specifically as follows:

I filed a Motion To Provide Immediate Medical Care for my son _____ A hearing was scheduled on _____ at which time Judge _____ provided a detailed ruling to determine the medical needs of my son _____. This ruling provided in addition to a specific list of requirements that the Petitioner was ordered to comply with a return hearing was scheduled

Over the weeks that followed _____ I notified the Court (Judge _____) of the Petitioner's failure to comply with his orders as they were given during the hearing and as outlined within the written ruling of the Minute Entry _____. These notices were for the most part addressed at the _____ hearing where the Petitioner was found to be in contempt of court and offered a specific remedy to purge herself of this contempt issue. When the Petitioner failed yet again to comply with Judge _____ orders and/or the requirements to purge herself of the contempt of court _____ I notified the Court by and filed a Motion on _____ which outlined the specifics of the Petitioner continued failure to comply and/or purge herself of the contempt of court.

In response to the Motion/Notice that I filed _____ Judge _____ ruled that good cause was shown and that the matter be set for hearing on _____ and this is where the real issue of my complaint begins.

All of the above information has been necessary to give proper perspective of the situation surrounding the main issue.

On the morning of the hearing _____ I was notified of a continuance of the hearing scheduled for _____ was being continued _____ The Motion that was filed

by the Petitioner was faxed from what appears to be her home

What is not clear is to whom the document was faxed and/or if the time in the header was time and/or Arizona time. Regardless of this act is the importance of the fabric of the Motion itself, which are as follows:

1. The Motion was not filed with the Clerk of the Court as required by the rules of the Court.
2. I was not proved a copy of this Motion/Request by the Petitioner and I was not offered the opportunity to object to the continuance of this important issue that pertains to the proper medical care of my son . Instead Judge ruled on the motion, which amounts to nothing more than ex-parte communication and continued the hearing of this medical care issue for almost an additional two months further placing my son 's healthy development at further risk.
3. The Court upon my return call informed me that they can in the case of an emergency hear a motion without it being filed with the Clerk as long as the Filing Party follows up with filing of the emergency motion with the Clerk of the Court. However, the important part of this argument is that this was not an emergency that prevented the Petitioner from appearing telephonically as the Petitioner's husband was certainly capable of securing transportation home from active duty while residing on base. The Army has several persons returning from active duty that do not have spouses serving as transportation and they manage to get them home on what I am sure is a daily basis. Additionally, this Motion/Request was never filed with the Clerk as of the date of this letter. I cannot find anywhere in the Rules of the Civil Procedure and/or Family Law Procedure where a motion of this type (non-emergency) can be ruled upon ex-parte.

The most offensive part of Judge ruling to continue the hearing is not the fact that the Petitioner was allowed to violate most of the Court's rules for the filing of motions, it was not the fact that I had to miss a day of work to only have my time wasted, it was not the fact that I was not even given the consideration of a phone call when this was sent to Judge without being filed with the Clerk's office. No, the most offensive part is that the Court decided that it was more important that the Petitioner's husband not have to wait at the airport for a short time to determine the medical needs of my son

That the Court did not even take into consideration my son's needs over the unimportant needs of the Petitioner's husband. The Court did not even evaluate the Motion/Request filed by the Petitioner to determine that the time difference alone would have made a continuance unnecessary as the Petitioner clearly states that her Husband is returning when the hearing was scheduled for . Nor did the Court consider the fact that the Petitioner was actually lying to the Court as she has done on so many other occasions.

4. The Court acted in bad-faith and in violation of its obligation to insure the protection of the children of this case under Arizona Revised Statute Title 25 - Marital and Domestic Relations.

CJC-08-147

All other issues with this case are and/or will be handled in the proper manner but I felt that this was such a blatant violation of the needs of this child and the rules of the court that it should be brought to your office's attention.

All the information that I have provided above can be verified through the Court's records with the exception of the ex parte Motion/request filed by the Petitioner of which I have included a copy for your review. This document was provide to me via Judge outbox upon my request, after the Judge's ruling in favor of said motion.

Delivered Via: Mail