

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 08-184

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Complainant: No. 1275410743A

Judge: No. 1275410743B

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**ORDER**

The commission reviewed the complaint filed in this matter and found no ethical misconduct on the part of the judge. The issues raised involve legal determinations made by the judge. The commission is not a court and cannot review evidence to determine whether or not a judge's interpretation of a statute is correct. Therefore, the complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: August 27, 2008

FOR THE COMMISSION

   /s\ Keith Stott  
Executive Director

Copies of this order were mailed to the complainant and the judge on August 27, 2008

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

July 24, 2008

*I am filing this complaint against Judge pro tem \_\_\_\_\_ for his numerous violations of the Judicial Code of Conduct. I am not asking you to change his decision. I know that is not within the Commission's capabilities.*

*I am asking the Commission to reprimand \_\_\_\_\_ for his violations.*

*I will give specific examples of his violations of the Codes of Conduct.*

*Synopsis: \_\_\_\_\_ I went to my ex-wife's house. When I arrived I saw my 8 y/o Grandson, \_\_\_\_\_ outside. We played outside for about 20 minutes and then walked 1 block to the \_\_\_\_\_ store. While returning home, \_\_\_\_\_ boyfriend drove up and picked up \_\_\_\_\_ I went to my ex-wife's house and drove home. This took about 8 minutes. When I got in my house, there was a message from my ex saying "Thanks, I hope you got your wish. I'm not allowed to see \_\_\_\_\_ anymore. Don't ever talk to me again." The next day, I called CPS and asked if they do Welfare Checks. They don't. They told me the police do. I called the police and asked for a Welfare Check to be done on my Grandson. I was concerned about his welfare, because his mother, \_\_\_\_\_ has a history of Domestic Violence and Assault. She is living with an ex convict who spent 3 years in prison for Aggravated Assault. A week later, \_\_\_\_\_ filed an Order of Protection against me. I requested a hearing and this is testimony from that hearing.*

*From the Guidelines for obtaining an Order of Protection:*

*"Also, you must state how an act of domestic violence was threatened or committed against you within the last year."*

*For an Injunction against Harassment, ( I/H ):*

*"the Defendant has committed a series of acts (more than one) of harassment against you in the last year."*

*\_\_\_\_\_ failed to meet the requirements for either situation.*

*Judge pro tem, DID NOT follow the guidelines of the law.*

*This is a violation of Canon 2, Avoiding Impropriety, specifically, " Actual improprieties*

*under this standard include violations of law, COURT RULES, or other .....*

*2 charges for the Order are*

- 1. called the police, saying she abused her son.*
- 2. had unwanted contact with her son, my Grandson*

*At the beginning of the hearing, Judge pro tem said:*

*For the order to remain in effect, the Plaintiff, had to tip the scales slightly in her favor with a "preponderance of evidence."*

*The following are direct quotes from testimony:*

- 1. The next day, the police showed up at my house wanting to check abuse had called them and said I physically abuse*
- 2. There have been a lot of false reports made to CPS about me and also to the police Dept., you know, accusations saying that I abuse*
- 3. I also have the police statement, um, you know, just like, saying that he did call in and did say I did abuse.*
- 4. I asked "If I understood you correctly, the police told you that I said you physically abuse ?"*

*..."uh huh"*

*mother testified that:*

- 1. She heard on her scanner that "the police were coming to do a Welfare check on a child that was being abused"*
- 2. And while the police were there, they let her know that "it was who reported the abuse."*

*All 6 statements allege that I called the police to report was abusing*

**CJC -08 - 184**

*All 6 statements are false. They lied under oath to the Judge. This is PERJURY.*

*As I said, I called CPS and asked if they do Welfare Checks. They DON'T. They told me "the police do, call the police."*

**CPS DOES NOT DO WELFARE CHECKS. THE POLICE DO.**

*I told the Judge that I had a taped phone conversation with CPS and the Police Dept. and I could show him that I NEVER mentioned the words Child Abuse to CPS or the police. He said he would take my word on it.*

*They accused me 6 times during the hearing of reporting her for child abuse.*

*If the Judge "took my word on it", why didn't he question and her mother about their statements. Why didn't he make them provide evidence ? I am not responsible for proving my innocence, but I was able to.*

*This is a violation of Canon 2 again, concerning the judge's "ability to carry out the judicial responsibilities with integrity, impartiality, and competence."*

*I am accusing Judge of lacking integrity , competence, and impartiality.*

*AFTER THE HEARING, I called the police Dept. to see what their policy was concerning reports of child abuse. This is that conversation:*

*Police Dept, Dispatcher*

*Yes, can you tell me what the procedure is for reporting child abuse ?*

*We have a Child Abuse hotline number you can call.*

*Do the police do anything ?,,,or do I just call the hotline ?*

*You would call the hotline.*

*She then gave me the hotline number...  
This is CPS's hotline number. It spells out*

**THE POLICE DO NOT RESPOND TO CHILD ABUSE CALLS.**

*6 times, and her mother accused me of reporting abuse to the police.*

6 times, and her mother committed Perjury.

6 times, Judge allowed this.

I am also accusing Judge pro tem of being partial in his questioning.

Here is an example of how the Judge questions

Judge Now you say CPS reports have been made against you

Yes

Judge And you're alleging made those reports

Yes, and I also have sent off a request for those reports, I couldn't get them to you because it takes longer than the time that I had.

Judge I understand that. When was the most recent CPS report ?

It was

Judge So it hasn't been in the past year ?

No, but the police have been this year.

The Judge could have asked how many reports were made by but the way he asked his question , a yes answer would make it appear that I made all of them.

Then she says she sent off for the reports, but hasn't had enough time to get them. The judge asks when the most recent report was, and she says

If the most recent report is from ALL the reports are outside the 1 YEAR requirement for protective orders and I/H.

The Judge notices, correctly, that they haven't been within the last year, but FAILS to say they can NOT be used for this protective order. Another violation of Canon 2, "violations of court rules...."

AND, does the Judge really believe it takes 2 years to get a CPS report?

Its CPS policy to have a report ready WITHIN 24 HOURS of the investigation. committed PERJURY again.





Heard on her police scanner..."the police were coming to do a welfare check on a child that was being abused".

The police, he, (Officer ), said was kinda wasting both our times."

Judge When the police came, they told you that made the report ?

Uh, No, they didn't at first, because as soon as he walked in and I heard it, I already told them I knew who it was, because she, had told me the day before that had and was walking back from with him, and she was very upset So I, um, knew it was him, right away. So then when we started talking, I started telling him about reports that he had done before, he said yes, it was him and that he was wasting our time.

Again, The police DO NOT respond to child abuse calls.

The police DO welfare checks. If I said anything about child abuse, the police would NOT be going to "check on a child that was being abused."

is lying. is committing Perjury.  
If Judge listened to the tape, he would know I didn't say child abuse

But the Judge says nothing. No questions. Perjury is disregarded.

When says " Uh, No, they didn't at first", why didn't the Judge explore that answer a bit more ?

Because the Judge is partial. He's looking for support for charges against me.

A violation of Code 2, " A judge shall be impartial.....

After the hearing, I spoke with Ofc. , and this is his version of the incident.

Hello, is this

Yes, it is.

Hello, this is Ofc. . Okay, we didn't do a report, the only thing we did was go over there and check the health and welfare of the child. That's all we did.

Okay.

We didn't take any further action there to insure that the child was okay.



*Okay, but you didn't mention to her that this was a waste of time, did you ?*

*It's hard to say what was mentioned, it's been quite a while. We deal with hundreds of different issues. I doubt that was said.*

*Okay.*

*I mean, they may have said it, I don't know. But I can't recall if we said it.*

*Alright, but that isn't something that would typically be said to somebody, the kids are alright so I guess the person who called in was just wasting our time ?*

*No, that's not what would have been said.*

*Well, okay. Thank you Ofc.*

*So this is the testimony concerning the 1st charge;*

*I called the police and said she was abusing*

*Remember, the police DO NOT respond to child abuse calls.*

*The charge is false and and her mother committed perjury.  
Was the Judge capable and competent enough to comprehend the testimony ?*

*The Judge could have dismissed the Order at this point if he could distinguish truth from perjury, or if he followed COURT RULES.  
These are violations of Canon 3 and Canon 2.*

*Now, I'll provide another example of his partiality, violating Canons 2 and 3.*

*is live in boyfriend. He spent 3 years in prison for Aggravated Assault. I asked him one question.*

*Approximately 2 years ago, a day before 6th birthday, did you see smack him and knock him into a door ?*

*um, no.*

*No further questions*

Am I being....Judge IMMEDIATELY interupts and says

Judge "There's no questions, there's no questions pending, you have no questions to answer, you may step down."

There are 3 problems here. Apparently, was concerned about his answer ( I only asked 1 question) and may have wanted to modify it. Was trying to avoid perjury ? He didn't get the chance.

The bigger problem is the appearance of impropriety and partiality.

Judge is being partial to case. answer could have added credence to my charge that can be violent. As I found out later, she didn't smack in the head. She punched him in the head.

The 3rd problem with Judge conduct here is one of PARTIALITY. The Judge allowed and her mother to repeatedly accuse me of saying things to the Police and CPS, in fact, he even encouraged them to do so. Apparently, if they have something damaging to say about me, he allows them to do it. If, there's a chance of something damaging to case, he immediately stops the testimony.

And, again, he's acting more like an attorney for than a judge.

Judge will do this again during the hearing.

Now Judge will stop me from saying something damaging about

I just asked about him seeing smack and knock him into a door. It was my ex-wife who put ice on the lumps on head. This is a day before his 6th birthday that this happened.

Judge Now is this something you saw yourself?

No, I didn't see that happen.

Judge I can't let you talk about what someone else told you happened if you didn't see it. I didn't allow them to do that either.

YES HE DID.

He allowed and her mother to repeatedly say I told the police and CPS that she abused

This brings into question the use of ex parte communications.

THIS IS A VIOLATION OF IMPROPRIETY AND IMPARTIALITY, Canons 2 and 3

my grandson, told me. I was playing with him on his 6th birthday, at my ex-wife's house. I rubbed his head and he said "ouch". I said what's the matter ? He said I have lumps on my head" I asked, " How did you get the lumps on your head ?" He said, " Mommy hit me". So I asked my ex-wife about that and she said " no, fell into a door". It was 6 months later that I found out that it was, in fact, that smacked him and knocked him into a door, leaving lumps on his head. So I know she is capable of being very explosive like that and this is why I called CPS and asked them, "Do you do welfare checks?"

The last part of this sentence is important. The judge will purposely misquote me later.

THE SECOND CHARGE: Unwanted contact with

From opening statements

His Grandma is aware that is not allowed to see

I called and asked her what was doing with She told me she didn't know that he had been with him. So I told her, um, you know, I knew she was lying, of course, she said she didn't know, she was stuttering, so I got mad and had some words with her, um, I told her she wouldn't be allowed to see either, if she continued to let see

From these 2 statements, 3 things stand out concerning unwanted contact

- 1. Grandma is aware that is not to see
- 2. "She (Grandma) told me she didn't know he had been with him."
- 3. "she (Grandma) said she didn't know."

Now, does say is aware that he's not allowed to see NO

And twice, says Grandma DIDNT know was with Grampa.

So where is the "preponderance of evidence" of unwanted contact ?

The Judge probably realizes hasn't proved " unwanted contact". So, the Judge will help her out.

Another example of PARTIALITY in questioning me, violating Canon 2

Judge I have a couple questions,  
You're the grandfather of correct?

Yes

Judge And you've been prohibited by the mother from seeing him ?

Occasionally, she files injunctions against me

Judge I understand, but you're prohibited from seeing is that true ?

( Notice how he is trying to put words in my mouth ? )

Yes, currently, there are no injunctions or orders

Judge I don't mean that, I mean she's the parent, she's saying you can't see  
her son

okay, yes

Judge You're telling the court that on you did take him down  
to the store?

He, requested, he asked if we could go down to the store. So I  
said yes.

Judge OK. And you know that you weren't supposed to be contacting him

She has never said anything to my face about not seeing

Judge A moment ago I asked if you knew you weren't supposed to be  
seeing him if you didn't have permission from the mother.

Well, she has probably said that to my ex-wife.

Notice how the Judge is questioning me ? Is he a judge or attorney ?

Why didn't he question about her statements?

Why didn't the Judge question about his answer ?

Why didn't the Judge let finish his answer ?

Why didn't the Judge question this way ?

Why not ask if she told me not to see

He knows she didn't, earlier said

1. Grandma is aware that is not to see
2. "She (Grandma) told me she didn't know he had been with him."
3. "she (Grandma) said she didn't know."

The 2 Charges:      1. Child Abuse reports to the police  
                                 2. Unwanted contact

Now this is Judge      **FIRST** decision.

Judge      The evidence speaks for itself that you made a complaint to the police. You testified the reason you did it was that he got some bumps on his head some time before.

Its clear to the court that you made that report based on the fact that you were angry about what happened the day before

The Judge is saying two things:

1. The reason I complained to the police was that got some bumps on his head some time before and
2. I made the report based on what happened the day before.

While it would be helpful to know what the Judge is trying to say, it doesn't matter.

I NEVER testified that I complained about the lumps on his head.  
I NEVER said I was angry.

How can the Judge say " the evidence speaks for itself" and " It's clear to the court" . Where is his competence in obtaining, comprehending, and remembering testimony ? He is unable to "Perform the duties of the Judicial Office Impartially and Diligently." A violation of Canon 3

Actually, what the testimony CLEARLY states is:

Judge      And you are saying you did call the police to do a welfare check  
                                 Yes

Judge      And as I understand your testimony, that was based on something that happened to      2 years before

# CJC -08 - 184

No. Not based on that, but on my knowledge that she is aggressive and violent at times.

Judge My question is, it was the incident with Jaden on the next day you asked the police to go over and check

(Then why did he say "based on something that happened to 2 years before"?)

Yes

Judge What was the cause of that ?

Mostly because of what she said to my ex-wife.

In my previous testimony, I said "So I know she is capable of being very explosive like that and this is why I called CPS and asked them, "Do you do welfare checks?" Then I called the police.

Judge I have no further questions.

Can Judge remember testimony ?

Can Judge comprehend testimony ?

Is Judge allowed to make up or falsify testimony ?

Is this Judge competent or capable enough to perform the duties of the Judicial Office ?

Am I supposed to have confidence in his ability to perform the duties of the Judicial Office ?

The Judge also accuses me of being angry. Is he clairvoyant ?

Perhaps he didn't hear testimony,

so I got MAD and had some words with her ( Grandma)

I told her she wouldn't be allowed to see either,

I YELLED at my son for wanting to take him for a walk.

And mother added:

had and was walking back from with him,  
and she was VERY UPSET.

Now the Judge makes his **SECOND** decision.

Now can you refresh my memory, I don't understand why she makes 2 charges that I said this or that to the police dept or CPS, I can prove I didn't, and yet you want to keep this I/H in force ?

Judge I didn't make my decision based upon what you just said, I made my decision based upon the fact that you had unwanted contact with your grandson, and the very next day you called the police and had a welfare check based on something that happened sometime before. I'm not making my decision based on anything CPS did or didn't do, I'm making my decision bsaed on those 2 events.

Now the charges are

1. Unwanted contact
2. asked for a welfare check

When did provide evidence of unwanted contact ?  
Twice, says Grandma didn't know was with  
Never did ever say she told me not to contact  
And, is it illegal to ask for a welfare check ? Is that harassment, or concern ?

But it doesn't end there. Judge **THIRD** decision.

This is on my record and the charges that I said this to the police and I said that to CPS and I didn't. And you are making it legal

Judge The evidence is pretty clear to me you made that report to the police on because of what happened and you were angry about it.

I'm not as clairvoyant as Judge but I think he's charging me with:

1. Asking the police to do a welfare check.....and
2. Being angry about what said to my ex.

Again, the charges change from his 2 previous decisions and again, the charges are NOT what stated in her request for the I/H.

I have no confidence in this Judge's ability to perform the duties of the Judicial Office.

And, regardless of the charges Judge Scales fabricates, where is "PREPONDERANCE OF EVIDENCE" ?????

## CJC -08- 184

*The first sentence of the Preamble to the Judicial Code of Conduct states:*

*Our legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us.*

*Throughout the entire hearing, Mr \_\_\_\_\_, judge Pro Tem, failed to be "fair and competent" in trying to resolve this matter.*

*From the beginning, Judge \_\_\_\_\_ did not follow the rules for Protective Orders, I/H.*

*He was continually partial in his questioning of the parties involved with this hearing.*

*He was also partial in allowing ex-parte communications.*

*He showed no competence, or desire, to resolve this situation fairly.*

*\_\_\_\_\_ behaved in an unprofessional and inappropriate manner.*

*Judge \_\_\_\_\_ seems completely incapable of gathering testimony, and incapable of distinguishing evidence from perjury. At times, he even fabricates testimony.*

*His numerous violations of the Judicial Code of Conduct bring his judiciary abilities into disrepute.*

*Am I supposed to have confidence in the integrity of this judge and this judicial proceeding ?*

*I am requesting that the Commission reprimand \_\_\_\_\_ for his failure to perform his judicial responsibilities with integrity, impartiality, and competence.*

*If the Commission needs more examples of violations or any other information about this hearing, please feel free to contact me.*