

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 08-269

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| Complainant: | Mary Seay  | No. |
| Judge:       | Jill Davis | No. |

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**AMENDED ORDER**

After reviewing the complaint, the evidence gathered during preliminary investigation, and the judge's response, the Commission on Judicial Conduct finds that the judge's conduct in this case violated a single provision of the Code of Judicial Conduct.

During the hearing described in the complaint, the judge, who is an attorney as well as a commissioner pro tem, orally set terms of visitation relating to a pending superior court case while sitting as a justice of the peace although she was notified that the superior court case was pending, both in the petition for the order of protection and by the plaintiff at the hearing. A judge is required to review a petition prior to conducting a hearing, and A.R.S. §13-3602(P) requires that when a justice court determines that a superior court case is pending in a matter involving family law that the proceeding be immediately transferred to superior court.

Canon 3B(2) of the code requires that a judge maintain competence in the law. Accordingly, the judge is hereby reprimanded for her conduct pursuant to Rule 17(a) and the record in this case, consisting of the complaint, the judge's response and this order, shall be made public as required by Rule 9(a).

The other issues raised in the complaint were not substantiated in the recording of the complainant's hearing and were dismissed for lack of evidence.

Dated: June 24, 2009.

FOR THE COMMISSION

\s\ Louis Frank Dominguez

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Commission Vice Chair

Copies of this order were mailed to the complainant and the judge on June 24, 2009.

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

SUMMARY

**CJC - 08 - 269**

**COMPLAINT : HONORABLE JUDGE DAVIS**

During a hearing regarding re-issuing a restraining order the following incidents occurred:

1. Although objections were made to discussing details of a pending case in Superior Court without my attorney present I was forced to discuss detailed custody issues in the civil court. My attorney had previously notified Judge Davis in writing that he was on vacation although Judge Davis stated "Well, we're all here so let's go ahead and talk about it." "I'd really love to hear it." The result was visitation was ordered at this level over my objections and fear for my daughter's safety. She also removed my daughter from the restraining order despite my statements and an attached police report and pending case for domestic violence that had been plea bargained just days before.
2. Judge Davis repeatedly rolled her eyes, sighed, and snickered at the mention of my attorney's name.
3. Robert Beckwith appeared in court to testify on behalf of his brother with a ridiculous account of what happened with reference to the submitted police report. Despite my pointing out and notifying the Judge that he had an outstanding warrant for his arrest at the time he was in her court, as well as providing her documentation regarding same he was allowed to testify and leave the building a free man.
4. Robert Beckwith, his girlfriend Courtney Phipps, and Brian Beckwith were all allowed to redact statements that were made to, and documented by, the police regarding the violent behavior of all three. These statements were accepted by Judge Davis over the police report.
5. I believe there was obvious favoritism to opposing counsel that can best be experienced by listening to court transcripts as she was helped, instructed, and encouraged by Judge Davis.
6. At the conclusion of the hearing as I was sitting at the table gathering my things and trying to catch my breath I was asked to leave the courtroom by the clerk "The judge needs to speak with Brian and Ms. Wellborn alone." I did not realize then that this was considered an ex parte meeting and that I should not have been asked to leave. However, I did as I was asked and left the courtroom. Brian, apparently, was provided a copy of a handwritten order at the conclusion of this meeting. I did not receive anything for several weeks in the mail.

7. "Random" drug screen was ordered to be performed by a person designated by Judge Davis at a lab that I am not able to verify is certified CLIA to perform laboratory testing. This technician voluntarily submitted a two page letter to the Superior Court custody case stating that Brian was drug free, although no actual test results were provided and no chain of command of custody of the specimen could be ascertained. This was allowed to be submitted in my custody case because it was ordered by Judge Davis. Prior drug tests taken by Brian had been so incredibly dilute it was a miracle that he was not in renal failure consistent with someone who is manipulating the testing by drinking large amounts of fluid. This cannot be determined on a paper test strip. Brian was also ordered to take a hair follicle test. He drove **70 miles** from home and had a test done from a hair on his leg. Of course, this was negative.

**ATTACHMENTS:**

1. Handwritten order dated November 1, 2007.
2. Police report re Brian Beckwith.
3. Plea agreement re Brian Beckwith.
4. Letter to attorney Wellborn re ex parte meeting with Judge Davis.
5. Letter re stated reason for ex parte meeting with Judge Davis.

**IN CONCLUSION**

It is my belief that not only do the above actions demonstrate a disregard for the judicial code, it is my belief as well that these actions represent collaboration of attorney Wellborn, Brian Beckwith, and Judge Davis to manipulate evidence and manipulate the outcome of a pending custody hearing regarding Brian Beckwith.

I believe that this incident deserves further investigation and action as deemed necessary.

December 3, 2008

DEC 05 2008

Linda Haynes, Esquire  
Commission on Judicial Conduct  
1501 W. Washington Suite 229  
Phoenix, Arizona 85007

RE: Case No. 08-269  
Our Case No. JCV 200701588

Dear Ms. Haynes,

My response to the complaint I received from the Plaintiff, Mary Seay, in the above matter, is as follows:

1. A hearing was conducted on the Order of Protection filed by Ms. Seay against Brian Beckwith on November 1, 2007. Ms. Seay was present, pro per and Mr. Beckwith was present with counsel, Heather Wellborn. As stated on the record, the court had no notification until after the defendant presented his case that Ms. Seay had an attorney, his name, and that he was on vacation. There was also no Motion to Continue the hearing filed by either Ms. Seay or her attorney. The Court was also not made aware of the fact that there was a pending Superior Court matter in this case until sometime later in the hearing.
2. As to this point in the Plaintiff's Complaint, I can only state that I make every attempt, while on the bench, to be calm, courteous, dignified and respectful to both parties and counsel.
3. I do not recall the issue of an outstanding warrant for Robert Beckwith, nor do I remember hearing anything about this on the recording of this hearing.
4. No comment to this point, other than the court's final decision regarding the order was based on the entirety of the proceedings.
5. The court's recording of the hearing clearly outlines that Ms. Seay's order remain in effect, with the modification that the child was removed from the order. In addition, the court did not order that the defendant could retrieve the personal property, nor quash the Order of Protection in it's entirety, as requested by the defendant. In addition, the court put very stringent conditions on the defendant. After reviewing the recording myself, I honestly did not hear any favoritism, instruction, encouragement or help to the defendant's counsel. Without some specific instance, this is difficult to address. There was Exhibit C which was admitted over Plaintiff's objection, however, I didn't make any final orders regarding this issue.

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6. As to this point, I do not recall specifically what occurred, but typically I will have the Plaintiff leave first and the defendant second, to avoid any possible confrontations in the courthouse or parking lot. If anything was said to Ms. Wellborn, it would have been that the defendant needed to wait to be served with the modified order.

7. As to the random drug testing, the court ordered the defendant to submit to these prior to any supervised visitation. Anne Reed is the counselor/RN that performs these tests for our criminal defendants as well. Ms. Reed is a well known drug counselor in our area and has a very high success rate.

In 2005, I was appointed as a Judge Pro Tem for Superior Court. My appointment is strictly volunteer and assists the Superior Court bench with the high volume of Domestic Relations cases in Mohave County. My assignment is default hearings, uncontested matters with children, and contested matters without children, orders to appear and issuing and conducting hearings on orders of protection. I have a very high regard for the judiciary and take my positions on both the Justice Court and Superior Court bench very seriously.

Ms. Haynes, after hearing the testimony of both parties and witnesses, I believed this to be a fair and reasonable decision in this matter, for all concerned.

Please contact me should you need any further information about this matter. My direct line is . Thank you very much.

Very truly,

Jill W. Davis  
Justice of the Peace  
LHC Consolidated Court