

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 09-015

Complainant: No. 1353900390A

Judge: No. 1353900390B

ORDER

The commission reviewed the complaint filed in this matter and found no evidence of ethical misconduct on the part of the judge. It is proper for a judge to recuse himself when a close friend is representing one of the parties in a case before him.

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

Dated: February 19, 2009.

FOR THE COMMISSION

 /s\ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on February 19, 2009.

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

January 14, 2009

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

RE: Complaint against Judge

The following formal complaint is lodged against Judge _____ in the above referenced Family Court Divorce proceedings filed with the court on November 24, 2008. The Respondent in this case is Mr. _____ was personally served the petition on November 26, 2008, at his place of employment,

I am the Petitioner

Mr. _____ is a third year Career ED Business Teacher. He was also served a Sumons by the Sheriff Department on December 2, 2008. I applied for a waiver deferral due to the fact that I have not had any income since August 2008. The Sumons was costly but necessary due to Mr. _____ history over the past year of blatant lying to conceal an affair he was having with a Special Ed Teacher, _____ since April 2008. Mr. _____ and Mrs. _____ begin living together on November 11, 2008, at her residence

Even though Mr. _____ was advised that he was required to respond to the petition not later than December 22, 2008, he ignored that advice. On December 23, 2008, an Affidavit of Default was timely filed with the court, and personally served (hand delivered) on the Respondent the same day and mailed to both his place of employment and the residence at _____ . It is important to note that no mail was returned to me.

Factual documents indicate Respondent consulted with _____ on December 16, 2008. Apparently, they were not retained. According to the "Case History", on December 30, 2008, Respondent filed an Answer to the Court; however, a copy was never mailed to me or given to me by the Respondent during the Christmas holidays. On December 29, 2008, a "Motion For Temporary Orders" for Child Support and Spousal Maintenance was filed and DENIED. However, Respondent was ordered to attend a Resolution Management Conference on 01/08/2009 at 3:45p.m.

On January 8, 2009, I arrived at the court at approximately 11:15. I had lunch in the courtyard and worked on several documents until 3:30. When I arrived outside of Judge _____ chambers, I picked up the phone. _____ answered, and indicated he would be out momentarily to speak with him. He indicated Judge _____ had vacated the hearing. "Last night

Mr. [redacted] hired an attorney, and that attorney is very good friends with the Judge, therefore it would not be fair of him to hear the case. A message was left on your telephone numbers". Indeed my home phone [redacted] voice mail recorded a message from Mr. [redacted] at 10:27am. However, a call was not received on my cell phone that was clearly written on the "Sensitive Data Sheet". Afterwards, I was informed by the Court Clerk that I would have to go to Jackson Street Records Storage to retrieve a copy of Respondent's answer. I could only review the 15 page document due to a cost of \$.50 cents a copy, which I was unable to pay due to very limited funds. My address was not listed anywhere on the response. In fact, Respondent used our son's physical address [redacted] as his own, instead of his physical address referenced above. This is a direct violation of the preliminary injunction order by the court.

The odds of the Respondent hiring an attorney [redacted] at the 7th hour, that happens to be "very good buddies" with Judge [redacted] is 1 in-a-million. This is highly irregular and very suspicious. This conduct is immoral, unethical, and does not meet the standards of the sworn oath of Judges. It is critical to our justice system and our democracy that no one tampers with the right to receive a fair and impartial process. Therefore, I request a full investigation is conducted immediately to include questions regarding Judge [redacted] past affiliation with any branch of the military.

My case has been severely and unfairly compromised. The enclosed letter has been appropriately forwarded to Attorney Terry Goddard, and State Bar Association for further investigation to determine if [redacted] has violated the ethics rules. Only today have I received a notice of appearance, and other documents from [redacted] (see enclosed letter of response). No where on any of the documents was an address for Respondent listed, which is of course an attempt to deceive the court. In addition, it appears that [redacted] received 3 reprimands by the State Bar in February 2003.

Based on the results of your review, If I feel that my rights to a fair process has been compromised, in addition to considering a withdrawal of petition, I am also filing a Motion of Non-Compliance with the Preliminary Injunction and failure to follow the rules of procedure against the Respondent and his attorney. I also trust a new and impartial Judge will be assigned to my case.

Thank you in advance for your professional assistance. I appreciate your prompt response.