

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 09-113

Complainant: No. 1361810699A

Judge: No. 1361810699B

ORDER

The commission reviewed the complaint filed in this matter and found no evidence of misconduct on the part of the judge. Accordingly, the complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: August 21, 2009.

FOR THE COMMISSION

\s\ Keith Stott

Executive Director

Copies of this order were mailed to the complainant and the judge on August 21, 2009.

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

We had our first proceeding before Judge [redacted] on March 19, 2009 after he took over the cases that had previously been with Judge [redacted]. The proceeding was different from previous proceedings from the beginning. Judge [redacted] "chit chatted" with the petitioner (via phone) regarding Tennessee and Mississippi which seemed a bit strange but I thought maybe he just ran an informal court room. We had been before Judges [redacted] and [redacted] in the past and they were both very professional and all business.

The actual hearing (trial) seemed to go smoothly. Judge [redacted] made several good suggestions for compromise and all issues except one were handled. The only thing pending was for Judge [redacted] to review correspondences and rule on if I (respondent) who appeared pro per would be responsible for the petitioner's \$10,000 plus legal fees.

As the hearing closed and I was placing my documents in my brief case I heard Judge [redacted] and the petitioner's attorney ([redacted]) chatting. Ms. [redacted] walked across the courtroom to the bench and they carried on a conversation. I couldn't hear the conversation. I actually had to interrupt them in order to thank Judge [redacted].

Upon exiting the courtroom I commented to the people who were with me in the courtroom asking if they thought it appropriate for the Judge and counsel to be chatting when all matters had not been decided. We didn't think it felt appropriate.

A few weeks later I received notice of a hearing for oral arguments in the matter of legal fees. At that point I began consulting with attorneys. All the attorneys I spoke with found it unusual for a hearing of oral arguments for legal fees in a family court matter when both parties earned the same amount and compromises had been made on both sides. When I told them about the conversation between the Judge and opposing counsel they seemed shocked. It was suggested that I contact The Arizona Commission on Judicial Conduct.

I could not afford an attorney so I represented myself. I have always believed in the Judicial System and felt like I could be heard and treated fairly if I went before a Judge rather than negotiating with opposing counsel on my own. In previous hearings before other Judges I always felt like things were handled fairly and objectively. I did not have the same feeling after this hearing before Judge [redacted].

The outcome of the hearing itself seemed fair as far as the matters that were handled and the conversation would not have bothered me so much if there were not issues still pending in the case. It seemed totally inappropriate for the Judge in a case to have a private conversation with petitioner's attorney at the bench alone. Not being able to hear the conversation made me suspicious. I would like to believe that the conversation had nothing to do with me or the case in anyway but frankly I have no way to know. For the reasons listed above I have concern for fairness in the matters before Judge [redacted].