

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 11-202

Complainant: No. 1424610937A

Judge: No. 1424610937B

ORDER

The complainant alleged that a superior court judge was biased and issued an incorrect ruling

The responsibility of the Commission on Judicial Conduct is to impartially determine if the judge engaged in conduct that violated the Code of Judicial Conduct and, if so, to take appropriate disciplinary action. The purpose and authority of the commission is limited to this mission.

After thoroughly reviewing all of the information provided by the complainant, the members of the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. The complainant's disagreement with the judge's fact-finding is not evidence of bias, and the commission has no jurisdiction to determine the legal sufficiency of the judge's decision. Accordingly, the complaint is dismissed in its entirety pursuant to Rules 16(a) and 23.

Dated: October 7, 2011.

FOR THE COMMISSION

/s/ George Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on October 7, 2011.

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

(respondent) Judge:
Date: August 3, 2011

The respondent is writing this complaint in regards to Judge [redacted] The respondent was before judge [redacted] on three different occasions regarding case FC2010-[redacted] (September 23, 2010-October 12, 2010- February 28,2011) Regarding child [redacted] D.O.B. 8-30-2010. . This complaint is in regards to our final orders issued to us on June 8th, 2011 but done April 29th 2011. The respondent feels these orders did not reflect the testimony but instead were based on the petitioner's pretrial statements. These orders appear extremely one sided, accusatory, and partial to the petitioner. It is almost as if the petitioners attorney wrote these orders.

Examples of the final orders- 4/29/2011 Judge [redacted] states "mother seeks sole custody of the minor child, and in the alternative seeks joint custody with mother having final decision-making authority." (Page 1, number 1) What was asked in the respondents pretrial statement is " mother believes both parents are fit to have joint custody"(pretrial statement page 4). As far as final decision maker it was stated, "Mother believes that she should be final decision maker regarding education and health decisions"(pretrial statement, page 4) The respondent feels she had good qualifications for asking for that, as she is a critical care nurse. And because judge [redacted] misinterpreted the pretrial statement Judge [redacted] then stated the respondent did not have the Childs best interest in mind. " The agreement or lack of agreement of the parents regarding joint custody. Father seeks joint custody for the minor child. Mother seeks sole custody of the minor child. The court finds that mother had not placed the best interests of the minor child first in determining whether joint custody was appropriate."(4/29/2011 page 3&4. #1). In temporary orders the petitioner and respondent had already agreed to Joint custody. The respondent was not asking for sole custody and Judge [redacted] should not have base orders on such The respondent believes judge [redacted] misinterpreted the pre trial statement. "At the temporary orders hearing on Oct. 12,2010, the parties were awarded joint custody on a temporary basis with graduated parenting time for the father". (4-29-2011 page 2).

Judge [redacted] believed everything that the petitioner's lawyer said in his pretrial statement about the respondent denying, withholding parenting time. And made a judgment about respondent from the pretrial statement. " Mother has already demonstrated her desire to unreasonably limit father's ability to parent the child and would use the guise of final decision making to further frustrate fathers involvement" (pretrial statement page 4 fathers position) "The court is equally convinced that mother would limit, if allowed to limit, father's frequent and meaningful and continued contact with the minor child"(4-29-2011 page 2). Judge [redacted] believed what the petitioner was accusing the respondent of saying to the

petitioner's mother. "Brian is never going to see the baby." (4-29-2011. Page 3). And, "Brian should get a lawyer. (4-29-2011. Page 3). "Mother also made statements to the paternal grandmother when the child was born, which she allowed grandmother to visit with minor child, but would not let the father see the minor child" (4-29-2011 page 4). The petitioner testified on the stand he was able to see Logan the day he was born. Yet Judge [redacted] didn't take anything the respondent had to say into consideration judge [redacted] was extremely partial once again. Judge [redacted] asked for no evidence and there was no evidence given to him. The petitioners mother as a witness who had nothing to lose but all to gain for lying for her son. She would be stuck with the legal fees if Judge [redacted] didn't order for the respondent to pay them. And she got more time with Logan, as she is the one watching Logan while the petitioner works. Judge [redacted] thought it to be in the 8mth old Childs best interest to be with a grandmother rather then the respondent. It was testified that the respondent works two-week days but Judge [redacted] divided time exactly 50/50. The petitioner works 5 days a week, plus on call and some weekends. It is stated throughout the pretrial statement and during testimony the respondent only works two-week days. As the orders are written, Logan is with the petitioners' mother while the respondent is off work and the petitioner is working. Orders from 4-29-2011 state weekends are Thursday at 8pm-Sunday at 8pm, the respondent does not work the Friday before her weekend to work. The respondent does not see how any family court can see this is in Logan's best interest. And at 2 years old Judge [redacted] has ordered one week with the petitioner, one week with the respondent. And has ordered that a school break schedule be followed to split time 50/50 when Logan will not even be in school. The respondent has been doing this job for over 10yrs. The respondent will always work 2 weekdays and every other weekend. The respondent does not see how week on week off is in Logan's best interest. And the petitioner and respondent live 48 miles one way apart from each other.

In orders on 4/29/2011 Judge [redacted] states: "Whether a parent's lack of agreement is unreasonable or influenced by an issue not related to the best interest of the child. As indicated, the court finds that mother's lack of agreement to joint custody is largely unreasonable and is influenced by animosity and does not result from the best interest of the minor child." (Page 4) stating the respondent did something the respondent did not. The respondent asked for and had already agreed on joint custody. This judge enjoys badgering the respondent, and being very partial to the petitioner in these orders.

Further more Judge [redacted] did not make the petitioner file the appropriate taxes or current pays stubs to adequately calculate child support or other associate fees. Judge [redacted] has allowed the petitioner to get away with not following the law in this matter and allowing the petitioner to lie and get away with it costing the respondent more money to have to prove the petitioners income and file more papers. The respondent is still in the process of this. This will be filed soon and will prove petitioner has lied about his income.

Judge granted the petitioner that the respondent pay his legal fees stating that the respondent clearly prolonged litigation and acted unreasonable to deny father parenting time. "For the reasons stated herein, and because the court has found clearly and unequivocally that mother has prolonged the litigation and has acted unreasonably to deny father parenting time which he was otherwise entitled" (4-29-2011. Page 9). All of which is hearsay, unfounded and untrue. However the petitioner clearly didn't follow the law on providing what he needed to but the respondent has to continue to keep paying to straighten it all out. In fact the petitioner lied and stated he was a full time student in 2009, that was his excuse which was accepted by judge although on the child support worksheet the petitioner states he has lots of out of pocket expenses, ironic he can afford that but didn't make enough to file taxes.

The petitioner has changed what he has accused the respondent of a few times. The respondent only let him see Logan 3 times the first month, then 3 times in 6 weeks. The respondent would think after you have done this for a while a judge could clearly see who is lying. Our Temporary orders which the petitioner and respondent agreed upon were done Oct. 12, 2010. Logan was 6 weeks old at that time. And petitioner and respondent have followed court orders since the child was 6 weeks old.

In the pretrial statement petitioner request "Each parent should have a right to refusal to care for the child if the other parent is unavailable for a period of more than 8 hrs" (pretrial statement page 7). This was not in or orders because Judge knows he could not do 50/50 custody due to the respondent only working 3 days a week 2 of those weekdays. So instead Judge put Logan an infant child 8 months old in the care of the petitioners grandmother instead of the respondent. Something is very wrong with this picture. And the respondent believes Judge is denying her parenting time.

In our orders none of the respondents pregnancy medical fees were awarded because the petitioners lawyer states the respondent told the petitioner the respondent got free medical care, because the respondent works at the hospital. "Father disputes the amount mother request for laying in and birthing expenses' for the minor child. Mother is a nurse at Scottsdale Osborn Hospital where the child was born. As such, it is believed that there was no cost associated with the birth of the baby. This belief is based upon statements made to the father directly by the mother", (pretrial statement page 13). How could any Judge believe this? Why would the respondent pay for health insurance if the respondent got free medical care? He did not award that because he was 100% partial toward petitioner. Also no day care fees were awarded to the respondent for the time Logan was in day care. Does Judge get free Lawyer services because he is a Judge?

Judge also states, "Mother claims that the basis for the order of protection is that father sent text messages that were hostile and harassing and threatening, and that she felt threatened by them. Based on all evidence which the court has reviewed the court believes that mother used the order of protection process to deny father parenting time" (4-29-2011 page 3). The respondent will include all evidence which Judge should have reviewed making that decision. You will notice Logan's name is not on nor ever was on the order of protection. And did not limit parenting time. Parenting time was done through a third party, a mutual friend. The order of protection was for the respondent and her daughter. You can review the evidence and decide for your self.

"Mother has had more time with the minor child, but this results from Mother's active role to deny parenting time from father" (4-29-2011. Page 2.). Did the respondent limit or deny parenting time. One could say parenting time was limited as the respondent was breast-feeding the newborn child and he was eating every hour and half to two hours. The respondent did not have success with pumping breast milk so felt it in the child's best interest to keep child on schedule with breast-feeding. Breast-feeding however had to be terminated due to parenting time. Judge however believed respondent had limited and denied parenting time. However if looked closer he may have realized the truth was a bit stretched. "Father willingly gave up parenting time so that mother could travel out of state with the child to spend Thanksgiving with family. However, when father requested additional time with the child to visit with family that had flown in for the holidays, Mother grudgingly agreed that father could have 8 hours of parenting time on December 28, 2010 so long as he gave up his regular Thursday access (3hours) , as well his Saturday overnight (24 hours) with the child. In order for Father's out of town family to meet the child, father was forced to give up 27 hours of parenting time for 6 hours of quality time with the child. The remainder of the visit was spent driving as mother insisted that father provide all transportation for the visit". Actually no parenting time was given up for Thanksgiving from the petitioner. "Thanksgiving: Father shall have parenting time on the Sunday following Thanksgiving to make up for his Parenting time because Mother will be out of state on Thanksgiving"; (10-12-2010 page 3). Based on 10-12-2010 orders the petitioner had Logan Tuesday and Thursday for 3 hrs. One hour of that is always spent driving as it takes an hour to go one way. So He was given 8 hours instead of his normal 6 with the same amount of driving he would have done and he offered there was no insisting so he was given 2 additional hours. And the 24 hours he is referring to is January 2nd as that was his weekend however our holiday orders state "New years eve: father shall have parenting time from 8pm on December 31st, 2010 until 8pm January 1st, 2011. So court orders were followed as written, as I was told holidays take precedence over routine parenting time. So no time was taken from the petitioner.

Here is a short description of the relationship between the petitioner and respondent. Began dating October 2009, Logan conceived December 2009, Engaged December 2009, Respondent ended relationship April 2010. Logan was due Sept. 21, 2010. Born on August 30.2010.

Judge has accused the respondent of being calculative, deceptive, manipulative, unreasonable, and having animosity and placing roadblocks. (4-29-2011 page 2,3,4, 5, 9).

The respondent strongly believes Judge to be partial to the petitioner, accusatory, badgering, and judgmental in my final orders dated 04/29/2011 The respondent would like to ask that another judge review this case.

Included:

Temporary orders dated 10-12-2010

Pretrial statement 1-5-2011

Final orders 4-29-2011

Petitioner's child support expense work sheet

All information regarding Order of Protection

A copy will be sent to:

State of Arizona commission of judicial conduct

Governor-Janice K Brewer

Congressman David Schweikert

Mayor Phil Gordon

Each justice or judge of the United States shall take the following oath or affirmation before performing the duties of his office: "I, XXX XXX, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as XXX under the Constitution and laws of the United States. So help me God."