

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 11-270

Complainant: No. 0120710958A

Judge: No. 0120710958B

ORDER

The complainant alleged that a superior court commissioner made improper rulings and exceeded her authority.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the commissioner engaged in conduct that violated the provisions of Article 6.1 of the Arizona Constitution or 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 reviewing the complaint and the commissioner's response, the commission decided to dismiss this matter with a private warning to the judge. The complaint is dismissed pursuant to Rules 16(b) and 23(a).

Dated: April 6, 2012.

FOR THE COMMISSION

Louis Frank Dominguez
Commission Chair

Copies of this order were mailed to the complainant and the judge on April 6, 2012.

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

10/21/11

To The Commission on Judicial Conduct,

On _____, at my child support modification hearing presided over by Commissioner _____ the commissioner was presented with my request to have the new child support order effective date set at least to the time the motion was filed in February of this year.

Commissioner _____ was presented with the facts that this motion was brought due to my unemployment and inability to continue to pay the amount ordered at that time, but that I continued to pay for as long as I could. Please refer to the enclosed letter to Commissioner _____ we filed with the court.

Commissioner _____ instead applied the majority of her effort and time during the hearing to establishing respective incomes and entering them into the child support calculator. She was concerned when she did not see any record of payments made through the clearinghouse, but the petitioner's attorney stated that payments had been made directly through April 2011.

Commissioner _____ set the effective date of the new order to the month after the court scheduled the hearing, which was sometime in July, making the effective date 1 August 2011, creating a huge arrearage for the time I had no income. It was argued to Commissioner _____ that to hold me financially responsible for the court's delay was prejudicial. Commissioner _____ was asked to justify her decision and simply replied. "I have already ruled on that matter."

Commissioner _____ also abrogated the authority of Judge _____ who had ordered me to have at least 30 days of parenting time, by reducing it to zero. She cited that parenting time had not been used in the past year, with no interest in hearing any explanations or clarification. When my attorney informed the commissioner that she was overstepping her authority, and could not reverse or change a judge's order, nor could she predict what visitation may occur in the future; she again dismissed it saying, effectively, "I have already ruled". At the end of the hearing, I attempted to explain the circumstances behind the unused parenting time, but the commissioner terminated the call abruptly. (I was appearing telephonically)

I spoke with my attorney following this and he acknowledged the strange, unjust and "crazy" behavior of the commissioner and also told me that my ex-wife's attorney had admitted the same to him. He also referenced Commissioner _____ lack of experience with the Family Court.

In desperation, on 8 September, we filed a motion for reconsideration with Commissioner _____. We attached a copy of our household budget, which showed that after our monthly obligations were met, including the new ordered amount, but not including any arrearage payments, we are left with less than \$2.00 to cover food and

household necessities, such as diapers, hygiene products, etc. Initially, we were told this filing would be free. Instead, we discovered there was a filing fee not only for this motion, but for our application to have the fees waived. All we received from Commissioner [redacted] in return for this additional expense was a minute entry denying our motion, with no explanation or reasoning.

On October 12th (the date we received the minute entry) we contacted her office to try to obtain at least some justification for her decision to reject our request for reconsideration. Her assistant, [redacted], was as discourteous, curt and impatient as the person she works for and confessed that she receives "a lot of calls like this". We made another effort in writing to plead for some reasoning behind her decisions, only to receive a curt phone call from her assistant this morning stating that Commissioner [redacted] was not obligated to give any explanation, nor would she.

It is apparent that Commissioner [redacted] is not taking the responsibilities of her office seriously. She does not apply the necessary effort to investigate the facts of the cases she presides over, but instead pronounces rash decisions based on her own personal prejudices. Afterwards, flaunting the extent of her authority over the people who come before her, expecting justice and fairness (qualities that are typically considered requisite for any court of law in the United States). For a ruling to be just, it must be defensible. Therefore, we can see no reason why Commissioner [redacted] or any judicial officer, should be unable to provide or allowed to deny some form of explanation for her judgments. Power without accountability begets tyranny.

Sincerely,