

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 12-105

Complainant: No. 1440410886A

Judge: No. 1440410886B

ORDER

The complainant alleged that a superior court commissioner denied him an opportunity to be heard and improperly handled an investigator's report in order to protect the commissioner's employee.

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 information provided by the complainant and the commissioner's response, the commission found no evidence of ethical misconduct and concluded that the commissioner did not violate the Code in this case. Accordingly, the complaint is dismissed in its entirety pursuant to Rules 16(a) and 23.

Dated: August 16, 2012.

FOR THE COMMISSION

/s/ George Riemer

George A. Riemer
Executive Director

Copies of this order were mailed
to the complainant and the judge
on August 16, 2012.

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

April 25, 2012

Commission on Judicial Conduct
1501 W. Washington St., Suite 229
Phoenix, AZ 85007

To the Commission,

I am submitting this formal complaint against Judge
matter of my mother, , case number S1100

in the .

The case is simple: My mother was suffering a deep and profound depression following the death of my dad, three and a half years ago. This depression and my attempts to mitigate its impact on my mother was well documented by my mother's physician, whom I was asking for help (counseling, therapy, etc for my mother). My estranged sister (Petitioner) attempted to capitalize on my mother's grief and misery, prior to and after my dad's death, and was willing to cause tremendous amounts of trouble if I impeded Petitioner's access to my mother's bank account. Petitioner attempted to extort my mother, which I curtailed, so Petitioner punished my mother by refusing to attend my dad's funeral. My mother was distraught and lonely and her friends began drifting away. Reminiscent of Munchausen's by Proxy (I have a dual degree in Psychology), my mother began telling people malicious stories about me in attempts to elicit their attention (her friends figured out what was going on so the stories had impact only on strangers). Petitioner capitalized on these stories by calling Adult Protective Services and filing a false complaint against me alleging that my mother was in some kind of danger. The APS worker never once interviewed me and at every opportunity treated me with contempt and arrogance. I requested an interview with the worker and explained that my mother's fictions were simply how she has always treated me and that after my dad's death the stories took on a more urgent, fearful tone. After a six month investigation and finding no evidence that I was a threat to my mother, the case was closed. However, the APS worker never bothered to inform me of this as it seemed to be something she enjoyed holding over my head.

Months later I discovered the Petitioner was implicating my mother in a welfare scam and had sent my mother documents for her to sign. The documents were written by Petitioner and claimed she had received very little money from my mother, a complete deception. Due to my attempts to learn more of what was going on, Petitioner again filed another false allegation against me with APS. The same worker again initiated an "investigation" this time structuring her case to produce a desired outcome: the county would take control of my healthy, though still deeply depressed, ambulatory and independent mother. APS arranged a quickly moving maneuver and was able to direct a

county-paid psychologist to misdiagnose my mother as demented, thus enabling Petitioner to gain temporary custody.

There were three court dates: one requested by Petitioner to quash an Order of Protection I had placed on her because of the threatening calls I was receiving from Petitioner, 2) the first hearing with Judge [redacted] and 3) the final hearing regarding guardianship. In all three the APS worker contradicted her previous testimony. In the two hearings with [redacted] he sat bemused as the APS worker changed her testimony from each previous hearing. The woman was manufacturing testimony and [redacted] didn't seem to care.

Prior to appearing in the first hearing with [redacted] I received a letter from my mother's Court-appointed attorney informing me that an investigator had been hired. At a later meeting the attorney recommended I call the investigator, [redacted] which I immediately did only to be rebuffed by her. I asked if she would consider interviewing me as well as the 14 (fourteen) other family members that had a stake in the matter and adding those interviews in an amendment to her report. She refused to interview me as well as anyone that was on "my side" and stated flatly that under no circumstances would she amend her report. The following weekend I received a copy of [redacted] report (in which she interviewed only two estranged family members and an APS employee that held nothing but contempt for me). Without ever having talked with me, [redacted] intentionally wrote a report that was unequivocally designed to bias and prejudice the Court against me. Additionally, [redacted] avoided including any information that might cast the Petitioner in an unfavorable light (grift, drug abuse, prostitution, etc). [redacted] structured her report to produce an irrefutably biased depiction of someone, me, she'd never met. She avoided all contact with virtually any of my mother's friends (that might have positive things to say about me) and/or other family members. My conversation with [redacted] revealed that she was actively eschewing these crucially important interviews and, I later learned, with [redacted] full blessing. [redacted] manufactured a prejudicial report and submitted it to a welcoming and well aware of the bias judge.

Astonished by the casualness of [redacted] attack on me I wrote a 21 page, somewhat intemperate letter defending my character and included facts about the Petitioner that [redacted] had excluded. I was additionally quite flippant in my diction regarding [redacted] grossly unprofessional and prejudicial report. After conferring with others from my side that had called to speak with [redacted] I found she had been very discourteous, abrupt and rude with each of those members of my family. Not long after these people spoke with [redacted] I received an amendment to her report; the one she adamantly refused to write and include. Obviously, because these people were willing to represent me in a positive light, [redacted] had been caught writing a one-sided/biased report thus painting herself into a corner. Rather than professionally and maturely admitting that she might have been hasty in her investigation, [redacted] instead committed to her intentional distortions by attempting to preemptively discredit those witnesses. One of the most remarkable aspects to the amendment was how provocatively it was written; as if [redacted] was trying to provoke someone to threaten her. In that report [redacted] literally attacked the character of every one of them, making them sound combative, hostile, disinterested and biased. APS employee [redacted] was engaged in maligning my character and her peer, [redacted] was assisting in that

deception. So I prepared a five page formal complaint and drove to the court intending to present the complaint to _____ employer.

I first met with _____ Administrator of the Court and had a witness present. _____ denied knowing who _____ was or who she worked for. _____ suggested I send the complaint to _____ administrative assistant. I asked if _____ Clerk of the Court might be a good person to help determine who _____ boss might be. I'd met _____ during his campaign and found him to be thoughtful and responsible. _____ advised against talking with _____ an elected official. I left a copy of my complaint with _____ and set up an interview with _____

_____ explained that he didn't know who _____ was. However, after some searching on the court's database, _____ was able to determine that _____ was a direct hire of _____. During the interview _____ made it very clear that he was afraid of _____ reaction, giving me the impression that _____ could easily become vindictive and use his position with the Courts to exact punishment on those that might displease him. _____ stated, out of fear of being cited with contempt, that he was compelled to tell _____ that we had talked about the investigator's shoddy work. I'm quite certain I did not leave a copy of my complaint with _____

Within the first minute or two of the start of the first probate hearing, _____ demanded to know if I had written the 21 page rebuttal to his employee's report. Next he informed those in attendance that I had also attempted to file a five page complaint about the investigator's shoddy work. _____ stated that _____ had spoken with him regarding my appearance in her office. _____ added that _____ Clerk of the Court, informed him that I had also met with _____ about the investigator. Next, _____ described a letter written by my friend regarding my character. Common knowledge in _____ County courts is the practice of sending letters attesting to the character of this or that litigant. A friend wrote the letter for me and I hand-delivered it to one of the court clerks. I'd add that the Petitioner had five such reference letters sent to _____ which _____ had in his possession. For questioning the competency of his personal hire and attempting to file a complaint against her, _____ cited me with one count of attempted ex-parte communication. For delivering a letter attesting to my character _____ cited me with a second count of attempted ex-parte communication. For talking with the Administrator of the Court, _____ cited me with a third count of attempted ex-parte communication. For talking with an elected official _____ cited me with a fourth count of attempted ex-parte communication. Neither of these people were asked to speak with _____ on my behalf. They approached him of their own volition and with regard to _____ out of fear. _____ then ordered my rebuttal and formal complaint be sealed. The only physical copy was the one I gave to _____ which she passed on to _____

In that hearing _____ stated that the Petitioner would be given one half hour to present her case. I was to be given one full hour.

At the final hearing, the Petitioner produced no evidence of anything other than allegations. Her main witness, _____ of APS also could not produce any evidence of neglect or abuse and offered only hearsay which _____ and my mother's attorney allowed. So, as she had done at the two previous court dates, _____ manufactured testimony. In my 21 page rebuttal to _____ report, I started the letter with the specific request that _____ enforce the prohibition against perjury. If a judge willingly allows perjury, as _____ does, a litigant cannot possibly defend themselves. After reading _____ report and amendment it was evident that both she and _____ were going to lie in an attempt to cover each other's failure to produce any substantial evidence against me. _____ was alerted to this before court started through reading my letter and through procuring my formal complaint. When I wrote the 21 page letter and the formal complaint, I did not know _____ was _____ personal hire.

When, in the first hearing with _____ he sealed the 21 page letter and my complaint, I understood beyond any doubt that he was going to protect his employee's career and reputation at the expense of my right to a fair and impartial hearing. The ease with which _____ and _____ lie and distort indicated to me that this is something common to _____ courtroom; something they've done often enough to feel comfortable doing. In the last month I've spoken with two attorneys that warned me of the corruption within the _____ judiciary. And, contrary to Arizona Bar directives (ER 8.3.b), all the lawyers in the room ignored their responsibility to say something. Unfortunately, this is precisely why the public has come to so distrust the Court and lawyers in general. There seems to be no genuine concern, among the judicial hierarchy, for people like me.

When _____ gave her testimony at the Order of Protection hearing, she claimed my mother looked as if she hadn't been bathing. I countered that my mother was meticulous about her personal hygiene and showered every day. In _____ court, _____ after having her first lie discounted, changed her testimony to my mother's clothes were dirty. I countered that I do my mother's laundry and that I'd washed the clothes the previous night. Additionally, I stated that my mother was wearing her favorite old jeans and shoes and had been next door feeding the neighbor's horse. _____ could produce no pictures or evidence of any kind that my mother was "filthy." In the final hearing, _____ smiled when he heard _____ yet again modify her testimony to overcome my challenges to her stories. This time she claimed that on the day in question I had allowed my mother to walk around with her pants loaded with crap saying my mother's pants were "soiled." For years I've been lecturing socio-political groups that whenever they talk with public employees, from judges to cops to secretaries, always, always, secretly record those conversations. I am a believer in my own advice. I have the recording that proves _____ lied under oath in _____ court. I did not reveal it to _____ because of the advice I was getting from attorney's regarding corruption within _____ courts. Seeing how _____ used his position to protect his incompetent and malicious court employee, I believed that potent evidence was at risk of being concealed by _____

When _____ employee _____ was called to testify, I discovered, to my amazement, that she was able to give testimony countering every single flaw listed in my formal complaint, point for point, before I was allowed to cross-examine her. It's simply not

possible that [redacted] wasn't provided a copy of the court-sealed document prior to that day's testimony. She was coached and it was conspicuously obvious. Simply read her report then read my 21 page rebuttal. Then read her amendment and then read my formal complaint (all documents attached). Then listen to her testimony. I accuse

[redacted] of conspiring with his employee, [redacted] by providing [redacted] a copy of the Court-sealed document so she could modify her testimony to disguise her shoddy work thus protecting the Court's reputation and image as well as precluding the possibility of my complaint corroborating any past or future similar allegations from other litigants or their lawyers. For example, [redacted] claimed in her written report she made "numerous" attempts to interview me. No, she made only one attempt leaving an inaudible message on the answering machine. When I asked if she could provide proof of the other attempts, she could produce record of only one attempt. As I started to dig further, [redacted] cut me off saying I was only supposed to show why I was a good choice as guardian of my mother (i.e. "stop demonstrating my employee attempted to prejudice the Court and is committing perjury").

After smugly watching me fail to demonstrate [redacted] incompetence [redacted] took the time to commend [redacted] on her years of service to [redacted]. In a bit of transparent theater, [redacted] said that it was his understanding that [redacted] had requested a copy of the sealed documents and that he would soon provide that to her. Furthering the theatric facade that [redacted] hadn't already read the sealed document, [redacted] cautioned her saying that the report was unprofessional and demeaning.

In addition to the above, [redacted] knows the general public does not know or understand the intricacies of Court procedure. When Petitioner testified, she again began embellishing, exaggerating, misrepresenting the facts and occasionally outright lied. I believed it was best to hear the entirety of testimony from those working to advance her side (APS employee [redacted] and her cohort [redacted]). I did not understand I would be given only one chance to cross examine Petitioner and, if I remember correctly, was not even offered the opportunity. Even though I was told her side would only have half an hour to testify, they were given almost a full two hours. I requested that I be given the chance to cross examine the Petitioner. I was never presented that opportunity, it appeared, because [redacted] was bored and wanted to wrap things up and go home.

As the allegations of [redacted] corruption are serious in nature, I request the Commission widen its scope to include how damaging [redacted] flippant disregard for my request to be my mother's permanent guardian has been to my mother. The Commission's duty is to protect the public. [redacted] focus was on his personal reputation, that of his employee, and on protecting APS from allegations that might reveal the predatory and abusive nature of [redacted]. My mother's welfare barely registered on [redacted] radar.

Prior to APS abducting my mother, [redacted] was a healthy, ambulatory (needing no assistance or any kind), well-fed, alert, lucid, clear-headed and somewhat busy woman. She drove to town two, sometimes three times a day to meet friends, eat lunch, see a movie, visit her husband's grave, transfer money into her gifting daughter's

bank account, picked up dog food or supplies for his diabetes, took different routes back home to see the scenery, avidly watched Suns and/or Notre Dame games, read various novels as well as two daily newspapers, showered every day, drank and ate whatever I'd prepared for her and left in the refrigerator (with instructions if it needed to be reheated in the microwave oven), etc. However, she was deeply and profoundly depressed for which I actively sought remedy through her doctor, friends, social organizations as well as becoming directly involved by going to lunch/dinner with her, shopping with her, driving her to her doctor's appointments and basically doting on her every need. One of the lies

allowed APS to tell was that in the height of this severe depression (documented by my mom's physician) claimed my mother was happy and full of energy. Nothing could have been further from the truth and after I countered falsehood didn't bother to ask either of us if we could substantiate our oppositional claims. I could (through several people, doctors friends, social service groups) which was why did ask for evidence. Remember, I cannot tell the future so I couldn't possibly know was going to tell such a lie thus didn't know to have my mother's doctor et al. on hand for such a contingency. That's the purpose of having penalties for perjury: to protect the integrity of the Court and safeguard a litigant's rights. sat bemused by my frustration with lies.

Unfortunately, like my sister, my mother always seemed to enjoy seeing people fight and argue because of her. As I was the only near-by family member that would help her, I became the focus of her often malicious stories. One day as APS and the Petitioner were starting to cause more and more problems for us, my mother exclaimed, "All these people are doing this just for me!" I learned to accept it, ignore it and deal with the consequences when necessary (e.g. dealing with the Petitioner's harassment via APS, and).

cavalier disregard for the truth and my mother's right to a fair hearing (and to be vigorously represented) has resulted in terrible and horrendous things to befall my mother, My mother was immediately put on psychotropic drugs to subdue her desires to go home (she called me numerous times begging for me to rescue her, the last call being cut off at her end... I have the recordings). The Arizona Republic ran an article (Thursday, December 1, 2011, page A16) pointing out that the government was decrying use of these drugs to pacify patients in nursing homes; patients like my mother. disinterest in my mother's welfare or the consequences of his decisions resulted in my mother being drugged to the point of being unable to walk without assistance, fell numerous times smashing her face into the pavement. Her jewelry (that she took with her the day abducted her) has been stolen. Her clothing has been stolen (the last time I saw her, she was wearing a strangers clothes [with that person's name], the sleeves bearing cigarette burns... my mother doesn't smoke). The keys to her home car and safety deposit box have been stolen. Pictures of her husband have been stolen. She was disallowed visitation from family and close friends (when learned of this, he was completely nonplussed and disinterested in the effects this isolation had on my mother's mental state). The care (almost \$4,000 per month) was so sub-standard that my mother had to be taken to the emergency room and on a second occasion my mom was so dehydrated that she developed a kidney infection

and was hospitalized (where the nurse told me the hospital was "trying to fix with they did to her at the). employee, wrote that my mother was reduced to rolling around on the floor crapping herself. was so imperious that she wouldn't even bother to help my mother off the floor, just letting her roll in her own feces. Such is the appalling character of personally chosen investigator,

There's much more that has befallen my mom as a direct result of using his judicial authority to protect his employee's reputation and career rather than assuring my mom was fairly and vigorously represented in court by people charged with protecting her financial and health interests. abused his position as judge to protect county employees from being exposed as frauds and liars at the expense of a poor and defenseless old woman. I was the only person trying to protect her from an avaricious Petitioner, a vindictive APS employee and that employee's collusive peer. And facilitated this miscarriage of justice by conducting what any impartial observer would call a kangaroo court. capitalized on several things to prevent my ability to defend both me and my mother: my home phone's ability to call long distance (like to a lawyer referral service) was curtailed by the county. knew I was unable to work and therefore was penniless. Those two things combined with my lack of knowledge of legal procedures has shut down any possibility for me to mount any defense or prepare for what I can't know is next. I have deduced that there is some kind of clock ticking down but don't know what I'm supposed to do; what legal maneuvers I'm expected to divine.

abused his authority to preempt my mother's right to be fairly, and vigorously represented in court and instead focused on preventing county employees from being exposed as corrupt and incompetent. He especially sought to protect his personal hire from such charges by sealing or concealing from the public a formal complaint detailing that employee's misconduct. arrogantly has not bothered to check on the results his decision has had on an innocent and vulnerable victim of county abuse. has acted irresponsibly in his capacity as a judge in these matters and his actions are costing my mother her life and sanity.

My mother was not facing any threat from me and APS was unable to provide a single instance of such a threat to her other than my mother's use of cry-wolf stories to gain attention from strangers. and lied for no reason other than their personal dislike of me which appears to have been shared by the Court. desire was to punish me for exposing his employee's incompetence and corruption.

I've belabored the point enough: used his authority to protect and conceal corruption within a county agency where that agency's employee was willfully presenting perjured testimony. further used his authority to protect his personal hire from prosecution, loss of employment and other legal ramifications as a result of her perjury contained in a legal instrument. allowed my mother to be represented by an appointed lawyer that demonstrated no particular concern for her wellbeing, health, safety, financial interests or mental state even though he was aware that his "client" was

being neglected and isolated from family and friends. used his authority to overreach and threaten me for conferring with private people () and an elected government official regarding possible court corruption. Though I was doing a poor job of it, used his authority to prevent me from attempting to challenged, through cross examination, the perjured testimony of specific county employees.

Thank you for your interest in this letter and my allegations.