

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 13-226

Judge:	No. 10973 14755A
Complainant:	No. 10973 14755B

ORDER

The complainant alleged a superior court judge knowingly violated the law by holding him in contempt and sending him to jail in a dissolution proceeding.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the judge 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 review, the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. The commission does not have jurisdiction to review the legal sufficiency of court rulings. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: December 2, 2013.

FOR THE COMMISSION

/s/ George Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on December 2, 2013.

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

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2013-228

COMPLAINT AGAINST A JUDGE

Your name: _____ Judge's name: _____ Date: _____

Instructions: You can use this form or plain paper of the same size to file a complaint. Please describe in your own words what the judge did that you believe constitutes judicial misconduct. Be specific and list all of the names, dates, times and places that will help us understand your concerns. You may attach additional pages but not original court documents. Print or type on one side of the paper only, and keep a copy of the complaint for your files.

For case _____ the petitioner _____ and her lawyer _____ filed a "motion to Enforce" with the Arizona Superior Court and our court date was on _____ At this time _____ found me in "Contempt" for non payment of property equalization payment related to the dissolution of our marriage. My lawyer and I filed a motion "For Reconsideration and Memorandum Re: Contempt". I Submitted that compelling payment of a monetary property equalization payment in this matter is inconsistent with case law from the Arizona appellate courts and the Arizona Constitution. The Arizona Constitution, Article II 18, succinctly states: "There shall be no imprisonment for debt, except in cases of fraud." Per this Section of the state constitution prohibits the court from incarcerating me for the non-payment of a debt owed to the mother in the form of a property equalization payment. I also included several Arizona _____ decisions.

_____ and many more. Like it was stated in the

Monetary property settlement payments can only be enforced by respondent bringing a deficiency action and obtaining a judgment upon which she can execute. Based on the authorities set forth above, I asked the court that any past or future finding of contempt against me for non-payment of the property settlement award to mother is improper and should be withdrawn. As stated above, Mother's remedy in this case is to bring a deficiency action against me and obtain a judgment against me upon which she can execute. However, based on the clear violation of my constitutional right _____ refused to listen and actually the opposing attorney stated in her opening statement "Your Honor I know you can't throw

in jail, but we would like to ask the court to take any action that they can. _____ responded by saying "What do you mean

I can't put him in jail?" "I sure can" and without allowing my attorney to respond he ordered me into custody. As shocking as this was to my attorney and I, it was equally as confusing while they were booking me because they didn't know how to _____ it because there wasn't

a code for my _____ My attorney immediately prepared a petition for Writ of Habeas Corpus from order of _____ Superior

Court, which order was issued by _____ on _____, placing the petitioner (Me) in custody of the

County Sheriff's office. On _____ The Honorable _____ set a hearing on our petition for Wit of Habeas Corpus

Filed in the Arizona _____ under caus _____ which Duty Justice _____ has remanded to this division of the

_____ Superior Court, for the purpose of considering the Habeas Corpus Petition. The court having reviewed the petition, the attached

orders, and the minute Entries in the court's file, the court offers the following draft ruling to assist the parties in proceeding with

the hearing: the court notes that _____ order is reasonably susceptible to the interpretation that the Petitione

is being incarcerated for failure to pay a debt, which would be in violation of the Arizona Constitution, such that it is

the court's thought that the petitioner should be released from custody, and this matter be returned to the status quo ante position. Based on the courts finding

and overruling _____ orders should be a clear indication that _____ used his authority to impose a punishment that clearly was a violation.

(Attach additional sheets as needed)