

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 13-276

Judge:	No. 1003414792A
Complainant:	No. 1003414792B

ORDER

The complainant alleged that a superior court judge improperly failed to recuse himself and was biased.

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. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: February 3, 2014.

FOR THE COMMISSION

/s/ George Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on February 3, 2014.

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

COMPLAINT AGAINST A JUDGE

Name: _____ Judges Name _____

Instructions: Use this form or plain paper fo the same size to file a complaint. Describe in your own words what you believe the judge did that you believe constitutes judicial misconduct. Be specific and list all of the names, dates,times, and places that will help the commission understand your concerns. Additional pages may be attached along with copies (not originals) of relevant court documents. Please complete one side of the paper only, and keep a copy of the complaint for your records.

I would like to start by thanking the Commission on Judicial Conduct (CJC) for reviewing my matter. I cannot fully explain the harm and damage Judge _____ rulings have caused.

To begin, additional activity to my Case # _____ in Superior Court of _____ began on _____ when the _____ Court Administrator reassigned our case from Judge _____ in _____ Arizona, to Judge _____ in _____ Arizona. **The case was reassigned to Judge _____ who professionally works in the same court as the Petitioner in Case**

Judge _____ made his first ruling in the matter on _____, denying the Petitioner’s request for modification of child support as the Arizona Child Support Guidelines did not support a 15% change from the previous order. The Court failed to notify the Respondent of the _____ ruling and thus the Respondent could not properly defend himself.

On _____ the Petitioner, _____ mailed a certified letter (attached) to my employer, the _____ Arizona, Sector _____ Agency. The letter, which was accepted by the receptionist of the _____ Agency, did not reach the Respondent until _____. The letter advised the Respondent that she was going to relocate our _____ to the east coast. Petitioner’s letter NEVER stated that she was “only considering it.” Upon investigating my rights, and Pursuant to Arizona Revised Statute (ARS), the Respondent had _____ to respond to the certified letter. Therefore, the Respondent retained the Law Office of _____, on _____ for to contest the relocation of our _____

On _____ and _____ the Respondent filed a Motion Requesting a Hearing RE: Child Support/Arrears. It was DENIED on _____

In response to Petitioners threatening letter of relocating to the east coast with our child, the Respondent filed a Petition to Prevent Relocation of Minor Child _____ pursuant to the ARS. In that petition, the Respondent respectfully requested Judge _____ to order Petitioner be responsible for court costs and attorney's fees should the matter proceed to trial.

On _____ Judge _____ issued an Order to Appear to the parties. **IT SHOULD BE NOTED THAT AS OF _____ JUDGE _____ HAD REVIEWED COURT PLEADINGS WITH THE PETITIONERS NAME ON IT; HIS FIRST INDICATION THAT HE SHOULD HAVE RECUSED HIMSELF FROM THIS CASE AS HE COULD NOT POSSIBLY RENDER DECISIONS THAT WOULD BE FAIR AND IMPARTIAL AS JUDGE AND THE PETITIONER WORK TOGETHER.**

On _____ the Petitioner's attorney of record, _____ filed pursuant to Rule 42(f) a Notice of Change of Judge. The notice was timely, the petitioner had not waived her right to change of judge in this matter under subsection (42)(f)(1)(D) of the rule, and had not previously been granted a change of judge. **It is the Respondent's belief that Ms. _____ requested the change of Judge as her client had an established professional working relationship as one of Judge _____ employees.**

Judge _____ and Petitioner have: (1) had extensive personal and professional contact. Petitioner is a Juvenile Probation Officer in _____ County and has appeared in Judge _____ court, in performance of her duties, BEFORE AND AFTER our case was reassigned to him. Petitioner has been in Judge _____ chambers to advise course of action on the Petitioner's caseload (i.e. presentence reports, revocation hearings, etc.); and (2) Judge _____ and the Petitioner have, more than likely, individually attended social court events while employed at the _____ County Superior Court.

The Respondent believes the above relationship exists due to the fact that the Respondent experienced that type of professional working relationships with all staff while employed as a Courtroom Deputy/Court Reporter at the U.S. District Court, District of Arizona, _____ Division, from _____

As I worked as an employee of the court during the years mentioned above, the Respondent routinely attended events (i.e. birthdays, retirements, Christmas Events, etc.) with MOST Federal Courthouse Employees in attendance. The following agencies would also attend (Federal Public Defenders Office, Assistant U.S. Attorney's Office, U.S. Marshal Service, Clerk's Office, U.S. Probation and Parole, the Bar, and the U.S. Pretrial Services Agency). **Petitioner's attorney, _____ should be asked why she was requesting the change of judge. It's logical it was because of the appearance of bias and the appearance that Judge _____ could not be fair and impartial.**

Judge _____ **REFUSED TO RECUSE HIMSELF** as indicated on his order dated _____ **even though he could not be fair and impartial, and had to have known the Petitioner was an employee of the Court that worked for him.**

AS JUDGE _____ IS PRESIDING JUDGE OF COCHISE COUNTY IN DIVISION 1, HE IS WELL AWARE OF THE AGREEMENT COCHISE COUNTY SUPERIOR COURT HAS WITH GRAHAM/GREENLEE COUNTY SUPERIOR COURT OF ARIZONA FOR CASE REASSIGNMENT WHEN A JUDGE HAS TO RECUSE HIMSELF DUE TO THE SLIGHTEST OF BIASES BEING EVIDENT.

On _____ Petitioner files a Response To Petition For Order To Appear To Prevent Relocation Of A Minor Child. Said petition now states, "Petitioner has no plans to relocate and is withdrawing her notification to Respondent of any intent to do so." The petition states, contrary to Petitioner's personally typed letter which she sent certified mail, that "Petitioner had originally informed Respondent that she was "considering" moving to the east coast..." Respondent agreed and stipulated to not relocating our child, however, the Respondent, filed a Motion For Attorney's Fees as Respondent felt the Petitioner/Mother acted in bad faith and asked Judge _____ to file sanctions against the Petitioner for her actions. Respondent requested attorney's fees in an appropriate amount as the Judge deems just be awarded in favor of the Respondent. The Petitioner's response dated _____

again stated, "Petitioner had intended to relocate to the east coast." JUDGE _____ BIAS RULING IN FAVOR OF PETITIONER DATED _____ STATED, "NO FINDING OF BAD FAITH" ON PART OF PETITIONER AND RESPONDENT'S REQUEST WAS DENIED. JUDGE _____ RULED THAT ATTORNEY'S FEES SHOULD BE APPLIED TO CHILD SUPPORT MODIFICATION, HOWEVER, RESPONDENT DIDN'T ASK FOR THAT. RESPONDENT WANTED THE _____ RETAINER TO BE THE RESPONSIBILITY OF THE PETITIONER. ANOTHER EXAMPLE OF HOW JUDGE _____ AND THE PETITIONER'S WORKING RELATIONSHIP RESULTED IN A BIASED RULING.

On _____ the Respondent filed a petition for Modification of Child Support. The petition advised Judge _____ that Respondent resigned his position with the _____ due to his ex-wife's threat of relocating our _____ to the east coast via her letter dated _____. The Respondent provided Judge _____ with pay stubs from _____ Department Store that indicated he earned _____ hour. RESPONDENT FURTHER ADVISED JUDGE _____ THAT RESPONDENT HAD FATHERED AN ADDITIONAL CHILD AND THAT RESPONDENT SHOULD RECEIVE CREDIT FOR SAME ON THE CHILD SUPPORT ORDER MODIFICATION; HOWEVER, JUDGE _____ DENIED IT AND ADVISED THE RESPONDENT THAT HIS OTHER CHILD WOULD NOT BE CONSIDERED.

On _____ Judge _____ set an Evidentiary Hearing for _____

Assistant Attorney General (AAG) filed a Motion as State's Entry of Appearance on _____

On _____ Judge _____ continued the Evidentiary Hearing to _____

On _____, Petitioner's attorney, _____ withdraws as attorney of record. OBVIOUSLY, THIS WAS DONE BECAUSE THE AAG WAS NOW REPRESENTING PETITIONER, WHICH MS. ADMITS TO IN HER _____ PLEADING BY STATING, _____ FILES STIPULATED MOTION TO WITHDRAW, IN ORDER TO PERMIT COUNSEL TO BE WITHDRAWN AS COUNSEL OF RECORD PURSUANT TO RULE 5.1(a) (2)....DO NOT WARRANT PETITIONER HAVING TWO ATTORNEYS ON HER BEHALF, AS THEY CAN BE HANDLED BY _____ OF THE ATTORNEY GENERAL'S OFFICE. IT'S CLEARLY OUTLINED; JUDGE _____ AGREED TO MS. _____ STATEMENTS BY APPROVED HER WITHDRAWL ON _____ JUDGE _____ NEVER DISAGREED THAT MS. _____ WAS NOT THE ATTORNEY FOR THE PETITIONER AS MS. _____ STATED IN HER ON THE MOTION. COURT PLEADINGS WRITTEN BY _____ STATE SHE IS THE PETITIONER'S ATTORNEY.

On _____ Judge _____ rules in favor of Petitioner. **Even though Judge _____ is advised of Respondent fathering another child, Judge _____ chose NOT TO ADDRESS IT AND GIVE THE PROPER CREDIT TO THE RESPONDENT even though ARS states he has to consider it.** Judge _____ willfully does not consider Petitioner's threat letter as a reason for Respondent to resign his position with the _____.

The stipulation to not relocate that Judge _____ addressed occurred after I had already resigned with the _____. Pursuant to ARS, the Respondent only had _____ to respond to the certified letter threatening to relocate to the east coast. **JUDGE _____ RULING FAVORED THE PETITIONER, WHO IS SOMEONE WHO WORKS FOR HIM.** Judge _____ continued the Evidentiary Hearing to _____.

In addition, Judge _____ **LIED** to the Respondent by stating on the Court Record that he will not remove himself from this case because he only hears Family Law cases and **NOT** Criminal Law cases in _____ County. For that reason, he will not recuse himself from this case. **IT SHOULD BE NOTED THAT ON _____ THE RESPONDENT CONTACTED THE CLERK'S OFFICE OF COCHISE COUNTY, AND WHEN ASKED IF JUDGE _____ SAT IN ON CRIMINAL CASES. THE COCHISE COUNTY CLERK ADVISED THAT JUDGE _____ "CURRENTLY" DOES HAVE CRIMINAL CASES ASSIGNED TO HIM! JUDGE _____ COMMENTS ARE PART OF THE OFFICIAL COURT RECORD AND SHOULD BE REVIEWED.**

On _____ Judge _____ AGAIN ruled in favor of Petitioner, advising he could not award petitioner retroactive credit for the time the Petitioner and Respondent had reconciled. Not even Petitioner's written admission dated _____ was considered. Judge _____ considered Respondent's ability to be gainfully employed but is not employed as part of his punitive ruling against the Respondent. How many Americans can be gainfully employed but are not employed through no fault of their own? Judge _____ ruled that I have the ability to earn between _____ to _____ in salary; however, his biased rulings damaged the Respondent's Financial Credit Profile which in turn prevented the Respondent from obtaining decent employment. Again, Judge _____ favoritism toward the Petitioner has enhanced the Petitioner's chances of fully succeeding on any type of hearing while in _____.

On _____ Respondent timely filed an appeal to Judge _____ and _____ rulings in _____. The appeal was dismissed by the Arizona _____ Office due to the expense and lack of documentation preparation experience by the Respondent.

On _____ another arrear hearing took place before Judge _____ Judge _____ ruled that Respondent had accrued additional arrears. **IT SHOULD BE NOTED THAT THE ARREARS IN THIS HEARING WERE CREATED BY JUDGE _____ JUDGE _____ WOULD NOT MODIFY THE CHILD SUPPORT AMOUNT BASED ON: (1) THE RESPONDENT'S CURRENT WAGE EARNINGS; and (2) JUDGE _____ WOULD NOT CONSIDER A CHILD CREDIT FOR THE RESPONDENT'S SECOND CHILD.** Judge _____ ruled the Respondent has _____ to pay _____ or he would issue a warrant for non-payment. **ANOTHER EXAMPLE OF JUDGE _____ BEING BIASED TOWARDS PETITIONER IS THAT PETITIONER WAS GRANTED RETROACTIVE CREDIT FOR MEDICAL INSURANCE PAID BY HER, YET RESPONDENT CANNOT BE CONSIDERED FOR ANY RETROACTIVE CREDIT EVEN THOUGH JUDGE _____ COULD CONSIDER IT.**

NOTE: The Warrant of Arrest issued for Respondent's inability to pay _____ is issued by the Judge _____

IN CONCLUSION:

It is the Respondent's belief that Judge _____, for obvious reasons, **SHOULD HAVE RECUSED** himself from this case and reassigned it pursuant to the reassignment agreement _____. Court has with _____ Counties both within the State of Arizona. Based on the fact the Petitioner can be construed as Judge _____ employee as he typically follows juvenile probation officers recommendations in court, and the fact Judge _____ and the Petitioner have an established professional working relationship, as well as a possible platonic relationship outside of their working environment. It can be said that ALL of Judge _____ rulings have been skewed in favor of the Petitioner, and it is the Respondents belief it is **DEFINITELY** due to their professional working relationship.

Judge _____ rulings have NOT BEEN FAIR AND IMPARTIAL, and has caused CONSIDERABLE DAMAGE to the Respondent. Respondent intends to file motions asking _____ County to reopen my appeal case, and will possibly pursue a lawsuit against Judge _____ for damages and neglect of his judicial duties.

FURTHERMORE, IT IS VERY POSSIBLE THE _____ IN THIS CASE, MS. _____ AND THE PETITIONER, KNOW EACH OTHER AS WELL. MS. _____ AND THE PETITIONER BOTH REPORT TO JUDGE _____ EXTENSIVELY, AND THE THREE EXHIBITED AN EXTREMELY FRIENDLY RELATIONSHIP BEFORE, DURING, AND AFTER COURT HEARINGS.