

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 14-262

Judge:

Complainant:

ORDER

The complainants alleged a superior court commissioner improperly complicated an adoption proceeding.

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.

The commission does not have jurisdiction to review the legal sufficiency of the judicial officer's rulings. In addition, 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: October 2, 2014

FOR THE COMMISSION

/s/ George A. Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainants and the commissioner on October 2, 2014.

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

Dear Commission on Judicial Conduct,

My husband and I and our [redacted] recently completed the two-year process of adopting our [redacted] from [redacted]. After more than [redacted] in the foster care system and [redacted] homes, our [redacted] has finally found permanency. The difficulties and delays our family experienced at the hands of [redacted] are outlined in the following pages. The [redacted] presiding judge at the [redacted] facility, became aware of our struggles, and deemed it appropriate to transfer our case to her personal oversight. Noting the sufficiency of all documentation previously provided in accordance with Title 8 adoption laws, Judge [redacted] upheld and applied the law, something we believe [redacted] failed to do in our case, and helped our family celebrate a long-awaited conclusion (Attachment 1). We now bring this matter to the attention of the Commission in hopes of preventing other families [redacted] from experiencing this kind of unnecessary stress and delay in what should be a wonderful occasion.

Our [redacted] came home to us just before [redacted]. As we neared completion of the required [redacted] co-habitation period, we gathered all of the necessary documents required for finalization. With the help of [redacted] and [redacted] at the [redacted] Attorney's Office, our Petition to Adopt Minor Child (Attachment 2) was filed on [redacted]. Our Adoption Certification remained valid through [redacted] (Attachment 3). In questioning the County Attorneys Office about this window of time, we learned that [redacted] are generally flexible with the finalization date as long as the Petition to Adopt is filed prior to the expiration date. However, we discovered that some are more rigid with dates, requiring finalization on or before expiration of the Adoption Certification. As a precaution, [redacted] also helped us file a Motion to Expedite Final Hearing on that same afternoon, [redacted] (Attachment 4). [redacted] was subsequently assigned to our case, and the hearing was scheduled for [redacted] at [redacted] (Attachment 5). Thrilled that our County Attorneys Office and [redacted] Courts offer this great service to Arizona's adoptive families, we eagerly awaited our day in court.

[redacted] our adoption worker with [redacted] Agency, and [redacted] case workers, [redacted] and [redacted] provided all necessary reports and documentation to the County Attorneys Office in a timely manner, including the Termination of Parental Rights (Attachment 9, Exhibit 6), signed and entered over [redacted] years prior by Judge [redacted] in [redacted] County, on [redacted]. In the days leading up to the hearing, all parties prepared for the event with no indication that [redacted] was dissatisfied with any portion of our case until the afternoon before our scheduled hearing date.

On _____ at the County Attorneys Office notified us by email that _____ was unsatisfied with documentation regarding paternity (Attachment 6*). Specifically, if we could not satisfy the _____ proof of paternity requests at this point, we would be facing the disheartening delay of having to pursue _____ severance and publication in a local _____ newspaper for a period of time, placing our entire adoption on hold for possibly months. All parties scrambled to locate supporting documents, combing through the entirety of approximately _____ pages representing _____ official case file. Judicial Assistant, _____ spoke personally with _____ in attempt to help clarify matters for us (Attachment 7*), but confusion remained. _____ adoptions attorney at the County Attorneys Office, began researching _____ Administrative Code and gathering more information. _____ volunteer _____ was able to locate and purchase a _____ at her own expense (Attachment 9, Exhibit 2), which was immediately emailed by _____ case worker, _____. This, and other additional information was provided to _____ office on _____ (Attachment 8*), however, the _____ remained unsatisfied and our hearing was vacated. Those involved with our case, having years of adoption experience, began to express incredulity at this turn of events. On a personal note, _____ had a failed adoption previously, and though we tried to explain _____ that this was just a minor delay, _____ expressed that _____ thought this adoption was failing also.

On _____ adoptions attorney, filed a very thorough Motion to Reconsider Sufficiency of the State of _____ of Termination and to Reset Final Adoption Hearing, along with supporting exhibits as additional evidence (Attachment 9). We learned at this point that _____ requires finalization prior to expiration of the Adoption Certification, which was dated _____ but we remained hopeful that this could still be done, or that she might allow some flexibility in our case due to the circumstances. Otherwise, our family would be facing additional expenses to renew our home study and recertify in what was the final chapter of an already expensive and time-consuming journey.

_____ evening, _____ I was able to contact the Hon. _____ presiding judge at the _____ facility, requesting any support she might be able to offer in our situation. Judge _____ responded the following day, expressing confidence in _____ and offering to help us find resolution (Attachment 10*).

On _____ adoptions attorney, notified us by phone that the _____ denied the Motion to Reconsider (Attachment 11). _____ stated that she would be asking the _____ to review our case (Attachment 12*), and requested _____ file for closer review, which was delivered to her office that same afternoon. In disbelief, I notified Judge _____ of these developments, including the possibility that our case may need to ascend to a higher court (Attachment 13*).

*Email history provided for verification (Attachment 14)

morning, from Judge office, called to inform us that Judge had reviewed our case and would personally be handling our adoption from this point forward. We were overjoyed with this news, and a new hearing was scheduled on at stated that the Judge had not requested any additional documentation, and appeared to be fully prepared to finalize our adoption without requiring recertification. We are so thankful for the professional and caring representatives at the County Attorneys Office, and for Judge who was able to intervene when we needed help, and bring our family together for good. This truly is a wonderful service that Arizona provides to families

Our family is now asking for the Commission's assistance in what appears to be an overly aggressive interpretation of paternity laws, leading to burdensome requests above and beyond what is required by law. are generally courteous and eager to help adoptive families come together, but our situation seemed more adversarial. We do not know

and have never met her, but we would like to offer the assistance of parties involved in our case to help draft paternity guidelines, if desired by this Commission. We believe this may provide those in the adoption community with the needed clarity on these requirements, and eliminate the pain and uncertainty that we experienced near the end of our adoption journey.

Enclosed with this letter is a copy of the letter our wrote on the morning of adoption day to adult self. We were all touched as chose to read this letter in court to the Hon. and then receive her encouragement and positive words for a bright future.

On behalf of our family, and those coming after us, we would like to thank the Commission for any provision or resolution you may be inclined to set forth in this matter.

Sincerely,

*Email history provided (Attachment 14) for additional information and verification purposes; dates highlighted for sequencing.