

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 15-262

Judge:

Complainant:

ORDER

The complainant alleged a judge improperly ordered her to disclose confidential health information.

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.

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 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: October 28, 2015

FOR THE COMMISSION

/s/ George A. Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on October 28, 2015.

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

I understand the commission cannot reverse court orders or assign a new judge to a case.

I declare, under penalty of perjury, that the foregoing information and the facts I have provided upon which my allegations of judicial misconduct are based are true and correct.

Signature: _____

Date: _____

INSTRUCTIONS

Use the following space or plain paper of the same size to explain your complaint. Explain why you believe what the judge did constitutes judicial misconduct. Be specific and list the names, dates, times, and places relevant to your allegations. Additional pages may be used and relevant copies of documents may be sent with your complaint (please do not send original documents). Use one side of each page only and write legibly or type your complaint. Please keep a copy of your complaint for your records.

Hon _____ did not uphold the court order for it's intended purposes. I was asked to be evaluated by a mental health professional. I am currently in court ordered treatment due to this issue. The court order stated that my _____ be suspended until I have been evaluated by a mental health professional. The court order also states that I must cooperate with this request and must submit a treatment plan, if any from the mental health provider. I have adhered to this request and have provided these results from _____ ordered mental health professionals involved with my treatment. My _____ attorney, decided that a letter from my mental health Doctor stating that I am in treatment and presents as stable, was not sufficient enough. Even though the physician left his telephone number in the letter. Again, this hearing was a status conference in response to the _____ request for me to be evaluated by a mental health facility. When I presented this letter written by a court ordered facility, _____ my _____ attorney, did not accept this letter as sufficient evidence. (Also, these mental health providers will not write anything other than my status and compliance with treatment) He then asked the judge that I submit all my medical records, and every provider that I have seen in the past _____ and all of personal records associated with my care. Most of which are not pertinent to my treatment plan or _____ Nonetheless, I agreed to cooperate with _____ request contingent upon evaluating my _____ privacy rights. After speaking with a _____ professional, I was told that submitting certain documents about my medical history that is not pertinent to my treatment plan and diagnosis, is a type of request that should not be granted, and that _____ is not at liberty to evaluate these particular records. Therefore, I furnished _____ with the mental health professionals I have seen in the past _____ what my diagnosis is, and the treatment plan. The status conference I just appeared at on _____

prefaced her opening statement by referring back to an agreement that myself, _____ and _____ had made a couple of years ago. She mentioned, that in the best interest of the _____ both Mother and Father will inform each other of any changes or updates to mental health providers and/or treatment plans. When she asked if I had done this I said "yes." When she asked if _____ had cooperated with the same requirements I said "No." I mentioned that I have asked this from him as well as other information that he failed to comply with. She quickly made reference that he didn't need to adhere to this agreement because the issue is about me in this hearing. I was completely taken back by this response after she had mentioned just seconds before that he needed to comply with the same requirements.

_____ admitted to _____ that I sent him 7 pages of all of the mental health providers I have seen, including a treatment plan and diagnosis. But he said I did not submit all of the medical providers and records of all health facilitators in the past. I stated that by submitting certain documents that have nothing to do with my treatment plan, would be considered a violation of my privacy rights. In addition to this, I stated that certain records that may have personal information could potentially cause injury or pose a safety threat to myself and the lives of certain family members. And this is the reason I chose not to submit these personal records as they are NOT pertinent to my diagnosis, recovery, and treatment plan and are not relative to the court order from _____. I want to remind you that this was a status conference based on _____ order for an evaluation and a request to comply with any suggested treatment. Therefore, I submitted another letter from a court appointed mental health provider that states I have cooperated with treatment and am responding well with the recovery plan, which is what _____ asked for in her court order. When I tried defending my position, she would not allow me to speak. Again this is a status conference in conjunction with a court order by _____ that I be evaluated and cooperate with any treatment plan suggested by a mental health professional. My _____ would be re-established contingent upon my willingness and ability to cooperate with an evaluation and treatment suggestions. Again I have _____ from court appointed mental health professionals that fulfill _____ court ordered request.

I believe that _____ was not acting in the best interest of both parties. She did not abide by her court order, and she failed to acknowledge that _____ is obligated to cooperate with the same guidelines. When I furnished her with the documents she had originally requested, she asked, _____ I was flabbergasted at this response, and to be frank concerned that this is a judge who is making decisions with regard to my _____ children. She then asked, _____ I responded, _____ This is what you have ordered. And I asked, _____ Because of the outlandish remarks by not only the judge, but her unwillingness to uphold the agreement in the court order, I became frustrated and was escorted out by a deputy. No other witnesses were in the courtroom until I was about to leave.

I have to say that I have never seen a judge behave in this manner in my entire life. I am concerned for _____ ability to effectively make decisions that are in the best interest of _____ based on the validity of her remarks. I am even more concerned that because of her unwillingness to adhere to the court order and what it was intended for, that _____ will be negatively impacted for the rest of their lives. My _____ have not been with me for more than _____ now because of _____ gross negligence in this matter. I do not feel comfortable having _____ facilitate and make decisions in regard to these parenting matters due to the inadequacy of _____ logical reasoning and behavior.

After observing what has taken place in the courtroom so far, her unwillingness to uphold the court order for its intended purposes, and negligent responses to the information I have provided her, I am unsure if she is considered mentally fit to act in the best interest of _____. Because of her negligence in this matter, _____ are at risk for experiencing devastating mental and emotional effects. _____ are being placed in _____ environments and exposed to certain adults that is making it more difficult for them to feel at ease, confident, and comfortable. I have witnessed that _____ are becoming more confused with this lengthy process, and are not being told truths about my willingness to cooperate with the court order, my ability to act in good faith that I am making every effort to communicate with them the best way I can given the restraints placed on my time. They have made remarks to me about my intentions as a mother that are extremely concerning. I know that these responses are not how they really feel, and are becoming more confused and less confident while they are away from me. And to be honest, I am very worried that they are being told things that are not healthy for anyone to hear. Nonetheless, this has always been a concern and struggle in shielding them from adults who have said things to them and have placed them in situations that they are not mentally or emotionally equipped to handle.

The longer _____ refuses to uphold this court order for its intended purposes, the longer these kids will be exposed to harmful environments with individuals that are not fit to act on their behalf. In most recent telephone conversations with _____ I am hearing apprehension and fear in their voices. And most of the time when we talk, they say they cannot say certain things in front of their _____. They have told me repeatedly that they cannot talk when at their dad's house for fear they will get into trouble. What is even more alarming, is that _____ has asked me on several occasions to pick them up from school, in which most of the time I did pick them up from school and cooked dinner for them. I have picked them up from their house to spend extra time with them on the weekends. They have also stayed the night with me as well. In all of these interactions with my kids that _____ has allowed for, they were all unsupervised, and _____ was made aware of this. If _____ was concerned about my mental stability, he would not have allowed me to be in their presence at all. The kids continue to communicate that they want to see and spend time with me. Recently, they have made plans and have told me their _____ is approving of this, but cancels at the last minute. In addition to this, I have heard remarks from the kids on several _____ does not want this legal situation to continue and wished to have my parenting rights restored. Because of the inconsistent decisions made by _____ and _____ I feel that _____ are becoming desensitized by this process. I also feel that _____ concern is not primarily for the kids, but more concerned about protecting himself from years of abusive and damaging behavior he has inflicted in our post-divorce co-parental relationship. I am confused as to what the goal really is for these kids and the expectations of myself while being placed under unreasonable restraints. I can only imagine how my kids are feeling.

I have complied with _____ court order to seek an evaluation and cooperate with any suggested treatment plans. I have furnished _____ with this information. I cannot submit records that are not pertinent to _____ and the _____. By furnishing records that are not relative to this court order, could have harmful effects on my life and safety. If _____ concern is related to not only my mental well being but also my physical well-being, I would be more than happy to provide a letter from any and all physicians managing my care, that I am considered physically healthy and there are no medical conditions that would prevent me from parenting my kids.

This complaint is being written due to the gross negligence with this court order and its intended purposes. The longer this is neglected by the _____ Court, the longer _____ are at serious risk for mental and emotional challenges.