

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 15-269

Judge:

Complainant:

ORDER

The complainant alleged a pro tem superior court judge was prejudiced against him, made improper remarks to counsel, and failed to follow the law in a domestic relations matter.

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 judge'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.

Commission members Anna Mary Glaab and J. Tyrrell Taber did not participate in the consideration of this matter.

Dated: February 5, 2016

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 February 5, 2016.

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.

See Attached Pages

See Attached Pages

Brief Summary of Facts/Procedural History

-The parties were divorced by consent decree on

-The parties' have at issue, specifically

-In the Decree, the parties agreed to and time which was included in a Parenting Plan that was incorporated into the decree. In accordance with the , the parties relocated to

-Unfortunately, while there, Mother attempted to remove the minor child from and relocate Mother claimed that Father had intended to move to initially, but changed his mind after she had already left. Father filed an emergency action, and jurisdiction was taken by after relinquished same. The Court saw Mother's allegations were false and The order indicated that

The Court further ordered that

-In by agreement, the parties moved back to and continued to share physical custody. By agreement the parties also began to follow a week on/week off schedule.

-In , Mother indicated she wanted to move to because she believed it would be a greater benefit for her financially. Father made plans to move him and his family to , with the understanding that Mother was moving as she indicated.

- After Father had moved to Mother advised that she was not moving to County. In Mother advised Father that she had moved to further north than where she lived previously. This move was never discussed or even communicated to Father until after Mother had moved. Mother then requested asking for , suggesting that

-The parties went to where it was proven, beyond a reasonable doubt, that mother had in fact, tricked father into moving away so that she could, in turn, file for full custody. Evidence was provided to the court and testified upon, i.e.- written by mother to her landlords, whom at the time where that indicated her intent to move out of their house, so that she could then move to with father.

-After initially scolding mother for actions and lack of communication the court provided Mother with

-The Court later reversed its decision only after learning that Mother had hidden a received while the

-Permanent orders were entered in with Father affirmed to have

-The Court did not change the temporary orders because Mother did not comply with the requirements that she engage in

-In Father attempted to obtain a , to ensure the safety of the minor child because mother was not engaging in or being yet the Court still denied same.

-In Mother filed for a modification of child support, asking that her current obligation be . Although the parties both had modifications with their income, the result was minimal, specifically Mother's obligation . Instead of granting Father the additional support the Court simply denied the request. Father cross petitioned for due to Mother's refusal to pay child support. Although Father showed that Mother had knowledge of her obligation, was gainfully employed and able to pay, but merely chose not to, the Court . Worse, Father was denied and Mother was allowed to

-In Mother filed for a Father moved for the action to be transferred to which was granted. The matter is still pending and is awaiting assignment in

Complaint/Issue

In his rulings and actions, who was assigned the matter from until , and then again in until the present, has violated the Code of Professional Conduct numerous times and in numerous ways. Specifically, he has:

- (1) Failed to comply with court procedures,
- (2) failed to uphold/follow the relevant statutes,
- (3) failed to enforce the Court's orders,
- (4) failed to be impartial and unbiased, and
- (5) engaged in improper conduct during the hearings.

It seems easiest to reference the hearings chronologically and provide further information on the violations therein. Specifically:

Evidentiary Hearings

This was to be an evidentiary hearing regarding temporary orders. [redacted] failed to comply with the relevant statutes/law when he focused on a contested DV issue from [redacted] which occurred [redacted] prior, did not include the [redacted] or Mother, had little relevance on the current situation, and had already been heard during the case in [redacted] that was mentioned earlier. The Judge ignored the [redacted] and also ignored Mother's malicious acts in tricking Father into moving, when making its ruling.

The Court was not fair, nor impartial, allowing Mother to testify about things that were not plead, nor argued, and had little relevance on the issue at hand. Also, the Court ordered that Father obtain [redacted], when the only information regarding these concerns were Mothers testimony of the past, and her accusations of Father having a history of issues. There was no evidence of same, nor was it anything current or presently relevant.

Evidentiary Hearing

This was an evidentiary hearing set to deal with modification of the temporary orders due to the fact that Mother was [redacted].

The Judge failed to both enforce his own orders and/or hold Mother accountable for her violation of same. Specifically, the requirement that neither party [redacted], as well as the order for Mother to obtain [redacted].

The Court was not impartial. Rather than focusing on the [redacted], the Court order the exchange to occur later in the week. Mother was shown to lie and/or mislead the Court, without incident from the Judge.

The Court failed to enforce the statutes/law in this matter, basically focusing on the parties inability to communicate, rather than Mother's dangerous and thoughtless acts.

The Court made regular remarks against Father and his counsel.

Evidentiary Hearing

This evidentiary hearing was set to hear [redacted].

The Court ignored evidence that showed Mother was provided very significant amounts of child support, it may not have been through the clearing house, but everything she was [redacted].

provided supported her and minor child. Specifically, she was provided
, by father and/or his family, which stated its relations to her and
specifics about what it was for, i.e.-
. These accounted to over over the course of a
years. The Court ignored the evidence, i.e.- and still made
Father pay further arrears.

The Court also ignore evidence of the and seemed to pick
numbers out of the air, usually at a benefit to Mother.

Worse still, the Court was biased and partial to Mother, requiring Father to
prior to receiving current obligation from Mother at
The payback equaled about of Father's Net, even though he made less than
Mother and Mother no longer had to

The Court made snide remarks to Father and his counsel

Evidentiary Hearing

This hearing was to deal with
due to Mother's refusal to comply with the that
resulted from the hearing. Specifically, she had and missed many
others, which counted as Also, Mother provided no information on engaging in
as ordered.

The Court failed to follow the statutes, finding no issue with Mother's actions, even
stating something like " ", even though she had recently been convicted of
The
clearly would be against Mother regarding her mental health and what is

The Court also failed to uphold it's own orders. Even though Mother was shown to
violate the orders, the Court did nothing.

The Court was biased toward Mother, allowing her to argue about the issue of
, when it had never been plead and was not even shown to have been
discussed by the parties. Mother generally did not have to plead issue, but could merely talk
about them in Court to obtain orders from the Judge.

The Court made remarks about Father and his counsel.

*It should be noted that the Court had indicated an internal follow up/review on these
issues would occur in Mother provided correspondence from her counselor, which
indicated she did not engage in same from . until in violation of the
order entered on from the hearing. Mother also did not engage in further
resulting in additional from through the*

Court did nothing about same, and even granted

Evidentiary Hearings

These evidentiary hearings were schedule to deal with Mother's

The Court did not uphold the statute as Mother's pleadings included false and unsupported allegations, yet the Court did nothing against her and still heard the issues. Further, Mother failed to show a significant and substantial change in circumstances, in fact, after calculations were complete Mothers obligation . Yet the Court did nothing, refused to grant Father the additional or the attorney fees and costs for having had to respond.

The Court gave Mother extreme leeway with the information presented. Mother did not provide the items required under Rule 49 for disclosure, without incident. Mother also provided one pay stub which supported her claims, and one which discredited it. The Court ignored the evidence against Mother's claims without cause.

The Court failed to follow the guidelines which require a showing of a continuing and substantial change of circumstances. Mother testified she was in the same job, with the same employer, earning the same amount.

Father was not given an opportunity for discovery or disclosure during the matter as the hearing was scheduled quickly and a request for a continuance denied.

Mother was allowed to testify about issues not plead or previously discussed/disclosed. Mother talked about _ _ but provided nothing. Mother discussed changes in her without any proof of same.

Mother was shown to violate the orders, purposefully and with full knowledge, yet she was not held in contempt.

The Court did not even look at what was provided in evidence when making its ruling.

The Court Ordered Mother to have a specifically " . " No testimony about this. No issue even made on this. In truth, Mother was in arrears in and unable to , Father was not, so there was | _ _ .

Court made comments about Father and his counsel-Mocking them, complaining about them, suggesting improper behavior.

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COMPLAINT ON ITS WEBSITE.**

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COMPLAINT IN THIS MATTER,
PLEASE MAKE YOUR REQUEST
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THE COMMISSION CASE
NUMBER IN YOUR REQUEST.**