

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 16-073

Judge:

Complainant:

ORDER

The complainant alleged a superior court judge engaged in improper ex parte communications, improperly failed to disqualify herself from his family law case, and made improper rulings.

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(a).

Commission members Peter Eckerstrom and J. Tyrrell Taber did not participate in the consideration of this matter.

Dated: May 10, 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 May 10, 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.

<p>On _____ I arrived for a _____ hearing in Judge _____ court. As I waited for the hearing to commence, I sat in the courtroom with (2)-two court staff members; one being a permanent member, and the other having been borrowed from another judge. I am aware of their status, as the two were having an animated conversation on how many staff were on vacation and/or how they were short-handed. After the substitute staffer verified my address, and other information, I enquired into the 'short-handedness' of the staff. The permanent staff member stated it was only she and the substitute/borrowed staff member working that day for Judge _____</p> <p>More time had passed, and the substitute staff member enquired of me, if I knew the whereabouts of the opposing party, as they were not present at almost 10-minutes (approximate) into the scheduled hearing time.</p> <p>Even more time passed, as Judge _____ appears and takes the stand, promptly selects a button on the courtroom telephone and, seemingly, is continuing an on-going conversation. This conversation was, as I would learn, be between Judge _____ and _____ counsel for opposing. While taken back at this behaviour, the Judges tardiness and/or ex parte telephone conversation had set the hearing back, substantially, and I was concerned with being late to returning to work.</p> <p>On _____ I filed a motion, part of which addressed this unusual behaviour. Judge _____ only response was 'takes issue' with my comments, denied _____ acts and promises to act ethically moving forward. I do not find this to be an adequate response.</p> <p>I believe, even as an inexperienced judge, _____ is held to a higher level of ethics and knowledge about the system, in-which _____ rules. Even more, having been practicing law in Arizona for several decades, _____ should be more than versed in the dos-and-donts of ex parte communication between parties.</p>

In position, Judge violated:

Canon 1, Rule 1.2: Public confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety.

Canon 2, Rule 2.9: A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending or impending matter.

As initiated or accepted a private call to/from (opposing counsel) immediately prior to the hearing (anytime would be unacceptable) and then continued the conversation in the hearing, clearly violated the aforementioned judicial ethical guides and materially harmed my position in the matter.

In position, Judge violated:

Canon 2, Rule 2.2: A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially... To ensure impartiality and fairness to all parties, a judge must be objective and open-minded.

Canon 2, Rule 2.3: A judge shall not in the performance of judicial duties, by words or conduct manifest bias or prejudice.. based upon race, gender, religion, national origin.... socioeconomic status...

I filed a Petition to Modify Custody and Child Support in Judge Court in
Prior to any responses, Judge dismissed the Petition, not allowing due process to take it's course in the matter. Later, at the hearing of Judge stated did not feel the petition was warranted, as felt I "was petitioning the court for increased time with the children as I simply did not want to pay child support". While there are times when this may be the truth in cases, Judge has repeatedly stated "I don't know much about this case", in-fact Judge has never issued a ruling in this matter through an actual trial.

As a Father, who has continually fought through false allegations, criminal acts by Mother's family (my was criminally charged for and the lack of ability to afford continual legal counsel, and faced by a former spouse who can out-spend me at every turn, I take an enormous amount of offense at such a callous and ignorant statement. If Judge feels so handicapped by lack of knowledge in this matter, may want to open the file and educate before ruling or continuing to make such ignorant and un-educated statements.

In this matter I, and my children, have been materially harmed through Judge callous acts and blatant bias against a Father who only wishes to raise his children under the facts of the case, not Judge assumptions based upon misconceptions of a case apparently has not taken the time to review, and are most likely formed from ex parte communications with opposing counsel.

Finally, I would contend, Judge knows a great deal about this matter, as I met with on (2)-two occasions in and paid \$150.00 consultation fee. Interestingly, was just as 'candid' in our consultation, as did not wish to work with and called opposing counsel, among other things: underhanded, a liar, and a terrible human being.

For all these reasons, I wish for this body to reprimand and sanction Judge for lack of ethical knowledge and blatant bias in this matter.