

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 16-093

Judge:

Complainant:

ORDER

The complainant alleged a superior court judge was prejudiced against him, did not afford him an opportunity to be heard, and made improper rulings in a family law 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(a).

Dated: May 25, 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 25, 2016.

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

is filing a complaint against for discrimination against his gender, his religion-which was stated in the report-and abuse of the prestige of official office. By displaying a staggering amount of personal prejudice and discrimination has shown a lack of clear legal judgment and a lack of understanding of Arizona state law. All of the following can be verified by the court recordings for hearings on and on and the minute entry from the first hearing.

and , whose name was later changed to , had two hearings with on and on . Both hearings dealt, at least in part, with the issue of child support and at both hearings failed to follow law and impartiality in his conduct of the hearings and as noted in his minute entry for the first hearing. As of this day no minute entry has yet been received for the second hearing. Each complaint will be noted individually herewith.

I. During the course of the first hearing opposing attorney presented as evidence a paper he said he received when he subpoenaed banking information from . The information, which was set up as a resume and contained chronological information about "current" employment, was obviously falsified, as pointed out to . The would not have any reference, ability, right or knowledge to provide to any information concerning employment or resume, a statement which the bank acknowledged to . The company listed had been the highest paying position had ever held, which was the reason why had used it. The fact that had been laid off from that specific company many years before and that both and knew about it demonstrates that had obviously fabricated the evidence. The issue is two-fold; first attached one of the original cover sheets he had received from the bank for the accounts he had subpoenaed to a different paper than what he had received and second, then claiming the bank sent the second sheet, which he had manufactured himself. This shows a blatant abuse of the system which the judge, using nothing more than common sense, should have realized as well. This along with the fact obviously hadn't presented a copy to beforehand as an exhibit he intended to present in court is an illegal manipulation of the judicial system. Yet in specifically stated, "...neither mother nor father knowingly presented a false claim, knowingly accused the other parent of making a false claim, or violated a court order compelling disclosure or discovery such that an award of attorney fees and costs is appropriate..." The judge did this so as to award the mother, additional money and child support from the father.

II. Again during the course of the first hearing, disallowed exhibits by saying they weren't properly done, yet he allowed obviously fabricated

evidence to go unchallenged by the court. As an officer of the court, [redacted] is held to a higher standard, both in terms of legality and knowledge, and as a fellow officer of the court the Judge should have backed [redacted] outrage instead of covering it up just so he could have the [redacted] awarded money from

III. [redacted] refused [redacted] post-hearing motion to release the falsified information previously mentioned. The Judge announced this at the beginning of the second hearing. This allowed the Judge to keep his minute entry of the first hearing intact, including providing mother with more money in the form of attorney's fees, by saying, "...neither mother nor father knowingly presented a false claim..."

IV. In [redacted] for the first hearing, [redacted] stated "The evidence showed that father claimed the child in his tax returns for both tax years [redacted] and [redacted]. Yet [redacted] never gave any evidence at any time for those tax years. All of the evidence which [redacted] took to the first hearing was disallowed by the judge and as such no evidence was either supplied or provided to the court. The last hearing where tax returns were presented was back in [redacted], when tax returns for the years mentioned by the Judge were not yet in existence. Therefore either [redacted] lied or [redacted] supplied the evidence without allowing to see it and bring in the correct evidence to counter it. [redacted] believes it is the later and that [redacted] attached it secretly behind other evidence which was in fact legally submitted. However, since the Judge already knew of [redacted] knack for providing inaccurate evidence, he should have dealt with it instead of finding another false reason to penalize the father.

V. Time-wise [redacted] allowed [redacted] more time in cross-examination during the first hearing, gave him more warning before he had to end and allowed silly and irrelevant questioning and information to take up time which [redacted] needed to prove income information. This he allowed to give himself the opportunity to grant the mother a larger amount of child support plus additional money for other aspects of their case.

VI. Where the [redacted] is concerned, [redacted] made many mistakes as stated below.

1. He did not put in accurate numbers representing income. If he even put in the numbers which were stated in the first hearing, [redacted] would be paying substantially less child support to the amount of about

2. He allowed [redacted] to avoid talking about her many streams of income. In doing this he went directly against the rules and laws governing the child support worksheet. Specifically "to establish a standard of support for children consistent with the reasonable needs of children and the ability of parents to pay", "to give parents and courts guidance in establishing child support orders and to promote settlements", "to comply with state law (Arizona Revised Statutes, Section 25-320) and federal law (42 United States Code, Section 651 et seq., 45 Code of Federal Regulations, Section 302.56) and any amendments thereto" and the concept that "Gross income

includes income from any source..." must be included in the child support worksheet, not just what the Judge wants to include.

3. He ASSIGNED an amount he felt he should be capable of making and dismissed inability to generate income. He did this despite having non-disputed information about having been a faithful and full child support payer when he was fully and gainfully employed with three part time jobs. The judge ignored the determination of what constitutes a work regimen including "work in a given area, work in a given field and *economic conditions* surrounding a person's ability to find work." (Italics added). Yet seems to think is lying despite the fact nearly one third of all Americans, about 95 million people, are either unemployed or underemployed today.

4. refused to acknowledge ability to make money with her family's small business in the virtually recession-proof , along with her other streams of income including her admitting in a previous court hearing that she does indeed work full-time at the office even though she claims and her college degree in the very specific field of which just happens to be what their specializes in, as supplied into evidence during the second hearing. In so doing the judge went directly against the laws governing the attributing of income by failing to acknowledge "Gross income includes income from any source..."

5. Despite finding out about the years of input into the financial welfare of their daughter for over a decade, including total medical, educational and extra-curricular bills, and despite evidence from own attorney involving a previous agreement they had showing what said to be accurate, the Judge continued to penalize him.

6. refused to use Parenting Time Table A which gives Adjustment Percentage.

The laws and regulations guiding the use of the child support worksheet are in place specifically to prevent biased judges such as from doing the very thing he did.

VII. refused to use the Schedule of Basic Child Support Obligations, which is another regulated tool in place to prevent the abuse of the system by judges. Specifically in the areas of:

1. The Self-support Reserve Test. The Judge refused to perform a Self-support Reserve Test, which states "...after determining the child support order, the court shall perform a Self-support Reserve Test to verify that the noncustodial parent is financially able both to pay the child support order and to maintain at least a minimum standard of living..."

2. The rules concerning Deviations. The Judge ignored deviations allowed in calculations such as "The court shall deviate from the guidelines, i.e., order child support in an amount different from that which is provided pursuant to these guidelines, after considering all relevant factors, including those set forth in Arizona Revised Statutes Section 25-320, and applicable case law, only if all of the following criteria are met." and in fact all of the criteria were met, such as:

A. "Application of the guidelines is inappropriate or unjust in the particular case." In case, whose family is struggling at the poverty level, it is applicable.

B. "The court has considered the best interests of the child in determining the amount of a deviation. A deviation that reduces the amount of child support paid is not, by itself, contrary to the best interests of the child."

C. "The court makes written findings regarding (the) above in the Child Support Order, Minute Entry or Child Support Worksheet," which the Judge failed to do.

D. "The court shows what the order would have been without the deviation." Again, which the Judge failed to do.

E. "The court shows what the order is after deviating."

VIII. "The court may deviate from the guidelines based upon an agreement of the parties only if all of the following criteria are met":

A. "The agreement is in writing or stated on the record pursuant to the Arizona Rules of Family Law Procedure (*ARFLP*), Rule 69." No agreement concerning child support was ever reached by the parties at any point in their legal battle.

B. "All parties have entered into the agreement with knowledge of the amount of child support that would have been ordered under the guidelines but for the agreement." See number 1 above.

C. "All parties have entered into the agreement free of duress and coercion." See number 1 above.

D. "The court complies with the requirements of Section 20.A. In cases with significant disparity of income between the custodial and noncustodial parent, a deviation may be appropriate." Although all of the conditions of Section 20.A qualify, the Judge refused to deviate from his own biased Child Support Worksheet.

IX. The Judge refused to account for other child and failed to follow rules governing that area, specifically that, "An amount may be deducted from the gross income of a parent for support of natural or adopted children of other relationships not covered by a court order." Since stated he had seen tax returns for and he would have also seen that supports both from his current marriage.

X. In the second hearing dissolved an agreement which was agreed to by both parties, signed by the previous Judge and was brought in and used as evidence by This was an agreement made despite the divisive nature of their relationship. Since had paid all of their daughter's bills for over a decade, and the continued resurgence of the thousands of dollars was owed by in court proved useless at best,

the parties made an agreement that once a bill became [redacted] months old it couldn't be brought up again. Yet the discrimination of [redacted] against [redacted], and of allowing many other unbelievable things to occur, gave [redacted] hope to bring up the agreement in the second hearing so as to have it altered by the Judge, which it was. It should be noted that this agreement was never even mentioned in the first hearing, which is when it should have been.

XI. Also [redacted], the Judge stated that "...father is capable of earning substantially more..." than what he is currently making. Yet he doesn't mention or correct himself in the second hearing when he learned about [redacted] owning her own business, one in the [redacted] and about her degree which would allow her to earn substantially more than even if [redacted] was employed full time with his degree.

XII. [redacted] again protected mother, and thus his judgment of allowing her to receive more child support, attorney's fees and other remuneration, when he said in his minute entry "...Father's claim is incorrect, and he is not entitled to the relief requested on that issue." concerning summer vacation requests. Yet NO information was given at either of those hearings and was presented at a request for immediate relief some months previous which the judge naturally failed to accommodate. [redacted] simply said that it was mother's priority to get summer vacation request for odd-numbered years. Yet not only did she receive priority in [redacted] she also took [redacted] priority away in [redacted] which is why a petition to remedy the situation was brought before the court. Not only did [redacted] usurpation leave him with no full two weeks of summer time in [redacted] he also lost the money he prepaid his trip with.

XIII. [redacted] used evidence over [redacted] years old to try and make decisions which would benefit the mother instead of current information which benefitted the father, including using a [redacted] to gauge what [redacted] income could be. The Judge used this information despite the Assessor admitting he received information from the opposing council [redacted] and that he couldn't guarantee the accuracy of that information or of the assessment. [redacted] also ignored the fact that [redacted] had never received a

XIV. [redacted] after taking a great deal of time to state that child support is the most important money a person can pay after taxes, then proceeded to take what [redacted] owed [redacted] in back child support off of attorney's fees instead of offsetting it with child support money, thus creating a situation where child support is changed from an important, first-pay lien to something much less and granting other, less important liens a greater status. This goes against the Supreme Court's guidelines which state "The child support obligation has priority over all other financial obligations; the existence of non-support-related financial obligations is generally not a reason for deviating from the guidelines." The Judge went against everything to allow his personal views of having the man pay money to the woman, and penalizing [redacted] for being the father.

[redacted] went above and beyond in his efforts to award [redacted] money, going so far as to ignore the Arizona Code of Judicial Conduct and the Arizona Child Support Laws and Guidelines which were adopted by the Arizona Supreme Court.