

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 16-351

Judge:

Complainant:

ORDER

The complainant alleged a superior court judge ruled improperly and was biased against him.

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: February 15, 2017

FOR THE COMMISSION

/s/ George A. Riemer

George A. Riemer
Executive Director

Copies of this order were distributed to all appropriate persons on February 15, 2017.

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

CONFIDENTIAL

Arizona Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
Phoenix, Arizona 85007

FOR OFFICE USE ONLY

2016-351

COMPLAINT AGAINST A JUDGE

Name: _____ Judge's Name: _____

Instructions: Use this form or plain paper of the same size to file a complaint. Describe in your own words what you believe the judge did that constitutes judicial misconduct. Be specific and list all of the names, dates, times, and places that will help the commission understand your concerns. Additional pages may be attached along with copies (not originals) of relevant court documents. Please complete one side of the paper only, and keep a copy of the complaint for your records.

I, _____ have just learned of this process to make a complaint against a judge that has acted inappropriately. My complaint is in regard to a court order made by _____ on _____ in which my children were handed over to my abusive ex-wife and sent to live with her in _____. This judge's ruling was not only biased in favor of the mother, it was in violation of my equal protection and due process rights.

The hearing for my divorce and custody of my children lasted approximately _____ hours and was bifurcated (part in _____ and part in _____) due to _____ allowing my former wife to appear via telephone in which she represented herself in a disorganized manner, interrupted repeatedly with rants, refused to disclose her place of employment or previous mental health diagnosis and medications, and wasted hours of court time with unsubstantiated and false allegations of domestic violence.

During this hearing, I was compelled to make an offer of proof regarding the testimony of others who would have provided first hand information of my former wife's irresponsibility and unlawful behavior. For example, _____ interrupted the testimony of a witness who began to testify to hearing my former wife threaten to stab me in the face, ruling the testimony as "hearsay" before it was fully uttered and dismissing it. This witness clearly heard the threats through an open phone line when I dialed my parent's home and sat the phone on the table so my family could hear the abuse my daughter and I were suffering. Due to _____ obvious intent to side with the mother, the court was deprived of much information that would have weighed in my favor on the children's best interests. (Reality of private biases and possible injury they might inflict were impermissible considerations under the Equal Protection Clause of the 14th Amendment. *Palmore v. Sidoti*, 104 S.Ct. 1879; 466 U.S. 429).

In the court order, dated incorrectly as _____ (the date of the order was actually _____), _____ inappropriately and in violation of my State and Federal equal protection and due process rights ordered sole custody of my _____ children to my former wife based solely upon the finding that during the _____ years of our marriage, my former wife worked outside the home while I stayed home and cared for the children. Specifically _____ stated "

(The United States Supreme Court held that the "old notion" that "generally it is the man's primary responsibility to provide a home and its essentials" can no longer justify a statute that discriminates on the basis of sex. No longer is the female destined solely for the homes and the rearing of the family, and only the male for the marketplace and the world of ideas. *Stanton v. Stanton*, 421 U.S. 7, 10; 95 S.Ct. 1373, 1376 (1975)).

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The only conclusion that can be made from _____ order is that the parent that makes the most money is the benchmark of that parent's overall responsibility and therefore the only measure of the children's best interest.

Testimony was rebutted that I was a nurturing parent to my children all their lives. My former wife abandoned our family in _____ leaving me to care for all _____ children. the youngest being _____ months old at the time. My daughter was in preschool at the time of _____ order. She had friends and teachers that she was bonded with. My son was to begin preschool and was pre-registered to go to school as well. I was the only parent my infant son knew after his mother took off. My children were born and raised in _____ and were bonded with their paternal grandparents, aunts, uncles, cousins and friends. They had never met my former wife's family as implied in the order, except to visit with their maternal grandmother on "Facetime". During one such visit the maternal grandmother lit a marijuana cigarette and smoked it in front of my daughter. For _____ to send my young children out of state and uproot them from everything and everyone they knew was certainly not in the best interests of the children. Further, sending them off to another state _____ day's drive away does not allow "substantial, frequent, meaningful and continuing parenting time with both parents." In fact, I am often deprived of communication and visits with my children because of my former wife's abusive and controlling behaviors.

I ask that the Commission review my case, and further delve into other similar cases under purvue. I believe it will be found that I am not the only victim of judicial misconduct and abuse of rights. I further ask that the Commission seriously review and consider the harm done to me and my family as a result of this abuse of my due process rights under the 1st, 5th, and 14th Amendments to the US Constitution.

Citations:

* A parent's right to the preservation of his relationship with his child derives from the fact that the parent's achievement of a rich and rewarding life is likely to depend significantly on his ability to participate in the rearing of his children. A child's corresponding right to protection from interference in the relationship derives from the psychic importance to him of being raised by a loving, responsible, reliable adult. Franz v. U.S., 707 F 2d 582, 58-95-599; U.S. Ct. App. (1983)

* A parent's right to the custody of his or her children is an element of "liberty" guaranteed by the 5th Amendment and the 14th Amendment of the United States Constitution. Matter of Gentry, 369 NW 2d 889, MI App. Div. (1983)

* "The parent-child relationship is an important interest that undeniably warrants deference and, absent a powerful countervailing interest, protection." A parent's interest in the companionship, care, custody and management of his or her children rises to a constitutionally secured right, given the centrality of family life as the focus for personal meaning and responsibility. Stanley v. Illinois, 405 U.S. 645, 651; 92 S.Ct. 1208, (1972).