

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 17-151

Judge:

Complainant:

ORDER

The complainant alleged a superior court commissioner was biased against self-represented litigants, prematurely ruled on a matter, and did not afford him an opportunity to be heard.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the commissioner 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.

After review, the commission found no evidence of ethical misconduct and concluded that the commissioner did not violate the Code in this case. The commission approved sending the commissioner an advisory letter reminding him of his obligations under Rules 1.2 (Promoting Confidence in the Judiciary) and 2.6(A) (Ensuring the Right to Be Heard) of the Code. The complaint is dismissed pursuant to Rules 16(b) and 23(a).

Commission members Art Hinshaw, Roger D. Barton and Margaret H. Downie did not participate in the consideration of this matter.

Dated: August 22, 2017

FOR THE COMMISSION

/s/ Louis Frank Dominguez
Hon. Louis Frank Dominguez
Commission Chair

Copies of this order were distributed to all appropriate persons on August 22, 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

2017-151

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 believe Judge _____ has a bias towards self represented parties. Judge _____ made decisions and rulings without allowing me an opportunity to respond or reply in accordance with Arizona Rules of Family Law Procedure. Judge _____ has issued rulings based on the Respondents motions only and has failed to even read or review motions filed by the me the Petitioner. Judge _____ rulings contradict his own previous findings. It is my position that Judge _____ has ignored the Judicial Process, ignored the Arizona Rules of Family Procedure, and violated Constitutional rights by issuing rulings without affording me an opportunity to reply and then again ignoring a timely filed response and issuing another ruling and stating in that ruling that the _____ did not file a response, which is not true supported by the documents attached.

In support of my complaint I provide the following time line of events and documentation:

- On _____ I filed a Petition to Modify Child Support.
- On _____ the Respondent filed a Response to my Petition and Motion to Dismiss.
- On _____ I received a call from _____ Commissioner _____ office and was informed the hearing had been canceled. I told _____ I had yet to file my Reply as allowed by Arizona Rules of Family Law Procedure, and I was told a minute entry would be mailed out to me.
- On _____ I timely filed my Reply to the Respondent's Response.
- Commissioner _____ had already decided the merits of the Petition based on the Respondent's Response, and did consider my timely filed Reply as allowed by Rule Arizona Family Law Procedure.
- On _____ I filed a motion to reconsider stating that I was entitled to file a Reply to the Respondent's Response. That motion was denied and my Reply was never considered.

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On _____ Commissioner _____ granted the Respondent an award of attorney fees for this petition only, and ordered the Respondent to file a _____ and provided me the opportunity to provide a Response no later than _____

On _____ I filed my Response to the Respondents Application for Attorney Fees and Costs in compliance with the courts orders, and provided copies to Respondent's attorney and Commissioner _____ office.

On _____ Commissioner _____ office filed and Attorney Fee Awarded entry. In that entry it states _____ never filed a Response. Which was not true, my response was filed on _____ in compliance with the Orders. Commissioner _____ also stated that it analyzed the Respondents Affidavit and found the fees reasonable. In my Response I pointed out inconsistencies in the Respondents _____ in particular a _____ Commissioner _____ previous findings stated fees were being awarded for this Petition only. The parties appeal has no bearing on my Petition to Modify Child Support, yet Commissioner _____ included that in it's award in direct contradiction of it's previous order.

The outcomes of Commissioner _____ findings and rulings are irrelevant to this complaint and will be taken up on appeal. My issue is that I was denied the process, at minimum my motions should have been read and considered, decisions were made before I was given a chance to respond. It appears Commissioner _____ had already determined the merits of the case, and chose not need to consider my Reply or Response even though that goes against the Arizona Rules of Family Law procedure, denies me due process, and violates my constitutional rights.