

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 19-143

Judge:

Complainant:

ORDER

The complainant alleged a superior court judge violated Rules 1.1, 2.3, and 2.5(A) of the Code in a dependency proceeding.

The role of the Commission on Judicial Conduct is to impartially determine whether a judicial officer has engaged in conduct that violates the Arizona Code of Judicial Conduct or Article 6.1 of the Arizona Constitution. There must be clear and convincing evidence of such a violation in order for the Commission to take disciplinary action against a judicial officer.

After review, the Commission found the judge failed to rule within sixty days of a matter being submitted to her. While this was improper under Rules 1.1 and 2.5(A), the Scope section of the Code of Judicial Conduct provides that it is not intended that every transgression will result in the imposition of discipline. The Commission did not find clear and convincing evidence to support the remaining allegations of the complaint. The Commission decided, after considering all the facts and circumstances, to dismiss the Complaint pursuant to Rules 16(b) and 23(a), but to issue a warning letter to the judge reminding her of her obligation to rule within sixty days of a matter being submitted to her.

Dated: August 13, 2019

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 13, 2019.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

19-143

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.

Historical Background: _____ (DOB _____) was placed into foster care in _____ at the age of _____ On _____ my wife, _____ and myself, were assigned as the new foster care placements for _____ where she has remained since. Besides a foster care placement, I am also _____ Therefore, I submit

Rule 1.1--A judge shall comply with the law, including the Code of Judicial Conduct.

A.R.S. § 8-862(A)(2) requires that the Court "hold a permanency hearing to determine the future permanent legal status of the child" within six months after a child who is under the age of three is removed from the child's home. _____ also has a

(DOB _____), placed into foster care at the age of _____ on _____ There are also _____ also removed from the same parents, and placed into the Arizona foster care system on _____ as part of the same case.

Pursuant to A.R.S. § 8-862(A)(2), Judge _____ should have held a permanency hearing for at least _____ no later than _____ However, A.R.S. § 8-862(3) does provide the Court some discretion: "In all other cases, within twelve months after a child is removed from the child's home" the permanency hearing shall be held. There is a further exception in A.R.S. § 8-829, but the record is void of any party "seeking continuance."

Ultimately, the permanency hearing finally began on or about _____ with continuances over several months:

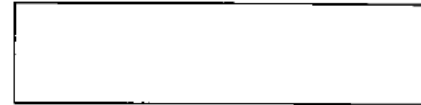
By the time of the filing of this Complaint, a Ruling by Judge _____ has not been entered. Besides the lack of compliance with A.R.S. § 8-862, Judge _____ has also failed to comply with A.R.S. Const. Art. 6 § 21 which requires a _____ judge to issue a decision within 60 days from the date of submission, or no later than _____ See also Rule 91(e), Sup.Ct.Rules. As of the day of the filing of this Complaint, it has been _____ with no Ruling after the close of evidence.

Judge _____ has failed to comply with A.R.S. 8-862(A)(2) and A.R.S. Const. Art. 6 § 2. Her failure to comply with Arizona law has caused unnecessary delay in this case, a disregard for judicial economy, as well as a complete loss of sight for the best interest of the _____ children. Her inability to make a decision in this case has exposed at least _____ to an outdated plan of weekly phone visits with _____ people who abandoned them _____ These visits are not only extremely confusing for the young children, but subject them to potentially irreparable harm.

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Rule 2.3--Bias, Prejudice, and Harassment

A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.

During the hearing, counsel for mother, attorney who appeared telephonically, informed Judge during the middle of a witness' examination that he only calendared the two hour hearing for one hour, requesting a recess at to appear in another court. Despite the interruption to a witness' examination, despite the already limited time for the hearing, despite the known inconvenience to all parties, counsel, and staff to have everyone dial back in, Judge granted request, allowing the recess, which lasted approximately However, once everyone successfully dialed back in, the recess took closer to

Perhaps the conduct of Judge could be viewed as a nice gesture, or an exercise of grace. But during a hearing that was already started and knowing the resources it took to hold the hearing, such request should have been denied. Judge revealed her prejudice and bias in favor of by granting his request.

Rule 2.5(A)--Competence, Diligence, and Cooperation

A judge shall perform judicial and administrative duties competently, diligently, and promptly. See also Comments 1-5.

The preceding paragraphs are adopted evidencing the failure to be "expeditious in determining matters under submission."

Each hearing referenced above generally involve individuals attending in various capacities, from children have voluntarily moved from Since the biological parents of the (dad, who was arrested and extradited for sex related charges with a minor and awaiting trial in) and (mom, following dad after he posted bail), they generally call in to each hearing. Because all of the foster parents reside in some choose to call in. The routine call-in will generally take every hearing. Judge will generally enter the courtroom between after the time the hearing was scheduled, failing to be "punctual in attending court." The last are spent scheduling the next hearing.

Additionally, Judge scheduled hearings, over in an effort to determine permanency, with each hearing lasting This conduct clearly fails to consider "necessary docket time." It is also highly inconsiderate of the time of those involved, the resources of all those involved, and most especially the children. Judge court is undoubtedly the most inefficient courtroom I have entered.

