

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 19-204

Judge:

Complainant:

ORDER

November 5, 2019

The Complainant alleged a superior court judge made his rulings depending on how he felt at the moment, made improper rulings in a family law matter, snickered at his testimony, and was biased against him.

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.

The Commission does not have jurisdiction to overturn, amend, or remand a judicial officer's legal rulings. The Commission reviewed all relevant available information and concluded there was not clear and convincing evidence of ethical misconduct in this matter. The complaint is therefore dismissed pursuant to Rules 16(a) and 23(a).

Commission members Roger D. Barton, Barbara Brown, George H. Foster, Jr. and Diane M. Johnsen did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on November 5, 2019.

2019-204

On [redacted] at about [redacted] I was seated alone at the respondent's table in Court Superior Court, [redacted] minutes before our scheduled matter to be heard by Judge [redacted] who was seated on the bench speaking to a court clerk I believe. The discussion with the staffer went to how Judge Moss decides a case. I heard his answer amplified by the court's recording system to the question, "[redacted]" Judge [redacted] (paraphrased) answered, "[redacted]". Whether in jest or not; I was there to be treated impartially and entitled to due process and the rule of law. I was seated at the respondent's table and stunned by the most egregious comment I've ever heard. I reported the event to my attorney right away, and to her receptionist when I returned to her office. It was a prelude of what was to follow. I have read many complaints regarding Judge [redacted] arrogance and rulings on social media (enclosed). I would like to have the recording reviewed to corroborate my claim. I was advised by the court that recordings are kept indefinitely. Why would a clerk ask such a question, in the first place? I have an opinion!

On [redacted] my Divorce Trial was heard by Judge [redacted] Whereupon my worst fears, reminiscent of what I heard him say, came true!

Judge [redacted] made his financial decision in my divorce case without carefully reading the exhibits, perhaps feeling omnipotent and racially biased and lacking objectivity. I am an [redacted] retired from the [redacted] with a generous pension. I served [redacted] and earned my pension along with my injuries and disabilities (both shoulders, knees, and hearing loss). Judge [redacted] financial judgment was a judicial travesty! Over \$ [redacted] in cash and property, to which my part-time wife contributed absolutely nothing. And no consideration of the encumbrance she should share. I am aware of Arizona law as it pertains to 'Real Property'; that is not in question. Then on [redacted] Judge [redacted] awarded [redacted] attorney fees, in the amount of \$ [redacted] that she could now well afford as the petitioner. My marriage was less than [redacted] in duration! She spent close to a year away during her three 'wildcat' separations.

Intellect, Integrity, and Humility are three attributes that define an **impartial** Judge. Judge [redacted] swagger is well known in his 'rocking' chair that telegraphs his pious posturing attitude. It represents the character of a judge that might have been in the far corners of the old territory, and was beyond '**judicial Conduct Review**'.

Stare Decisis, is a respected tenet in deciding a case that was ignored in my case. See my attorney's Motion to Reconsider/Re-trial and Motion for a New Trial (both enclosed), summarily denied, citing many similar cases which were capriciously and arbitrarily ignored. Judge [redacted] cavalier comment after his [redacted] denial is without supporting evidence or testimony.

Judge [redacted] findings were that I owed Petitioner [redacted] of sales of the motorhome, boat, and RZR, based on 'joint acct'. Mr. [redacted] exclaimed, "[redacted]". Judge [redacted] was complicit in Mr. [redacted] opinion, while [redacted] went unheard. This cost me greatly due to the disregard of the incumbrance loan that paid for the onsite RV garage, RZR, and paid off the balance on condo RV garage. Atop all this, [redacted] was AWARDED Attorney fees of \$ [redacted] which is [redacted] of her fees. The submitted evidence and the outcome does not add up!

Throughout all court sessions, Judge _____ exhibited obvious animus towards me. I steadfastly feel that I was vilified when I corrected him in our first trial when I corrected his reference to me as the 'petitioner' in his introductory remarks. His prolonged reaction and remarks, was that of obvious disdain. I believe that correcting him prejudiced my case. I meant no detriment!

While I freely admitted to selling the motorhome, boat, and RXR, it was done so after my counsel assured me that in Arizona, they are not considered 'community property'. This fact was not entered into the record. Judge _____ decreed his 'draconian decision' as though I was a contemptuous villain. This is not the case, I was a _____ in both _____ Counties for _____ soon after my retirement. Proud of being _____ times.

All sale monies were split between petitioner and me even after a Motion to reconsider/retrial was denied. My attorney was not even offered an oral argument opportunity. Judge _____ lack of attention to the exhibits wholly ignored the mathematics of the issue.

I FURTHER ALLEGE BREACH OF "CODES OF JUDICIAL CONDUCT" to wit:

Canon 1. *A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety.* ~ (see Rule 1.2.)

Rule 1.1. *Compliance with the Law* ~ Stare Decisis. Judge _____ summarily denied my attorney's Motion to Reconsider/retrial AND a Motion for a New Trial, awarding separate property to Petitioner without an oral argument.

Rule 1.2. *Promoting Confidence in the Judiciary* ~ _____ was a judge in _____ prior to his practice in _____ and they share this 'community of interest' that in my opinion, enhances agreements. The facts in my case hint at a silent collaboration between them and not following prior precedence.

Rule 2.2. *Impartiality and Fairness* ~ Allowed _____ request for _____ attorney fees, after an extremely generous award to his petitioning client.

Rule 2.3. *Bias, Prejudice, and Harassment* ~ Allowing opposing attorney, _____ to harass me: While seated and ready to testify, _____ opened with this very objectionable question: " _____ ?" _____ then continued with, " _____ " Smiles and snickers from both Judge _____ I was very insulted and uneasy about the judge allowing such behavior! I was not amused, and that was very obvious! _____ should have been admonished on the spot, but he wasn't! I'll describe it as a 'hostile environment'!

Rule 2.5. *Competence, Diligence, and Cooperation* ~ All noted in the preceding text.

Rule 2.7. *Responsibility to Decide* ~ I believe that his decisions were without thoroughly examining the exhibits and were consequently arbitrary and capricious.

ATTACHMENTS:

MTR/NEW TRIAL
ORDER – DENIAL
DECREE/DISSOLUTION
MOTION FOR NEW TRIAL
ORDER – DENIAL
NOTICE OF APPEAL
APPELLATE COURT BRIEF

SOCIAL MEDIA DENIGRATIONS

NOTE:

This complaint was delayed until the filing of the Appellate Brief on the advice of counsel, because of the potential of reprisal. It was beneficial to lien my home rather than borrow the money to satisfy a bond! This action, I believe, required Judge acknowledgement.

10/1

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF

In re the Marriage of)	
)	Cause No.
)	
Petitioner,)	
)	MOTION TO RECONSIDER
and)	AND/OR IN THE ALTERNATIVE
)	MOTION FOR NEW TRIAL
)	
Respondent.)	
)	

COMES NOW Respondent, by and through
counsel undersigned, and
pursuant to Rule 84 of the Arizona Rules of Family Law Procedure,
hereby requests, among others, this Court reconsider its ruling
that the assets purchased with Respondent's sole and separate
funds were subject to division because Respondent's sole and
separate funds were put into a joint account:

At the conclusion of the final hearing held in this matter
on this Court awarded certain assets to the

1 Respondent with an equalization payment to the Petitioner. This
2 Court confirmed that Respondent's pension funds earned entirely
3 from his employment prior to the marriage is Respondent's separate
4 property, but because Respondent deposited said funds into a joint
5 account, the purchases made with said funds were joint/community
6 property. This Court found, among others, that the
7 the motorhome, the pontoon boat and the improvement of
8 the RV garage to Respondent's sole and separate property were all
9 joint/community property; awarded said assets to Respondent and
10 awarded judgment against Respondent and in favor of Petitioner as
11 an equalization payment for said assets.
12

13 Rule 84 of the Arizona Rules of Family Law Procedure states,
14 in part:

15 **A. Grounds.** Any party may file a motion to reconsider or
16 clarify the court's ruling for the following reasons:

- 17 1. The court did not properly consider or weigh all
18 of the admitted evidence;
- 19 2. The court did not properly consider, interpret or
20 apply the controlling law;
- 21 3. The court mistakenly overlooked or misapplied
22 uncontested facts, including mathematical errors,
23 that were necessary to the ruling; or
- 24 4. The ruling is confusing or susceptible to more
25 than one reasonable interpretation.

26 **B. Scope.** All motions for reconsideration or
clarification, however titled, shall specify one or
more of the grounds enumerated in paragraph A above as
the basis for the motion. All such motions shall be
submitted without oral argument and without response or
reply unless the court otherwise directs. No such
motion shall be granted, however, without the court
providing an opportunity for written response. A motion
authorized by this rule may not be substituted for,

In Re the Marriage of

Motion to Reconsider/Motion for New Trial

**THE COMMISSION'S POLICY IS
TO POST ONLY THE FIRST FIVE
PAGES OF ANY DISMISSED
COMPLAINT ON ITS WEBSITE.**

**FOR ACCESS TO THE
REMAINDER OF THE
COMPLAINT IN THIS MATTER,
PLEASE MAKE YOUR REQUEST
IN WRITING TO THE
COMMISSION ON JUDICIAL
CONDUCT AND REFERENCE
THE COMMISSION CASE
NUMBER IN YOUR REQUEST.**