

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 19-218

Judge:

Complainant:

ORDER

The complainant alleged a superior court judge failed to comply with the law and failed to promote confidence in the judiciary.

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 reviewed all relevant available information and concluded there was not clear and convincing evidence of ethical misconduct in this matter. The Commission approved sending the judge an advisory letter reminding him of his duty under Rule 2.8 of the Code of Judicial Conduct to maintain decorum in his courtroom and to require attorneys appearing before him to behave in a courteous fashion. The complaint is therefore dismissed pursuant to Commission Rules 16(a) and 23(a).

Commission members Barbara Brown and George H. Foster, Jr., did not participate in the consideration of this matter.

Dated: November 6, 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 November 6, 2019.

COMPLAINT AGAINST A JUDGE

SOME SECTIONS OF THIS COMPLAINT WILL BE THOROUGH; OTHERS WILL BE SKELETAL. THIS IS ONLY A FUNCTION OF ME LACKING TIME TO BE THOROUGH IN ALL AREAS AS WE APPROACH THE NEXT HEARING IN

RULE 1.1 Compliance with the Law

Judge refuses to comply with Arizona Rule of Family Law Procedure 85(c)(2) (hereinafter "ARFLP"). My ex (through counsel) filed a motion to set aside the child support order in favor of the child and against my ex, on . The motion got continued many times and in the meantime my ex simply stopped paying in .¹ Exhibit 1. In

I drafted a motion to enforce child support, which was not filed until because I could not afford the filing fee. Hearings on both setting aside the order and on enforcing the order have gotten continued many times, including in on . In the meantime, Judge specifically denies that Rule 85(c)(2) must be followed.² Rule 85(c)(2) specifies that a motion to set aside an order "does not affect the judgment's finality or suspend its operation". However, Judge appears to

¹He was ordered to pay commencing Exhibit 1 shows he is currently in arrears on support.

² See area highlighted in Exhibit 2, in blue.

want my child to be without support, despite Rule 85 and having been reminded of the filed child support order. I sought special action relief in 2CA-CV2019-0005. Jurisdiction was denied.

A.R.S. §12-302(C)(1)(b) required the court to grant my deferral application, since I have become a food stamp recipient as a result of the financial devastation of this case. **A.R.S. §12-302(H)(7)** requires that the county temporarily pay the costs of transcripts. The Court granted my deferral application in _____ shortly before Judge _____ became the assigned judge, as it was required to do.³ When I later requested a transcript from the court reporter, Judge _____ not only became involved in what would otherwise be a routine administrative request that doesn't involve judges, but he *sua sponte* overturned my deferral order without notice or an opportunity to be heard.⁴ When I asked the judge to reinstate the deferral order, he refused, saying the matter of the deferral was "not properly before the Court".⁵ It wasn't before the court when I ordered the transcript, either, however. He then forced me to file a new application, as if I never had the deferral he overturned. He then granted the deferral, but with carefully drawn limitations not allowed by A.R.S. §12-302.⁶ Specifically, the Court granted the deferral for fees the court knew I had already paid and excepted from the deferral statute the fees the court knew I could not afford without a deferral or waiver. Despite A.R.S. 12-302(H)(7), the court went out of its way to order I was not allowed to order transcripts "or any other fees not otherwise granted herein". *Id.* The blanket denial includes the \$ _____ fee required to order another certified child support payment history, should the matter of child support enforcement ever be re-scheduled.

ARFLP 35(a)(3). Judge _____ consistently allows the opposing party - who is represented by counsel - unlimited time to file responses. For example, the opposing party still has not filed his response to _____ motions for disclosure. On the other hand, even when I - the unrepresented party - beg for the time allowed for responses in Rule 35(a)(3), so I can limit the time away from work to attend to this case, I am not given that time, though Judge _____ consistently claims he will allow me that time. Recent examples include my child support enforcement witness who filed an objection to appearing at the enforcement hearing. Judge _____ quashed my subpoena _____ after the request was filed, though Rule 35(a)(3) allows me _____ to respond.⁷ The court then refused to hear the child support matter as scheduled for _____. *See Exhibit 2.* Instead, the Court pushed the hearing back to _____. Then, as that hearing approached, the opposing party sought for the hearing to be vacated. Again, I begged for the normal response time. The Court, however, vacated not only the child support hearing, but also the hearing I had pending since _____ for temporary attorney's fees and costs.⁸ This was done only _____ after the motion to vacate was filed. I am

³ Exhibit 3.

⁴ Exhibit 4.

Exhibit 5.

⁶ Exhibit 6.

⁷ Exhibit 7.

⁸ Exhibit 8.

consistently made poorer and poorer by this Court's refusal to abide basic rules of procedure and the applicable statutes. My child and I suffer immensely in a financial sense.⁹

A.R.F.L.P. 51(b)(1)(A) Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or defense and proportional to the needs of the case . . . the importance of the discovery in revolving the issues . . . Information within this scope of discovery need not be admissible in evidence to be discoverable.

(B) Limits on Discovery. On motion or on its own, the court **must** limit the frequency or extent of discovery otherwise allowed by these rules if it determines that the discovery sought (iii) is outside the scope permitted by Rule 51(b)(1)(A).

A [redacted] into my ex husband's various Petitions, the Court took the bench again at my ex husband's request once all were adjourned for the day. Though he refused to hear the evidence that was scheduled for that day for child support and other important matters, he found my ex husband's demand for gynecological records so pressing that he would take that up immediately, after staff was adjourned and the judge had left the bench. He ordered that my gynecological records, records from counseling for a separate relationship, as well as pharmacy records, medical records and records from mental health providers "to be construed broadly" be turned over to the Court and my ex husband, directly by the providers. The Court refused to consider having the records provided under seal. It also refused to state how gynecological information and my separate relationship were relevant to the ongoing proceedings.¹⁰

Upon my ex husband's receipt of [redacted] of my HIPPA-protected records, he began reaching out to the media about "concerns" he has over my health. He also began filing public motions with his absolutely false summaries of the records. He also turned documents with medical and mental health allegations over to the [redacted] of which [redacted]. The Court has done absolutely nothing to protect me or my children from the disaster he created by forcing disclosure of irrelevant HIPPA-protected information directly to my ex husband in this high-conflict, nearly [redacted].

RULE 1.2 Promoting Confidence in the Judiciary

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

On [redacted] during a Status Conference, the GAL repeatedly sighed and groaning very loudly when only I was speaking. The sighing was very distracting as the GAL was seated approximately [redacted] from me. I stopped what I was saying to ask her to stop sighing. The judge then made a huge production out of getting everyone to stop and look at him so that he could point at the GAL and say "[redacted]". A witness that attended the [redacted].

⁹ Exhibit 9.

¹⁰ Exhibit 10.

hearing that day thinks he may have said “ (phone number listed above).

The very first time the BIA came into the case, on she was late to the hearing. Immediately after she entered the proceeding, the Judge also publicly berated me.¹¹ Instead of simply referring to the file he had in front of him to determine if Petitioner’s allegation that the prior judge had not ordered a new IWO was true, the judge threatened me with contempt. This started the BIA with the impression that I was to be publicly chastised for lying to a judicial officer.

The case has worsened dramatically since Judge entrance in The case was already terrible, but Judge consistently does everything in his power to make the public aware of his disdain for me, and his assurance that me and my child will never be free of this expensive, time-consuming and unduly humiliating case. This leg of Petitioner’s litigation began when I called 911 in because I was viciously assaulted. Each time I am in Judge courtroom, I feel like a domestic violence victim again with the constant, unwarranted insults and not being provided even basic due process.

This complaint will be supplemented as time permits. I have of other specific complaints I wish to file, but I will not be prepared for the next hearing if I continue the complaint at this time.

¹¹ Exhibit 11.

Annual Payment Record

Court Order #:

Case #:

Date:

Payment History
Requests

Payor:

Payment Research

Payee:

Purge Payments

Month

2017

2018

2019

Frequently Asked
Questions

TOTAL CHILD SUPPORT

TOTAL FEES PAID

This data is current thru:

For more information, please contact:

**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.**