

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 20-009

Judge:

Complainant

ORDER

April 9, 2020

The Complainant alleged a superior court judge violated Rules 1.1, 1.2, 1.3, 2.2, 2.3, 2.4, 1.5, 1.6, 1.8, 2.10, 2.11, 2.12, 2.15, and 2.16 of the Code of Judicial Conduct.

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 Commission Rules 16(a) and 23(a).

Commission member Gus Aragón did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on April 9, 2020.

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

FOR OFFICE USE ONLY

20-009

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 am the maternal grandmother of the child in the middle of the court case between _____
I have attended all of the court hearings and testified in most of them. The recent change in judges to _____ have raised many issues in my eyes, mostly in his bias against my daughter and inappropriate behavior and lack of following the laws and Rules of Conduct in Arizona and _____ County.

Let me preface this by giving you a little background on myself. I am an _____ (of service) who worked approximately _____ years in the medical field before changing to the legal field. I have experience in identifying drug/alcohol dependency. I have _____ to include but not limited to _____ of which I graduated with honors. I hold numerous certifications including court procedure and forensics. I was previously an _____ in _____ as a _____ so I have experience _____ I can honestly state that my experience with Judge _____ has been alarming.

While my daughter and I did not always agree with the prior judge's ruling (Judge _____, we still felt he was mostly unbiased and fair in his rulings. I feel that Judge _____ has been extremely bias and not following the law or Rules of Conduct and should be sanctioned. I also believe he is unable to judge fairly in this case and should thus be removed immediately. Examples of his misconduct are as follows.

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.

- RULE 1.1. Compliance with the Law
- RULE 1.2. Promoting Confidence in the Judiciary
- RULE 1.3. Avoiding Abuse of the Prestige of Judicial Office

CANON 2 A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY, COMPETENTLY, AND DILIGENTLY

- RULE 2.2. Impartiality and Fairness
- RULE 2.3. Bias, Prejudice, and Harassment
- RULE 2.4. External Influences on Judicial Conduct
- RULE 2.5. Competence, Diligence, and Cooperation
- RULE 2.6. Ensuring the Right to Be Heard
- RULE 2.8. Decorum, Demeanor, and Communication with Jurors
- RULE 2.10. Judicial Statements on Pending and Impending Cases

When a judge enters a court room and states several times that he believes in father's rights, it clearly sends a message of impartiality. Further more, when a judge laughs when a Respondent's attorney objects to the Plaintiff's attorney for insinuating the Respondent is a bad person, it sends another message of impartiality.

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When a judge allows the Plaintiff's attorney to file additional complaints at the cut off time for filing evidence and refuses to allow a continuation or evidence to be presented at the hearing from the Respondent's attorney, he demonstrates bias against the mother in this case. When he further allows the Plaintiff's attorney to file the day before a hearing and refuses to hear the Respondent's claim, he again shows his bias. He stated in court that the Respondent had presented too much evidence that he did not want to go through and he did not like how she organized it. His excuse that this issues had been previously heard is incorrect in part and also would have proven the Plaintiffs lied in sworn statements and under oath. It also should have changed the prior wrong decision drastically. Instead, he threatened to take the child away from my daughter should she file any other complaint or claim.

One major issue was the Plaintiff not paying his child support as required. Instead of dealing with what the male plaintiff had been doing, he took away child support until it equals his attorney fees. So not only has the Plaintiff not been supporting his child as required, he doesn't have to pay child support for approximately years. Not only did this judge refuse to look at the evidence proving the Plaintiff works more than the hours figured on the child support sheet by the Plaintiff's attorney, the incorrect lower amount of child support means it will take longer to pay off the attorney fees. When signing off on an order, the judge takes responsibility for its contents. The judge should have at the very least verified how the child support was filled out, especially in light of the evidence my daughter filed in court. Instead, he shows bias against my daughter and takes away funds that are supposed to go to the child's welfare.

He has failed in his decisions to follow the law as it is written now. Firstly, the paternal grandmother should have her visitation when the child is visiting his father. The Plaintiffs could not prove why it would be logistically impossible for her to have visitation when the child is with his father. Further, the judge transferred the father's visitation to the paternal grandmother when he was unable to exercise his parenting time. Judge violated A.R.S. § 25-403.01 D, and misapplied A.R.S. § 25 - 409. Both the Appeals Court and Judge stated that paternal grandparent visitation would take place when the father was exercising his parenting time. Judge further ordered that the father gave up his parenting time if he was unable to exercise it. It was not transferred to a third party per the law. Had Judge wanted to solve this dilemma for the best for the child, parents, and grandparents, he would have made a ruling that the grandmother would exercise her visitation when the child was with the father for his parenting time. Instead, he basically transferred parenting time to the paternal grandmother when the father (Plaintiff) was unable to exercise his parenting time, violating the law. The judge claimed this was because the paternal grandmother missed her time in prior months as the Respondent was following the Appeal Court decision and Judge's decision. As I have figured, the paternal grandmother only missed approximately days or hours of her visitation had the Appeal Court and Judge had stated specifically that her time was when her son exercised his parenting time. Judge effectively gave her and her son hours per week until of year, regardless if the father is there for his parenting time. That equates to hours per well over the supposed hours total that the paternal grandmother missed. Judge again snowed his bias against the mother by penalizing her for following Judge's decision and punished her excessively.

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My daughter attempted to bring up the fact that the child was having issues with this new schedule in her cross complaint, which the judge refused to address properly. These are serious issues in which both Plaintiffs refuse to assist with. By not dealing with these issues now, this child may suffer emotionally which could lead to further worse problems as he gets older. The judge failed to listen or recognize that the child might and does have issues by not spending as much time with his mother and myself. I guess I personally need to file for my own grandmother's visitation time, which will further muddy this case. So the child continues to have issues due to Judge's determination that nothing negative was going to testified to against the father, even if it ultimately hurt the child. A father's rights as more important than the welfare of the child going by Judge's rulings. Eventually, this child will be old enough to read and understand what is happening. And what will he learn? That it is ok to lie, cheat, and steal according to the actions of this judge as long as you are male. And that a father really does not have to support his children. This judge is setting a fine example for a child, correct? Shameful.

He further showed his bias when he refused to not rule or accept evidence regarding the payment of child support and tax issue twice. For not keeping current on his child support, the judge awarded him claiming the child on his taxes for the next several years against Judge's orders. Judge failed to listen to evidence that showed the Plaintiff was habitually behind on child support, including the years in question. This was one of the issues the Plaintiff's attorney filed at the last minute.

Judge also failed to deal with the issue that the child support was filled out incorrectly and falsely by the Plaintiff's attorney. He claimed the Plaintiff only worked hours per week. Judge refused to hear evidence that the Plaintiff worked hours, shorting child support by approximately \$ per under his bias new parenting schedule. Using a normal visitation schedule as like was under Judge the Plaintiff would be required to pay approximately \$ per a huge difference. Instead, Judge is allowing the Plaintiff to falsely pay \$ per working only hours per week, shorting his child approximately \$ per. While this may not seem like a lot, it amounts to several hundred dollars for the next as he has stated he will not hear anything else on child support figures or change them. All or this could be proven if the judge had looked at the Plaintiff's own evidence, including his getting overtime pay and paid holiday/sick time. As far as I am aware, part time would be under hours per week and not eligible for holiday/sick pay. This is not for the good of the child in any way, shape, or form. It should infuriate any judge to find that a father has purposely lied on his income so that he did not have to pay as much child support for his own child. Instead, Judge again shows his bias against the mother by not properly dealing with this important issue. It is appalling that the judge is so determined to show his support for a father, even when the father is in the wrong, that he would hurt a child. Having failed to follow RULE 2.15. Responding to Judicial and Lawyer Misconduct in regards to evidence proving the Plaintiff's attorney showed misconduct in filing at the last minute and providing false statements to the court, Judge should be sanctioned and/or removed. On the child support issue alone, Judge has violated several laws and should be sanctioned or removed.

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Further, the judge showed his bias against my daughter when he sanctioned her to pay attorney fees for the Plaintiffs with his illegal ruling. When my daughter attempted to file for a fee deferment or waiver the first time to appeal the first hearing with Judge _____ the judge failed to automatically approve them as my daughter is on food stamps and it should have legally been approved immediately. He or his office failed to put the correct postage on the envelope with his original denial violating Rule 2.12. Supervisory Duties, delaying the forms further from getting to my daughter. When she filed an additional request for reconsideration, he approved it but it was received too late to file an appeal as he held it several days. Judge _____ also made little underhanded comments in court about her appeal, knowing fully that she was unable to file due to his negligence. Knowing my daughter was on public assistance, he is withholding any child support until the Plaintiffs attorney fees as paid, even though his decision punishes my daughter for following Judge _____'s orders and the Appeals Court's findings. So she can't file for another appeal because of his delay tactics and the child further suffers. Also, Judge _____ made reference to the financial statement she had to fill out for the Deferment/Waiver of fees in court. I was under the impression this was confidential and not to be brought up in court.

On one final note, I personally have never seen a judge so obviously decide a case before it is even heard and support a father no matter how much he has failed to follow judicial orders. It has been so apparent in both hearings. And I do not appreciate the judge saying I was a troublemaker after I have only testified before him once for approximately _____ minutes, answering the Plaintiff's attorney's question that he asked numerous times in different forms. Judge _____ actually made statements in prior hearing that I was the peacemaker in all of this. He felt I was such a positive unbiased person that he actually ordered me to do drop off and pick up for months. Judge _____ made it clear his disdain for women especially when he stated on the record that I was a troublemaker. One must question if Judge _____ violated RULE 2.16. Cooperation with Disciplinary Authorities by making such underhanded remarks about myself and my daughter. I stand behind my professional and personal reputation and quite frankly find his comments slanderous.

In fact, Judge _____ has failed to follow family court laws and Rules of Conduct set forth for judges and should be sanctioned and/or removed from his position. Something needs to be done immediately with this judge as my daughter is scared she will lose her son if she files anything with the court, even if it is for the benefit of the child or the Plaintiff is not following the ruling. A person should be allowed to be heard in court and not threatened. They should be treated fairly and not as some underling. A woman should not be so severely punished for following prior rulings while a man gets awarded for failing to follow rulings and lying in court. A court is supposed to be for finding the truth, not for punishing those who follow the law and orders. Under RULE 2.11. Disqualification, Judge _____ should further disqualify himself from this case.