

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 20-188

Judge:

Complainant:

ORDER

October 1, 2020

The Complainant alleged a superior court commissioner was biased against her and made erroneous rulings in a family law matter.

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 members Louis Frank Dominguez, Christopher P. Staring and J. Tyrrell Taber did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on October 1, 2020.

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

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2020-188

Name: Judge's Name.

In I appeared before Commissioner when I filed an Order of Protection against my abusive ex-husband. granted my Order of Protection on Commissioner was later assigned to my case and less than years later he gave sole legal decision-making and custody of my then and year old children to my, and their, alleged abuser.

In I filed a motion requesting a full parental evaluation due to increasing concerns that my children were being abused by their father. Both of my children (then aged and aged) disclosed allegations of sexual abuse perpetrated by their father. In addition to their disclosures of abuse made to me, to my roommate who is a federal agent and to several other family members, my year old, began masturbating and urinating on himself nightly and throughout the day, even while in public. At years old, my oldest son, began biting his nails obsessively and defecating in his clothing on a regular basis.

Commissioner denied my motion for a parental evaluation, which I fully believe would have revealed abuse had an evaluation been done. After my children made allegations of abuse, I met and spoke with the Clinical Director of the Foundation (as well as with and several other child psychologists), about my concerns regarding my children's disclosure and their behavior, which was consistent with that of children who are sexually abused. Everyone I spoke with told me that to report the allegations of abuse to the Department of Child Safety (DCS) as well as to police. The abuse allegations were found by DCS to be unsubstantiated and therefore the case was considered closed. The reports to the Police Department and DCS were due diligence on my part as a mother, mandatory reporter, and federal law enforcement agent. They were a result of my concern for the physical and emotional well-being of and I had repeated verbatim to the police and to DCS what my children had told me.

In presided over my lay trial, case number Before the trial, my ex-husband and I shared 50/50 custody and legal decision-making, with me having final authority. Commissioner final order after the trial resulted in the following drastic changes in custody:

- ordered that my ex-husband have sole legal decision-making
- ordered that my ex-husband be the primary residential parent of our then and year old children
- ordered that I have only supervised visitation with my extremely young children, for hours every and on alternating

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- ordered that a Brief Focused Assessment be conducted, at my sole expense
- ordered that I be sanctioned and pay of my ex-husband's attorney fees, which the Court determined to be
- referred me to the County Attorney's Office for consideration of prosecution for what he claimed to be my "knowingly false claim to the Department of Child Safety" that my ex-husband molested our children

temperament and disposition alone are wholly unbecoming as a judge, which is in violation of Canon Rule 2.8 ("Decorum, Demeanor and Communication with Jurors {including litigants and witnesses}"). He appears to be incapable of being objective and basing his judgements on evidence instead of bias and assumptions, and incapable of presiding over cases without becoming emotional and vindictive towards the party whom he feels is in the wrong. clearly violates Canon Rule 1.2 ("promoting confidence in the judiciary") and Canon Rule 2.5 ("competence, diligence and cooperation") in this regard. does not possess the legal knowledge, skill, thoroughness, and preparation which is required and imperative to performing a judge's responsibilities of judicial office. Commissioner lacks the training and education needed in order to make an accurate assessment of individual cases. He has no applicable knowledge of domestic abuse, domestic abuse by proxy, child abuse, trauma, or personality disorders, etc., particularly as to how those issues relate to so-called "high conflict" custody cases. Or, if he does, he does not utilize that knowledge nor apply it to the cases which he oversees.

I am a . That being said, Rule of law is extremely important to me, it dictates every aspect of how I live my life. To say that my "confidence in the judiciary" (as well as that of my co-workers, friends, family...all who hear about my experience with Commissioner) has been shaken to its core is beyond an understatement. has violated Canon Rule 2.2, which states that, "a judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially". was most definitely not "fair and impartial" when he presided over my trial. Nor was he in the case he himself referenced in his application as a "learning experience", relies heavily on the testimony of opposing parties and hearsay rather than basing his judgements on actual facts and evidence. He is easily led and manipulated by counsel and his own personal biases result in him siding with whichever party those biases reinforce, regardless of facts or evidence to the contrary.

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In _____ also violated Canon Rule 2.6 ("Ensuring the Right to be Heard"). It is both shocking and appalling that a judge would violate a parent's right to due process by not allowing that parent the right to be heard before ordering that their child be taken from them. This is even more egregious when the judge uses the testimony of the opposing party on which to base that decision.

_____ also violated Canon Rule 1.1 in _____ and in _____ by not complying with the law. In the case of _____ v _____ violated A.R.S. 32-3227, which states that (judges) are not licensed medical practitioners and that diagnosing someone without a license is a class _____ felony, when he stated on page _____ of the _____ "The Court has significant concerns about Respondent's mental state". Judges will not allow non-medical witnesses to make statements or conclusions about medical conditions so the same standard should apply to themselves.

In addition to the above, _____ violated Canon Rule 2.3 regarding bias, prejudice and harassment. All one has to do to see evidence of this is to look at _____ court order in _____ language alone shows extreme bias and prejudice when he quotes the Petitioner's testimony as fact, rather than as the hearsay testimony of an opposing party.

_____ has, and is, alienating numerous children from loving, protective parents, while placing those children at risk and putting their protective parents at a huge financial and logistical disadvantage when it comes to their attempts to maintain contact with their children. I reached out to Family Court for help for my children. To my utter shock and dismay, Commissioner _____ revealed himself to be an unwavering advocate for my abuser and a well-funded manipulator of the judicial processes. In fact, he diligently worked to harm me and my children.

_____ committed libel (violating Canon Rule 1.1) when he regurgitated the opposing party's testimony as fact, with no evidence whatsoever to back it up, and falsely accused me in open court, as well as in his written judgement against me, of the following:

- "Respondent unabashedly testified that she intends to reveal the truth about Petitioner to the children when they are older, with the obvious intent to alienate them from Petitioner" (Minute Entry, page 3). Although I stating that I was maintaining court records seemingly infuriated _____ he failed to have an issue with the opposing counsel maintaining and using texts as evidence in court and for future use.

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• During the trial, [redacted] actually turned to me from the bench and asked me if I thought I was "the arbitrator of the truth". I replied no, that I did not. I had hoped that he would be the arbitrator of the truth. Devastatingly, [redacted] was anything but that.

• Stating that my "accusations were deemed not credible" regarding my contact with the Department of Child Safety (DCS). My allegations were never deemed to not be credible. Rather, the allegations were found to be unsubstantiated. According to the Association of Family and Conciliation Courts, [redacted] : PG 36, "In most of these cases, the parent who brings forth the allegations has an honest or good faith belief that the abuse did occur (Bala, Mitnick, Trocme and Houston 2007). Far less frequently a parent fabricates allegations (Bala et al, 2007). Although DCS was unable to substantiate the boys' allegations of abuse, that does NOT mean the abuse did not happen...it merely means DCS did not find evidence at that time to substantiate the claim.

• Stating that "Respondent made this false allegation for the purpose of gaining an advantage in this litigation (Minute Entry, page 3). As a result of Respondent's knowingly false report to the Department of Child Safety, the Court does not find her testimony to be credible." "Regardless, Respondent indisputably made a knowingly false report of sexual abuse of the children against Petitioner." "Her campaign reached its crescendo when she made a false report of sexual abuse against Petitioner with the Department of Child Safety."

I never brought up the abuse allegations once in court, because the allegations were not substantiated. The Petitioner is the only one who brought up the abuse allegations...clearly in an attempt for him to gain an advantage in court. The Petitioner, not me, used the abuse allegations in litigation to gain sole custody, to influence Commissioner [redacted] to find my testimony to not be credible (Minute Entry, page [redacted], and to further abuse and harass me by persuading Commissioner [redacted] to refer me for prosecution of filing a false report. It should be noted that this has resulted in no charges being filed against me because I have never filed a false report.

[redacted] then discounted my entire testimony based on his bias and false assumptions, and he also discounted the testimonies of my [redacted] witnesses, [redacted] of which are employed with the [redacted]

My children have been severely punished for reporting abuse; they have had their mother taken away from them for almost [redacted] years. According to the Association of Family and Conciliation Courts, [redacted] : PG 36, "In most of these cases, the parent who brings forth the allegations has an honest or good faith belief that the abuse did occur (Bala, Mitnick, Trocme and Houston 2007). Far less frequently a parent fabricates allegations (Bala et al, 2007). In most of the cases where abuse was not substantiated,

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the allegations were believed to have been made in good faith and based on genuine suspicions. False allegations of child sexual abuse are rare, occurring in approximately percent of custody and visitation disputes. (Thoennes, N. and Pearson, J., "Summary of Findings from the Sexual Abuse Allegations in Custody and Visitation Cases, 1988, 1-36. Washington, DC: American Bar Association.)

- Stating that, "Respondent has an unhealthy and possessive relationship with the children." " is already demonstrating symptoms of anxiety and trauma regarding Respondent as he has taken to stuttering when he speaks of her, as well as biting his nails. So long as Respondent perpetuates her unhealthy relationship with the children, she will likely cause them emotional damage and they may very well come to resent her for stridently trying to alienate them from Petitioner" (Minute Entry, pages 3 and 4).

Commissioner accused me of causing my children "emotional damage" (Minute Entry, page 4, page 6). There was never any evidence of that, except for the testimony of the other party and his then-girlfriend. It is in fact Commissioner and his ruling which have caused my children to suffer emotional damage from being, separated from their protective parent, their mother, for over the past and (*See the parenting evaluation conducted by in I would attach, but the evaluation has been sealed.)

- Stating, "The Court has significant concerns about Respondent's mental state" (Minute Entry, page 4). Judges are not to diagnose, it is a class felony to practice unauthorized practice of health professional without a license. ARS 32-3227.

- Stating that, "Respondent needlessly expanded the litigation first by filing a largely frivolous enforcement petition, then by making a knowingly false report to DCS that Petitioner molested the children. Additionally, Respondent unreasonably led Petitioner and her own attorney to believe that she intended to settle, only to change her mind at the hour." I never intended to settle, the opposing party's terms were ludicrous.

- Commissioner accused me of "premeditated parental alienation". Commissioner ruled exactly the opposite of the Federal Bar's own recommendation regarding Parental Alienation. Commissioner caused further trauma to my children with his failure to diligently adhere to his oath and state statutes, and instead followed a discredited theory, without even having my children interviewed or counseled to see whether they did in fact exhibit any signs of parental alienation, which they did not. The CLE from the Federal Bar Association, "Parental Alienation" (PA) & "Parental Alienation Syndrome" (PAS): Science, Evidentiary Admissibility, Policy & Effects on Children's Constitutional & Human Rights" by Jennifer

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