

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 20-356

Judge:

Complainant:

ORDER

March 24, 2021

The Complainant alleged a superior court judge was not prepared for a family law hearing.

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 Barbara Brown did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on March 24, 2021.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

20-356

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.

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OF ARIZONA

HONORABLE

Case Number:

Petitioner

AND

Respondent

ORDER FOR PATERNITY, LEGAL DECISION MAKING, PARENTING TIME AND CHILD SUPPORT

The hearing in this matter occurred on . The Court has considered the evidence which includes where applicable/presented, the demeanor of the witnesses, reviewed the exhibits as well as the case history, and considered the parties' arguments and agreements.

The Court makes the following findings and enters the following orders:

JURISDICTIONAL FINDINGS

THE COURT FINDS as follows:

- There is a minor child common to the parties, namely:].
- Arizona was the child's home state on the date the petition was filed or was the child's home state within before the filing and the child is absent from this state but a parent or person acting as a parent continues to live in this state.
- The federal Parental Kidnapping Prevention Act does not apply and that no international law concerning the wrongful abduction or removal of children applies.

PATERNITY

THE COURT FINDS that pursuant to an Order of Paternity entered on is parent of the following minor child:

born on to and changing the name of the child to

IT IS ORDERED declaring that is the legal parent of the following minor *child*:

born on to and changing the name of the child to

IT IS FURTHER ORDERED that the parties shall take all necessary steps to have the birth certificate of the minor child amended in accordance with this order if the correct information does not now appear on the original certificate. Information for amendment of a birth certificate may be obtained from the ; Phone

A certified copy of th order may be obtained after of receipt of same, and shall then be provided, together with all other required documents and fees, to the so that the birth certificate can be amended or supplemented as ordered.

HONORABLE

Case Number:

LEGAL DECISION-MAKING AND PARENTING TIME

Best Interest Findings: A.R.S. § 25-403

A.R.S. § 25-403(A) enumerates specific factors for the Court to consider, among all factors that are relevant to the child's physical and emotional well-being. The best interest of a child is the primary consideration in awarding legal decision-making authority and parenting time. *Hays v. Gama*, 205 99, 102, ¶ 18, 67 P.3d 695, 698, ¶ 18 (2003).

In making the legal decision making and parenting time determination, the Court is mindful that as a matter of public policy, absent evidence to the contrary, "it is in a child's best interest: (1) To have substantial, frequent, meaningful and continuing parenting time with both parents[; and] (2) To have both parents participate in decision making about the child." See A.R.S. § 25-103(B).

As a precursor to the analysis of the child's best interest and because of the parents' inability to reach an agreement, the Court considers the following issues regarding the parents. See A.R.S. § 25-403.01.

- *Whether a parent's lack of agreement is unreasonable or is influenced by an issue not related to the child's best interests.*

Both parents have acted unreasonably. Mother acted unreasonably by trying to completely exclude Father from the child's life. Shortly after the child was born, she modified the child's birth certificate to remove Father from it. She also moved to [redacted] and started the process of moving to [redacted] in part to exclude Father from the child's life. Initially, after the Temporary Order was entered, she was not cooperative with Father when he tried to arrange for a visit with the child. She refused to loan him basic items such as a car seat that he would only need during visits in [redacted]. She later changed her position on that, but her lack of cooperation is evident. She also failed to bring the child to [redacted] when she travelled here for the trial. She could have easily brought the child to [redacted] to allow Father to have some parenting time, but she chose not to do so.

Father also acted unreasonably. He failed to pay any child support until shortly before the trial. He does not have a relationship with the child. He has had very limited parenting time. The Court awarded him some parenting time as part of the Temporary Order, but he failed to exercise any of the time that was allotted to him. Nor has he attempted to have telephone contact with the child. He also has neglected to send the child any cards, gifts or letters. The Court finds his excuses for not exercising any parenting time to lack credibility.

- *The past, present and future abilities of the parents to cooperate in decision-making about the children to the extent required by the order of joint legal decision-making.*
The parties do not cooperate well at all.
- *Whether the joint legal decision-making arrangement is logistically possible.*
Joint legal decision making is not really logistically possible because the parties reside in different states and Father has not been given much of an opportunity to participate in decision making for the child.

THE COURT FINDS as follows regarding the child's best interests pursuant to A.R.S. § 25-403(A):

- 1 *The past, present and potential future relationship between the parent and the child*

OF ARIZONA

HONORABLE

Case Number:

Mother has a good relationship with the child. Father does not have a relationship with the child. He has had very limited parenting time. The Court awarded him some parenting time as part of the Temporary Order, but he failed to exercise any of the time that was allotted to him. Nor has he attempted to have telephone contact with the child. He also has neglected to send the child any cards, gifts or letters.

- 2 *The interaction and interrelationship of the child with the child's parent or parents, the child's siblings and any other person who may significantly affect the child's best interest.*
The child has some extended family who live close to Mother and the child has a good relationship with them.
- 3 *The child's adjustment to home, school and community.*
The child is well adjusted in Mother's home.
- 4 *If the child is of suitable age and maturity, the wishes of the child as to legal decision-making and parenting time.*
The child is much too young.
- 5 *The mental and physical health of all individuals involved.*
Both parents appear to be in adequate mental and physical health.
- 6 *Which parent is more likely to allow the child frequent meaningful and continuing contact with the other parent. (This paragraph does not apply if the Court determines that a parent is acting in good faith to protect the child from witnessing an act of domestic violence or being the victim of domestic violence or child abuse.)*
Father is more likely to allow frequent, meaningful and continuing contact with Mother. She has gone to great lengths to try to completely exclude Father from the child's life. Shortly after the child was born, she modified the child's birth certificate to remove Father from it. She also moved to _____ and started the process of moving to _____ in part to exclude Father from the child's life. Initially, after the Temporary Order was entered, she was not cooperative with Father when he tried to arrange for a visit with the child. She refused to loan him basic items such as a car seat that he would only need during visits in _____. She later changed her position on that, but her lack of cooperation is evident.
- 7 *Whether one parent intentionally misled the Court to cause an unnecessary delay, to increase the cost of litigation or to persuade the Court to give legal decision-making or parenting time preference to that parent.*
Mother filed pleadings in _____ and argued that _____ was a proper jurisdiction for this case even though there was no valid basis for her argument. That caused delay and unnecessary expense for Father.
- 8 *Whether there has been domestic violence or child abuse pursuant to A.R.S. § 25-403.03.*
No credible evidence presented.
- 9 *The nature and extent of coercion or duress used by a parent in obtaining an agreement regarding legal decision-making or parenting time.*
No credible evidence presented.
- 10 *Whether a parent has complied with chapter 3, article 5 of title 25, Arizona Revised Statutes.*
The domestic relations education provisions of A.R.S. § 25-352 have been satisfied.
- 11 *Whether either parent was convicted of an act of false reporting of child abuse or neglect under A.R.S. § 13-2907.02.*

**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.**