

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 21-409

Judge:

Complainant:

ORDER

May 25, 2022

The Complainant alleged a superior court judge improperly denied his motion to modify spousal maintenance.

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 Christopher W. Ames did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on May 25, 2022.

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

FOR OFFICE USE ONLY

2021-409

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.

_____ filed for a modification of spousal maintenance, and the respondent, _____ was provided proper service and notice of Resolution Management Conference on _____. The respondent, _____ failed to appear at this conference.

The minutes of that confrenece will reflect _____ request to Judge _____ for a default in the petion to modify, but the judge refused to move on that request in open court, stating she did not have anv of the evidence in the petitioner's motion. The judge read in open court, and the minutes of that _____ conference will reflect her statements, that she cannot make a ruling on matters without evidence and attachments. The petitioner was confused, as the motion to modify spousal maintenance and the supporting evidence was submitted to the court with one filing. The petitioner was confused how the Judge had the motion, but not the supporting evidence and documents he submitted with that pleading, as they were filed together with the _____ of the court.

Judge _____ scheduled a Trial/Evidentiary Hearing for _____, and in open court, the judicial officer confirmed, as reflected in minutes of that hearing, that the respondent, _____ was provided services for that Trial/Evidentiary Hearing for that date. The respondent to the petition to modify spousal maintenance, _____ no showed for this Trial/Evidentiary Hearing, the second failure to appear before this court with proper service.

During the Trial/Evidentiary Hearing for _____ Judge Tracey ' _____ questioned the petitioner, _____ on the substantial changes in income and financial status since the original decree of spousal maintance on _____

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Continued page 2:

The petitioner gave testimony, under oath and recorded in the minutes of the Trial/Evidentiary Hearing for _____, that the substantial changes to the petitioners financial status and continued unemployment were as follows: Unemployment insurance benefits ended in _____ and the petitioner had lost income; continued unemployment due to the Covid-19 pandemic; the petitioner's Covid-19 diagnosis in _____ and his status as a long haul patient: testimony on the petitioner's pending appointment on _____ with _____ for long haul Covid-19 symptoms; the petitioner's eviction from his home and homeless status after _____ eviction judgement with _____ Court; exasperation of the petitioner's behavioral health disability, bipolar disorder, a listed disability under the American's with Disabilities Act (ADA); acknowledgement by petitioner in open court the change in acute disability symptoms after _____ Court proceedings; the petitioner attorney bill to _____ for those juvenile court proceedings, which the petitioner is currently financially responsible for, with no assistance from the respondent mother to recover custody of the common children.

Aware Judge _____ was misconducting her duties as a judicial officer of the _____ Court, the petitioner challenged the judge, in open court and the minutes will reflect, that it is improbable that the original motion did not have the petitioner's evidence. as stated in open court, at the hearing on _____. The minutes will reflect Judge _____ happened to have "found" the petitioner's supporting documents and evidence with his motion to modify spousal maintenance. Nevertheless, with this prima facie testimony and supporting evidence, Judge _____ committed judicial misconduct.