

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 22-373

Judge:

Complainant:

ORDER

November 27, 2023

The Complainant alleged a pattern of bias and delayed rulings by a superior court judge hearing a family case.

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).

Copies of this order were distributed to all appropriate persons on November 27, 2023.

court Judge, has been the presiding Judge in my case in County Court since . Over the course of the past years, the Judge has unequally enforced the laws and orders of this court between the parties. Over the past years the Judge has demonstrated biased behavior with a pattern of one-sided rulings. These rulings cause suspicion for a personal interest in this case. This suspicion has grown exponentially in the most recent years following rulings issued by this Judge. I ask that the committee look into the behavior of the Judge based on the Cannon rules 2.11 Disqualification, 2.2 Impartiality and Fairness, 2.5 Competence, Diligence, and Cooperation, Rule 2.3 Bias, Prejudice and Harassment and any other rules that the committee feels are applicable. I believe that I have been, and continue to be, unable to obtain a fair and impartial court proceeding and rulings.

In making this report to the committee, I am not seeking to have the rulings of the Judge changed or modified. I only recently learned of this reporting process and the ability to report concerns regarding a Court Judge to the committee. I learned of this reporting process from communication with other parties also assigned to Judge . These parties have also had firsthand experience of the Judge's seemingly biased behavior and one-sided rulings. If others are experiencing the same difficulties and have the same concerns as I do, then I feel it is imperative of me to make my report to the committee so that attention can be brought to this and an investigation can occur. As elected officials and public servants, it is the right of the public to be ensured a fair and impartial Judge is involved in our legal proceedings. Anything else is unacceptable and only puts doubt on our legal system.

In my case, after reviewing the Cannon Rules of Judicial conduct I have cause to believe there is violation and/or misconduct in regards to the Cannon rules. I believe the rules that are most applicable are Cannon Rule 2.2 Impartiality and Fairness, Rule 2.5. Competence, Diligence, and Cooperation and Rule 2.11 Disqualification. The Judge has exhibited a pattern of biased and one-sided rulings, in addition to a failure to equally uphold the rules set forth by the court on both parties over the last 11 years. Rule 2.2 Impartiality and Fairness, # 3. A good faith error of fact or law does not violate this rule, however, a pattern of legal error or an intentional disregard of the law may constitute misconduct. The Judge is in violation of Rule 2.5. Competence, Diligence, and Cooperation. The judge has violated this rule on numerous occasions as outlined below, with the most recent pending now stemming from a hearing held in . This Judge has consistently issued rulings on motions after the day period as outlined in sections 3, 4, and 5. This court has also consistently and regularly ignored motions filed by petitioner and failed to set them for a hearing or failed to issue rulings on said filed motions. If a hearing is set, it is not uncommon for the hearings on motions to be far from the date of filing, followed by a long delay waiting on rulings longer than what is outlined in Rule 2.5, section 5. These delays have caused a significant impact on resolving issues that are time sensitive in this case and has caused additional legal proceedings and costs to be incurred. The language in Cannon Rule 2.5 #4 states that the time limit is "to have issues resolved without unnecessary cost or delay." The Judge's pattern of issuing rulings on mothers motions either long past the day timeline or lack of ruling on motions filed calls into question Rule 2.11. The Judges failure to equally enforce the rules of this court coupled with her seemingly continual biased rulings only adds to the speculation regarding this rule. The Judge appears to have some personal interest in this case and interest in helping one party "win" this case.

Due to the extensive time period of this Judges involvement in this case, I have chosen to highlight and list events that have occurred over the past years. They are as follows starting with the most recent events. All orders and documents referenced herein can be provided upon request.

On , an Emergency Motion for Grandparents Rights was filed on behalf of the petitioner and the maternal grandparents, in addition to a Verified Petition for Grandparents Rights. The Judge set a hearing for the Verified Petition for Grandparents Rights on , months after the filing. The Judge failed to address or issue a ruling on the Emergency motion for Grandparents Rights and the motion was ignored by the Judge. A hearing was held on , which included testimony from all parties including the maternal grandparents. As of a ruling on this motion has yet to be received by the Judge. The hearing was set more than months after the date of filing the motion and a ruling has yet to be issued within the day time period as outlined in Rule 2.5. This ignorance of the motion filed by petitioner is the most recent occurrence of the many that have gone without orders before this Judge.

On father filed an ex parte order of protection. The ex parte motion was heard by this Judge on the same date. The Judge scheduled a hearing on the order of protection for . During the hearing, the Judge made opening statements to all parties in open court that the hearing was on an emergency order of protection and that no previous information presented during family court hearings could be used or considered for this hearing. The hearing on this matter was held over different dates, each needing to be continued due to time constraints. A subsequent investigation at the time by the department showed the allegations made by father were false and no crime was committed, nor were the children in danger with mother. At the final hearing on the order of protection the Judge admonished mother regarding the allegations made in the petition. This was despite evidence presented to the Judge which included the investigation report by the department which concluded the allegations were unsubstantiated. The Judge praised the father for bringing these allegations to the court's attention and accused mother of being the reason her children were in continued counseling. The judge referenced events in the history of the family court case which were presented to the court during previous family court hearings not during this hearing. The Judges contradicted her original statement that information presented in family court hearings would not be considered or allowed for the purposes of this hearing. The Judge awarded father attorney's fees regarding this matter to be paid by mother despite objections by mother's counsel. Counsel for mother informed the Judge that father had originally filed the motion without counsel, and during the hearings never requested attorney's fees nor did so in writing. The ruling was upheld by the Judge and on an order for mother to pay to fathers attorney was issued.

On the Judge issued a ruling on the Motion for Medical Treatment; Expedited Ruling Requested, originally filed by mother on with a hearing held on . This ruling is again outside the timeline set in Rule 2.5 and far outside what should be expected from a motion filed requesting an expedited ruling. The judge's orders read “

.” The judge’s order offers additional time to father only, and also suggests legal advice regarding what documentation to provide this court. This order comes more than months following the hearing and months after the motion was filed requesting an expedited ruling. The motion was properly noticed, both parties given the opportunity to present their evidence at the hearing, yet the ruling offers only father additional time to present the court evidence and request a new hearing.

On , mother filed a Motion to Designate the Minor Child’s High School. Mother filed the motion because the minor child would be starting high school in the fall and the parents were not able to come to an agreement on high school designation. On the Judge denied the motion. In the Judges order it reads “

.” Despite the motion being specific to the issue at hand, mother had to file yet another motion to designate the minor child’s school on . A hearing was scheduled for . This ruling caused unnecessary time to be lost in resolving this issue, additional stress and worry for the minor children regarding where they would be attending school as well as additional legal costs incurred due to having to file another motion on the same matter.

On father withheld the children from mother on what was mothers regular parenting time. On , mother was forced to file a motion to enforce parenting time after the children had been withheld for days and father stated they would not be returned via email. Mother filed an Emergency Motion to Enforce Parenting Time on . Rather than set a hearing or issue orders to enforce parenting time, the Judge emailed an Order to both counsels on , directing both to specifically cite previous court orders to support their positions. The Judge directed counsels to respond by the end of that day. Mother did so, Father did not. While mothers Emergency Motion was pending, father filed an Emergency Ex Parte Motion for Temporary Orders () days later, claiming insufficient time to notify mothers counsel despite daily communication between both parties counsel. Father’s Ex Parte motion mislead the court citing statements made by the children’s counselor as the foundation for his motion. The Court issued a ruling on the *Ex Parte* Motion without any attempt to address Petitioner’s Emergency Motion or notify her counsel prior. The Judge never set any hearing on Petitioner’s Emergency Motion to Enforce nor issued orders, but held a hearing on Respondent’s *Ex Parte* Motion in () weeks. At the hearing evidence was presented to the court which showed father mislead the court about the counselor’s statements. Email communications between father and counselor received through subpoena, showed father was intentionally misleading the court in his ex parte petition, and that the allegations against mother were false. Despite this evidence, the court denied mothers request for attorney’s fees during the hearing. Additionally, mother requested make up time for the days of parenting time lost. The court only granted mother days in return.

On mother filed a Motion for Medical Treatment; Urgent Ruling Requested, requesting an order for medical treatment specifically, vaccinations at the recommendation of the children’s pediatrician. Mother was forced to file the motion and ask for an order due to fathers refusal to allow the children to have the annual vaccinations recommended by the pediatrician. The court scheduled a hearing on the matter for . The motion was properly noticed and both parties submitted their exhibits by the deadline. At the hearing evidence was presented by both parties,

including chart notes from the pediatrician with the recommendations for medical treatment. The judge took the motion under advisement.

the court held a hearing on mothers motion for make-up parenting time. The motion was filed on due to days of parenting time mother lost in . The time lost was the result of an ex- parte order of protection filed by father. During the hearing the Judge only awarded mother of the total days lost, which would be , more than a year away. The judge denied giving mother the other make up days for time she lost in due to an Ex Parte motion.

On the Judge issued orders for a family evaluation to be completed by . In the Judge's order for the evaluation, it specifically lists as a point for discovery by the evaluator "

" This statement only asks for a one-sided evaluation and does not include the father in her request for an evaluation. The Judge should ask the same question of father in order to obtain a complete and impartial evaluation but does not.

On mother filed a motion to request parenting time in order to share a school ceremony with the minor children. The same motion was filed by father and granted by the Judge in . The motion was filed with an expedited ruling requested due to the time constraints. Counsel for mother placed several calls to the court to inquire about a ruling before the deadline. The court never responded, and the judge never issued an order on mothers motion. This again violates Rule 2.5. This is in stark contrast to the request on the exact same motion filed by father on the same request in .

On father obtained an ex parte restraining order against mother. Father mislead the court using statements from the minor children's counselor as the foundation for his motion alleging physical abuse. The ex parte order was granted by Judge . Upon learning of the order issued, mother filed a request for a hearing on the motion. The Judge scheduled the hearing for . This was not within days of issuing the order which is dictated by the rules. Counsel for mother notified the court of the rule and asked for the hearing to be re-scheduled within the time period, but the hearing dated remained unchanged.

At the hearing for the order of protection held on there was direct testimony from the counselor who stated the allegations in the motion for the protective order were not accurate. The counselor testified that she had no knowledge of this alleged incident of physical abuse brought by father, contrary to the statements made in father's petition. Direct testimony from neighbors present during the incident in question also testified there was no physical violence that occurred between mother and the minor children. A investigation which included interviews with the neighbors present at the time of the alleged incident was completed. The investigation concluded that no crime of physical violence occurred, and the investigation was closed concluding unsubstantiated allegations. This report was provided to the court at the hearing as well as direct testimony from the officer who conducted the investigation. Due to time constraints the hearing had to be rescheduled over multiple dates. The hearing was continued to and the Order of protection remained in place.

At the next hearing, mother arrived at the court but she was not allowed in due to the new restrictions from the pandemic. Mother is a [redacted] who works in the hospital caring for [redacted] patients. Due to her exposure to [redacted] patients, the court would not let her enter for the hearing. Counsel for mother notified the Judge and asked for the hearing to be rescheduled so mother could participate via zoom from his office across the street. This request by counsel was made on the record in court. The Judge denied the request and informed counsel to have mother call in from her cell phone outside. Mother was forced to participate from her cell phone while standing on the sidewalk outside the court house. Both attorneys for the parties as well as father, were present in the court room for the hearing. The order was dropped at the end of the hearing and mothers parenting time was to resume as normally scheduled. Father requested that mothers upcoming [redacted] day parenting time be restricted due to his concerns for the children. Despite mothers objection, the judge ordered that mothers upcoming day parenting time now be reduced to [redacted] days. The judge took away [redacted] of mothers parenting days without cause. This time was not returned despite objections and requests. Mother had lost [redacted] days of her parenting time with the children during this month of [redacted] which included [redacted] day and the [redacted] day holiday.

The following outlines the events which occurred over a [redacted]-year period. This is in relation to a motion to Modify Child Support filed by mother.

In [redacted] a motion to modify child support was filed. The modification process took [redacted] years to complete and cost excessive unnecessary amounts in legal fees. The motion was originally filed without representation, however due to the father's refusal to comply with the disclosure rules along with the Judges mismanagement of the motion, I was forced to hire counsel.

The original motion to modify child support was filed [redacted] pro per. The Judge did not issue final orders on this motion until [redacted]. Father was served in [redacted] with the motion to modify, a request for production of documents, as well as subpoenas to obtain financial income from his LLC business as well as personal banking records. A hearing on the motion for modification was scheduled for [redacted]. Father's LLC filed an objection to the subpoenas and asked for them to be quashed. The court ordered the matter on the subpoenas should be set for oral argument at the [redacted] hearing [redacted]. The judge ruled at the hearing and stated the assets of an LLC are not disclosable and quashed the subpoenas without prejudice. The judge wrote in her orders that counsel for mother may research case law and file a petition to support her argument. The court further ordered both parties are required to follow the rules of disclosure for the pending motion to modify child support. Additionally the court took under advisement a request for attorneys fees father incurred due to the hearing.

A Motion to Compel; production of answers to discovery requests in regards to child support modification was filed by mother on [redacted]. This motion was filed in response to a request for production of documents served on father in [redacted] which had a deadline of [redacted]. The motion also requested attorneys fees due to the ongoing attempts to obtain disclosure from father. A subsequent response was filed on [redacted] by father and final response by mother on [redacted]. The Judge never issued a ruling on mothers motion to compel and the motion was ignored.

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