

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 22-459

Judge:

Complainant:

ORDER

September 1, 2023

The complainant alleged poor demeanor and improper legal rulings by a superior court commissioner 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).

Commission member Roger D. Barton did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on September 1, 2023.

CONFIDENTIAL

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

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2022-459

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.

please see attached report.

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please see attached report.

This complaint refers to the hearing for case _____ on _____ at _____ pm; initiated by Respondent as an Expedited request to enforce parenting time .

It was a continuance from the original date scheduled for _____ which did not occur as the Respondent, who had initiated this action, was unprepared for his appearance via Microsoft Teams. The petitioner was present on time at the original _____ hearing time, attempted for _____ minutes to help Respondent log on, and was then dismissed by Judge assistant when it became clear there would be insufficient time remaining for an actual hearing to take place.

At the conclusion of the Teams call Petitioner was informed verbally by the assistant _____ that she would be notified of the new date; something which did not happen, although the Respondent was told the new date verbally after Petitioner was dismissed. Never at any time did Judge _____ appear, on camera or by microphone; nor did the Respondent.

I have obtained and reviewed the digital recordings of both hearings; as well as both official transcripts. So it is with full knowledge that I state the following.

The _____ Microsoft Teams hearing was never in session, and all records indicate as much; with an eventual one-sentence statement for the record made by the court to note that Respondent was unable to appear and thus the hearing would be continued to 'a later date to be determined'.

At the _____ continued hearing, which occurred in Judge _____ courtroom _____ :

The Respondent was present. The petitioner, having not been properly informed as to the new date, was not. (Respondent had been notified of _____ such by the JA off the record, at the end of the _____ hearing time.) No one else was present besides (presumably, based upon remarks made by the Respondent) the court recorder. The Respondent was sworn in.

At this point, things became so bizarre that I literally do not know where to start.

This entire hearing is effectively a catalog of escalating instances of incompetence and/or willful judicial misconduct.

Judge _____, in a display of reasoning so impaired - whether by substance use, cognitive decline, or intractable bias I cannot say - that he managed to explicitly implicate himself in multiple counts of frank misconduct within the span of this short hearing; freely placed himself on record with the following:

He arrived unaware of and then - upon correction by Respondent, simply ignored - the substance of the actual petition before him; which requested the court compel a return to a parenting time order issued in _____ notwithstanding the fact that parties, as acknowledged in the petition itself, had by agreement been using a different schedule for some time even up to the present moment.

Instead of addressing any of the Respondent's allegations regarding parenting time of the parties' minor son, Judge _____ began by inquiring whether since the _____ continued

date (when no hearing ultimately occurred) the Petitioner had been allowing Respondent access to 'the girl'.

When the Respondent, with some confusion, corrected the court that neither was any 'girl' involved (it was a son) nor was any withholding of parenting time alleged (he simply wanted to revert to the parenting schedule of [redacted] after agreeing to a different one for years - raising the issue of why the court would be entertaining such a petition as an Expedited order in the first place), Judge [redacted] seemed to realize he had made a mistake and re-orient himself to the present matter.

Which is why it was all the more inexplicable when several minutes later the court **again** brought up its evidently entrenched misapprehension that some withholding of parenting time was at issue, but this time insisting despite the Respondent's protests, that inasmuch as this problem was now solved it was due only to the court's (what would have been ex parte had it actually happened) intervention.

To wit, when the Respondent once again evinced confusion that Judge [redacted] i referred to directives concerning parenting time, directives which he claimed to have given the Petitioner at the previous hearing date; instead of stopping to examine what may be amiss in its understanding here the court simply plowed on, in a remarkable departure from logic, to earnestly explain to Respondent that such exchange did in fact occur but that the Respondent 'couldn't hear' because he was not logged on (which of course would mean yet again that no hearing was taking place and thus the purported communication between Judge and Petitioner would have been at best an ex parte exchange initiated by the court which it tacitly admits here to feeling justified in 1. asserting at all, and 2. expecting to have followed.)

To be once more clear: NO exchange of any kind transpired between the court and the Petitioner at the aborted [redacted] hearing date.

As the Respondent (correctly and with genuine confusion) denies any knowledge of this, Judge [redacted] further prods him to confirm this fabricated narrative, asking whether Petitioner 'told' Respondent about the (non-existent) directive and further remarking, "[redacted]"; as a way to suggest, apropos to **no** contrary allegations by the Respondent in the first place, that the only reason for the Petitioner's current compliance was Judge [redacted] (non-existent) intervention at the (non-existent) previous hearing.

Indeed, the court seemed bizarrely committed to its fictitious narrative that the absent Petitioner had somehow been actively withholding parenting time, when even the Respondent denied this and tried to clarify that the parenting time changes were by agreement (which might have been the court's cue to question why, exactly, the hearing was being held as an Expedited one in the first place).

In the face of the Respondent's mild responses, the court even tried to 'remind' the Respondent as to how he had '[redacted]' (presumably parenting time? at the [redacted] hearing date) which is when the court claims to have given its alleged instructions to the Petitioner. (Again, there is no record of this, for the simple reason that it did not occur).

The Respondent replied, again in confusion, "[redacted]". Which is no doubt true, given that the Respondent was never even able to access the Microsoft Teams meeting at

all and thus was never present. His entire communication had been off the record with the JA by phone and the Petitioner via text as he attempted to locate and activate the courtroom link, ultimately failing to appear at all.

Given the above circumstances it would seem reasonable to believe Judge arrived confused, mistaking this Petitioner for another and the entire referenced exchanges and personae for those of another hearing and case altogether; and even more reasonable, given his ensuing conduct outlined below, to believe that said other unknown Petitioner is one whom he holds out of favor, to say the very least.

But while the reasons for his aggressive disregard for the Petitioner's rights are unexplained, his intentions to engage in such are fully articulated by none other than himself on record.

It is disturbing enough that Judge would appear for court so unprepared that he is unfamiliar with the basic facts of a single-page petition he just had in front of him a week prior. It is even more disturbing that as evidence mounts during the hearing that he is on the wrong track he brooks no correction but proceeds to ignore and explain away anything that might interfere with his entirely self-constructed narrative: including such glaring errors as attributing the wrong gender to the minor in question; the wrong allegations, although the motion is presumably in front of him; and overrides the Respondent's confusion with explanations that are illogical on their face.

But then he moves on to entertain un-sought and un-noticed matters of Legal Decision Making - and later, matters of Child Support - during what was meant to be a ***minute Expedited Hearing to Enforce***. This last he does after articulating for the record his full knowledge of what AZ law provides before explicitly dismissing his duty to adhere to such because ' () '.

Once he dispenses with the Order to Enforce by summarily affirming it (the only ruling in this entire hearing related to a motion that had been properly served, noticed, and before the court), the ruling he once again offhandedly claims he already delivered to the Petitioner on , Judge next turns to address the allegation that, as the parties currently disagreed about returning to the 50/50 schedule, the Respondent was being ' with school change by Petitioner in order to maintain the parenting plan she wanted.

Because of this claim, unsupported by any evidence or any request for intervention in the Motion or verbally, the court itself actually *volunteers* an order that Petitioner, who in was given final decision-making regarding the minor son's school choice, be rescinded the ability to exercise this capacity with regards to the current school.

As this was an Expedited hearing for Enforcement of parenting time only, which additionally proved (or should have quickly done so) to be far from urgent, and the above order to return to 50/50 parenting should have been sufficient to accomplish such, this change to decision-making was beyond the scope of this hearing.

But there's more.

Once that matter is on all counts improperly but vigorously addressed, Judge *then* notes that he has ***another*** matter before him, and alludes to a separate subsequent motion by the

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COMPLAINT ON ITS WEBSITE.**

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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.**