

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 23-019

Judge:

Complainant:

ORDER

September 8, 2023

The complainant alleged improper legal rulings and denial of due process by a superior court commissioner.

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 Roger D. Barton and Joseph C. Kreamer did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on September 8, 2023.

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

FOR OFFICE USE ONLY

2023-019

COMPLAINT AGAINST A JUDGE

Name: [] Judge's Name: Hon. []

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.

On [] I attended a preliminary protective hearing on the matter of [] as the petitioner for his temporary guardianship in this case. During the hearing, I was afforded no time by Judge [] to present any material evidence in the case other than a second anecdote on [] current state of general well being after Judge [] asked " [] " In doing so, Judge [] denied me the opportunity to present multiple exhibits and witness testimonies illustrating the abandonment and lack of care of [] biological father, who has lived in [] since [] My intention was to present this evidence to the court in order to illustrate [] s father' s long term neglect. This is in conjunction with [] s father' s recent abdication of his parental responsibilities relating to [] s mental health care and his mother' s recent incapacitation due to [] health. My goal was to secure temporary guardianship over [] which I believed to be in his best interests due to the extant circumstances until he was of sound mind to make a decision to pursue a relationship with his biological father. As the petitioner in this case, Judge [] s conduct during this hearing amounts to an egregious violation of my constitutionally protected right to due process and her oath of office. This, in turn, has resulted in a grossly reckless and negligent mismanagement of [] s care while staying with his biological father in [] including:

- Impaired access to public education
- Impaired access to mental health services
- Denied access to prescribed medication
- Hospitalization
- Unlawful imprisonment
- Impaired communication with family members living in Arizona including his biological mother and siblings
- Documented volatility in his current home life with his biological father and his father's domestic partner in []
- Documented child abuse complaints with []

In conclusion, I believe Judge [] has wilfully and negligently abdicated the following judicial responsibilities as defined by the Arizona Code of Judicial Conduct:

- Rule 2.5. Competence, Diligence, and Cooperation - Judge [] decision to hear all parties except mine precluded her from hearing all the facts of the case, impairing her ability to make a sound decision in the best interest of the child in this matter. As such, this is a clear demonstration of poor judgment and a complete lack of competence.
- Rule 2.6. Ensuring the Right to Be Heard - As mentioned above, I was not given adequate time to present my evidence in this matter. In fact, my right to be heard was violated to the degree that what I did say wasn' t even included on the minute entry for the case. I strongly believe had Judge [] allowed me to present my evidence, the outcome would have been completely different.
- Rule 2.9. Ex Parte Communication - the above mentioned rule violations (2.5, 2.6) effectively facilitate a violation of Rule 2.9. Judge [] actively engaged in Ex Parte Communication by addressing only the licensed attorneys present during the hearing. Given the way the judge conducted the hearing, I may as well have not been present. (cont'd)

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(cont'd) Therefore, I respectfully request the Commission to apply the proper disciplinary action against Judge _____ for these grievances pursuant to Arizona Code of Judicial Conduct, Scope (para. 5).