

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 23-132

Judge:

Complainant:

ORDER

November 29, 2023

The Complainant alleged a superior court judge (now retired) was biased in his rulings in a guardianship 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 Delia R. Neal did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on November 29, 2023.

Judicial Council of the County Circuit Page 2
COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY

If you are (were) a party and have (had) a lawyer, give the lawyer's name, address, and telephone number:

Brief Statement of Facts. Attach a brief statement of the specific facts on which the claim of judicial misconduct or disability is based. Include what happened, when and where it happened, and any information that would help an investigator check the facts. If the complaint alleges judicial disability, also include any additional facts that form the basis of that allegation.

Judge _____ appears to have a bias in this case. The Petitioner, _____ was severely sanctioned for missing a contested hearing that was set for _____ which notice was sent to his former attorney of record, _____, who subsequently passed since that hearing. Judge _____ received evidence of her admitted mistake for placing the hearing on her calendar for _____ she also informed the Court that she was ill causing her inability to attend the in person hearing. The Court promised to call _____ and he waited by the phone pursuant to his attorney's instructions. Therefore, only participants in the hearing was Attorney for _____; the Court appointed attorney _____ and the Guardian ad Litem _____. The judge proceeded with a one sided hearing that did not allow for objections, evidence or cross-examination of _____ who had misappropriated over _____ from their mother which was also in evidence which was the reason why _____ filed for Conservatorship/Guardianship. In his order of _____ Judge _____ indicated that he would consider the facts Judge _____ appeared to be willing to consider the facts admitted into evidence. Petitioner filed several documents providing evidence of legal malpractice and also stated by sworn affidavit that he was unable to hear the scheduled _____ contested hearing date and his attorney did not provide him with a copy of the order to remind him; thereby he was dependent upon her reminding him of the hearing date which she did not calendar correctly. The Court has sent copies of deadlines/court related information directly to _____ but not _____ until after his attorney was removed from the case. _____ has attorney of record but both received important court ordered notifications which is the first bias I've witnessed. The second bias is missed deadlines. _____ missed the deadline for filing his witnesses/exhibit list which was due on or before _____ but did not file it until _____ without any sanctions for failing to file in accordance with the Court's Order. _____ and his attorney was ordered to appear at the _____ hearing but based upon the aforementioned issues, he was not there and the Court determined that he abandoned his interest in the case.

COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY

Additionally, in the hearing of _____, Judge _____ granted an oral request made by _____ to allow _____ to file an amended budget. The budget was due on or before _____ (_____ days from the _____ hearing date excluding holidays). On _____, we (_____ and myself) verified that the amended budget had not been filed by the Clerk of the Court on _____ in _____, AZ. Furthermore, there has been no extension request for additional _____ however, there has been no penalties issued for missing the agreed upon deadline. This date was not included in the Order but was discussed and the attorney was fully aware of the deadline as he stated it would take his client _____ days to submit an amended budget. Additionally, at the hearing of _____, Judge _____ ordered all the parties to participate to resolve all issues pending before the Court. As directed, all parties met and conferred on _____, telephonically and was planning to have a subsequent meeting to continue attempts to resolve the pending matters. On _____ the same date as the informal settlement conference, he dismissed the pending motions apparently without considering the evidence. I have first-hand knowledge of this request as he stated during the hearing that he wanted the family to heal and resolve the issues before the Court. In essence, he disregarded his own order requiring the parties to amicably resolve the issues which had been before him. The bias in this case is supported by the record of the Court. Both parties are from the same family; however, one receives leniency and the other receives no consideration in lieu of supporting evidence in the case.

Declaration and signature:

I declare under penalty of perjury that the statements made in this complaint are true and correct to the best of my knowledge.

Signature: _____

Date: _____