

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 23-270

Judge:

Complainant:

ORDER

October 24, 2023

The Complainant alleged a superior court judge was not impartial in her ruling in his family law 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 members Barbara Brown and Christopher P. Staring did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on October 24, 2023.

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

2023 - 270

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.

The day of _____ I filed a petition to modify legal decision making, parenting time, and child support following a court order breach by the petitioner when she never came back to pick up our child. The petitioner _____ was the primary custodial parent. _____ was the day _____ informed me of a "family emergency" that she wouldnt be picking up the baby. As more and more consecutive weeks that she wasnt following our parenting order, struck my petition. This was my 2nd petition as the 1st time i petitioned the courts was immediately rejected from missing parenting class. To this day, I still have yet to be heard on all of the relevant issues that surround our proceedings. My initial concern with The Honorable _____ was that she pushed, and pushed, and pushed every appearance further out under the grounds of unsubstantial evidence and a my failure to provide proof of service. I gave my all and when I finally felt i was finally getting the opportunity to voice for my daughter and i; came an email from division of _____ vacating the hearing that i was getting reac for that morning. I immediately drove to the _____ center requesting for more information as to why it was being vacated. Why am i just now receiving notice the day of when i had filed my alternative proof of service through the clerk _____ weeks prior. I made it apparent through blank motions, pre trial statements, etc. that this matter was time sensitive as i was doing everything in my power to finally be able to find relief during this economical downfall that my family endured during the absence of _____. . Not only that but it was overlooked or ignored that when grandparents of child petitioned for visitation, that same proof of service wasn't completed on _____, _____ claimed no knowledge of that hearing until after the fact. With respects to Judge _____, she failed us. _____, our daughter was a week away from getting kicked out of school due to immunization shots not being up to date. My good faiths effort still wasnt good enough for an 'on its own motion of the court temp orders so wouldnt miss _____ in _____, with _____ in my _____ care. _____ was successful in kidnapping our daughter off of _____ and _____ in front of' _____ motorsports leaving with the baby and her car seat. Successful; meaning my blank motion to the court was filed, with police report number and event details. My filing was ignored yet again. I had no knowledge of my daughters wherabouts for several days. Still absent proof of service. _____ is not stupid. She knew without legal representation, she had a good chance of dragging judicial proceedings long enough to kidnap our daughter successsfully the 2nd time but then keeping her in her care after a year of playing hide n seek. Sometime early _____, then came a changeover. I realized a new set of eyes might be my saving grace. The honorable _____ issues an order to appear for an _____ @ _____ via video conference. With my internet technical detbacks i had to dial into the conference, the whole hearing was choppy on my end but i heard the very last _____ minutes where _____ requested to not only use the most expensive co parenting app, alleges domestic violence, then grants her request immediately now restricting my contact with my daughter. So not only did we do a whole year of daddy, daughter doings by default, now im not even able to hear from her until my court ordered time? Why was i doing the right thing as a father then pushed and pulled through these court proceedings. Said named _____ on _____

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I immediately contacted the division via email to disclose relevant issues that wasn't heard due to the connection status during the hearing. Submitted in person a 4 second clip via flash drive of other parties conduct during my enlistment period in the . The flash drive and information that was supplied was pushed back within the first hour. During that same hearing, Judge not only ignored all of my filings prior to the hearing but ordered both parties to now pay each for a conciliator. In every step of the process, I have been held to the standards of the court and pre trial requirements but it is evident that, with all respects to the judicial staff, my case has been ignored, costly, and lack of judicial decorum. Throughout this process, my family and I have lost all trust, impartiality, and justice. My -year old daughter has been at the mercy of family law procedure and its lack thereof resulting in the most recent diagnosis of stress from the . When grandparents visitation that was granted on . i was a known fact that was in my full time care. But now that addresses and contact information are promptly up to date atfer a whole year has passed, I cant help but to conclude case neglect since the visitation day embarks on my parenting time ordered by the court. I refuse to file enforcement on good faiths acted on the grandparents side but still the court and everyone in charge of this case cant issue on its own findings anything that would deem fair and reasonable. On both parties were sworn in in front of Commissioner during the enforcement of parenting time petition. The commissioner not only justified in his own words the other parties actions as to why she broke several sections in our court order but also states " ' and suggested to " . I was in shock as he refused to issue sanctions or any reasonable relief following the parenting time breech. When asserting my position on all of the issues that was swayed by Judge . He declines an responsibilities or issuance on the matters brought to his attention since Judge was the judge assigned to my case. So my concerns were yet again neglected thrown back at Judge

I can't believe that as a father, i did everything i was suppose to do as a dad but held accountable for the actions of the other party. I lost a good job and suffered hardship during the absence of primary custodial parent and still to this day, my daughter is emotionally suffering in her mothers care and as days go by, she becomes more and more aggressive towards me as alienation was always difficult to prove but my flash drive that was rejected shows a million words in the matter of seconds. Please help me understand the due diligence and case management in my case. Reviewing my ecr access as well should be investigated as well from several errors in minute entries have been found and missing filings on my behalf. My head hurts from all of this so i may or may not be missing dates or events in between. Im still unergoing my own discovery in this process

- March 2019: adopted revisions to Canon 2A Commentary, Canon 3, Canon 3A(3), Canon 3B(4), Canon 3B(4) Commentary, Canon 3B(6), and Canon 3B(6) Commentary.

This Code applies to United States circuit judges, district judges, Court of International Trade judges, Court of Federal Claims judges, bankruptcy judges, and magistrate judges. Certain provisions of this Code apply to special masters and commissioners as indicated in the "Compliance" section. The Tax Court, Court of Appeals for Veterans Claims, and Court of Appeals for the Armed Forces have adopted this Code.

The Judicial Conference has authorized its Committee on Codes of Conduct to render advisory opinions about this Code only when requested by a judge to whom this Code applies. Requests for opinions and other questions concerning this Code and its applicability should be addressed to the Chair of the Committee on Codes of Conduct by email or as follows:

Chair, Committee on Codes of Conduct
c/o General Counsel
Administrative Office of the United States Courts
Thurgood Marshall Federal Judiciary Building
One Columbus Circle, N.E.
Washington, D.C. 20544
202-502-1100

Procedural questions may be addressed to:

Office of the General Counsel
Administrative Office of the United States Courts
Thurgood Marshall Federal Judiciary Building
One Columbus Circle, N.E.
Washington, D.C. 20544
202-502-1100

Canon 1: A Judge Should Uphold the Integrity and Independence of the Judiciary

An independent and honorable judiciary is indispensable to justice in our society. A judge should maintain and enforce high standards of conduct and should personally observe those standards, so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

COMMENTARY

Deference to the judgments and rulings of courts depends on public confidence in the integrity and independence of judges. The integrity and independence of judges depend in turn on their acting without fear or favor. Although judges should be independent, they must comply with the law and should comply with this Code. Adherence to this responsibility helps to maintain public confidence in the impartiality of the judiciary. Conversely, violation of this Code diminishes public confidence in the judiciary and injures our system of government under law.

The Canons are rules of reason. They should be applied consistently with constitutional requirements, statutes, other court rules and decisional law, and in the context of all relevant circumstances. The Code is to be construed so it does not impinge on the essential independence of judges in making judicial decisions.

The Code is designed to provide guidance to judges and nominees for judicial office. It may also provide standards of conduct for application in proceedings under the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980 (28 U.S.C. §§ 332(d)(1), 351-364). Not every violation of the Code should lead to disciplinary action. Whether disciplinary action is appropriate, and the degree of discipline, should be determined through a reasonable application of the text and should depend on such factors as the seriousness of the improper activity, the intent of the judge, whether there is a pattern of improper activity, and the effect of the improper activity on others or on the judicial system. Many of the restrictions in the Code are necessarily cast in general terms, and judges may reasonably differ in their interpretation. Furthermore, the Code is not designed or intended as a basis for civil liability or criminal prosecution. Finally, the Code is not intended to be used for tactical advantage.

Canon 2: A Judge Should Avoid Impropriety and the Appearance of Impropriety in All Activities

- A. *Respect for Law.* A judge should respect and comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.
- B. *Outside Influence.* A judge should not allow family, social, political, financial, or other relationships to influence judicial conduct or judgment. A judge should neither lend the prestige of the judicial office to advance the private interests of the judge or others nor convey or permit others to convey the impression that they are in a special position to influence the judge. A judge should not testify voluntarily as a character witness.
- C. *Nondiscriminatory Membership.* A judge should not hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion, or national origin.

Club Ass'n. Inc. v. City of New York, 487 U.S. 1, 108 S. Ct. 2225, 101 L. Ed. 2d 1 (1988); *Board of Directors of Rotary International v. Rotary Club of Duarte*, 481 U.S. 537, 107 S. Ct. 1940, 95 L. Ed. 2d 474 (1987); *Roberts v. United States Jaycees*, 468 U.S. 609, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984). Other relevant factors include the size and nature of the organization and the diversity of persons in the locale who might reasonably be considered potential members. Thus the mere absence of diverse membership does not by itself demonstrate a violation unless reasonable persons with knowledge of all the relevant circumstances would expect that the membership would be diverse in the absence of invidious discrimination. Absent such factors, an organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, religion, sex, or national origin persons who would otherwise be admitted to membership.

Although Canon 2C relates only to membership in organizations that invidiously discriminate on the basis of race, sex, religion or national origin, a judge's membership in an organization that engages in any invidiously discriminatory membership practices prohibited by applicable law violates Canons 2 and 2A and gives the appearance of impropriety. In addition, it would be a violation of Canons 2 and 2A for a judge to arrange a meeting at a club that the judge knows practices invidious discrimination on the basis of race, sex, religion, or national origin in its membership or other policies, or for the judge to use such a club regularly. Moreover, public manifestation by a judge of the judge's knowing approval of invidious discrimination on any basis gives the appearance of impropriety under Canon 2 and diminishes public confidence in the integrity and impartiality of the judiciary, in violation of Canon 2A.

When a judge determines that an organization to which the judge belongs engages in invidious discrimination that would preclude membership under Canon 2C or under Canons 2 and 2A, the judge is permitted, in lieu of resigning, to make immediate and continuous efforts to have the organization discontinue its invidiously discriminatory practices. If the organization fails to discontinue its invidiously discriminatory practices as promptly as possible (and in all events within two years of the judge's first learning of the practices), the judge should resign immediately from the organization.

Canon 3: A Judge Should Perform the Duties of the Office Fairly, Impartially and Diligently

The duties of judicial office take precedence over all other activities. The judge should perform those duties with respect for others, and should not engage in behavior that is harassing, abusive, prejudiced, or biased. The judge should adhere to the following standards:

- A. Adjudicative Responsibilities.

**THE COMMISSION'S POLICY IS
TO POST ONLY THE FIRST FIVE
PAGES OF ANY DISMISSED
COMPLAINT ON ITS WEBSITE.**

**FOR ACCESS TO THE
REMAINDER OF THE
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.**