

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 23-306

Judge:

Complainant:

ORDER

November 17, 2023

The Complainant alleged a superior court pro tem judge made erroneous rulings in child custody 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 17, 2023.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2023-306

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.

On [], my husband, [], met before Judge [] in response to a petition to modify legal decision making and parenting time, filed by [] on []. In her petition, [] sought to re-establish joint legal decision making and unsupervised parenting time with the parties' minor child. [] was granted sole legal decision making [] under the order of Judge [] lost unsupervised parenting time in [], under Judge [], due to lengthy history of unsafe parenting practices, including substance use and instances of domestic violence in the presence of the minor child. [] has not had physical contact with the minor child since [] and participated in one phone call per year during that same time ([] decision, despite having the minor child's cell phone number since []).

[] filed a Motion to Dismiss [], and provided the court with evidence to support. During the [] hearing, Judge [] appointed [] as a Guardian Ad Litem to interview and speak on behalf of the minor child, to determine whether engaging [] was in the best interest. [] interviewed the minor child [] and gave testimony during a hearing on [] stating it was not safe for the minor child to interact with [] unsupervised. Despite this information, Judge [] pursued reunification between the minor child and []. The distress from this situation caused the minor child's mental health to decline significantly. The child was put on mental health medication for [] and [] in early []. On [], Judge [] required that the minor child participate in [] weekly phone calls with [] over the course of [] weeks, even though it was causing emotional damage to the minor child. The minor child began seeing therapist. []. The minor child stopped participating in the required calls with [] in [] due to the increase of [].

Regardless of the strain on the minor child, Judge [] continued to insist on reunification, insofar that he required [] to participate in the regular hearings to testify WHY the minor child did not want to engage in reunification with []. Judge [] insensitivity to this matter also stressed the counseling relationship between [] and the minor child, as it was difficult for the minor child to establish trust out of fear that information shared during sessions would be revealed to the court. As expected, the minor child's [] health did not improve.

This petition has resulted in numerous hearings before the court: [] (continuance from opposing counsel granted []), [] (resulted in another continuance), and [] with another resolution management conference scheduled for []. There has been NO CHANGE or improvement in the situation in spite of seven hearings. In preparation for the hearing, [] filed a continuance to expedite the process to a final hearing, but Judge [] overruled and led [] to believe there could be yet another evidentiary hearing scheduled later in the fall of [].

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In _____ felt forced to retain an attorney since the case still hadn't concluded. The repeated retainer fees have caused him significant financial hardship. Over _____ has been spent on just this case, in addition to over _____ of debt acquired since the case's origination date of _____. _____ does not financially contribute to the expenses of raising the minor child. She does not pay her court-ordered child support, now in arrears nearing _____. _____ does not work and lives on _____ and her primary argument during these court proceedings has been to vacate her child support arrears and revoke her monthly child support payment, that she's never made. _____ assumes all responsibility of raising the minor child, but the mounting debt is now jeopardizing the child's future, especially as the child nears enrollment in college.

Judge _____ is aware of _____ financial neglect and yet appears callous to the plight of _____ who has sacrificed income from his full-time job every time he has to appear for a hearing (even participating virtually since he resides in _____). _____ maxed out his only credit card, sold a vehicle, and cashed out an _____ to help finance the retainer for _____ but there is no longer a monetary reserve to pay for legal representation, with more unnecessary hearings scheduled in the future.

On multiple occasions _____ and her counsel, _____ did not prepare for the scheduled trial but were still granted a continuance (_____ and _____). _____ has not provided the court with any new evidence to affirm her fitness as a parent, nor has she upheld her court-ordered responsibilities over the last eight years. Judge _____ allowed _____ to be hostile and abusive towards witnesses, specifically _____, and permitted _____ to behave unethically, thus dragging this case out for a full calendar year.

Judge _____ has repeatedly rejected the reiterated testimonies of _____ and _____ as well as ignored the abundant documented evidence _____ provided the court that shows _____ is an unsafe and absentee parent. The minor child has endured numerous interviews and clearly shared the same narrative that they do not want contact with _____ nor do they want _____ to have any influence or legal decision making rights.

The minor child will be _____ years old in _____. The minor child wants Judge _____ to grant the dismissal of the case so that they can move on with their life, but _____ ignores this plea, therefore violating Arizona statute 25-403 (A.4) and committing judicial misconduct.

Thank you.