

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 08-172

Complainant: No. 1337910613A

Judge: No. 1337910613B

ORDER

The commission reviewed the complaint filed in this matter and found no ethical misconduct on the part of the judge. The issues raised involve legal and procedural matters outside the jurisdiction of the commission. The commission is not a court and cannot review evidence to determine whether or not a judge's decision is correct. Therefore, the complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: August 27, 2008.

FOR THE COMMISSION

 /s\ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on August 27, 2008.

This order may not be used as a basis for disqualification of a judge.

JUL 15 2008

July 13, 2008

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

To whom it may concern:

I am writing this compliant against Judge _____ as I feel she is being negligent on my case as it relates to a petition for "custody and parenting time" by the Respondent. I find her negligent on the modification of "order protection" for me and my son. She doesn't even take into account our son's special needs as he was born so early.

To begin, I believe this case should have been dismissed by Judge _____ and warrants an investigation. She reviewed my divorce last year and the custody plan presented. She did not find any issues with the divorce which was by consent decree where my ex-husband (Respondent), agreed to give me **sole custody**. The Respondent's attorney, _____ filed a petition to modify custody and parenting time which should have been a modification of child support. He filed the petition to **modify before one year _____ to the date of our divorce which was finalized**

This is stated in **A.R.S. 25-411 and 403**, "A petition for change of custody will not be accepted unless at least one year has passed since the last custody order was entered except where the child is in danger." To make it even more ridiculous is that the Respondent gave me **sole custody** and only appeared a few times to see his child (12 days in one year). He never appeared for even his son's birth or when he left the hospital. He abused me physically and mentally in our marriage (many witnesses to present). Under Arizona law the respondent has the burden of proving that he will not endanger the child **A.R.S. 25-402 (b) & (c)**. Again to modify custody and parenting time the Respondent would have to show that there has been a "**substantial and continuing change in circumstances that has affected the child since the last custody order was entered!**" If anything, I had to file a restraining order for his harassment at work, home and cell phone (attached). The Respondent was back to his old tricks again. I have been caring for our 3 month premature infant for the past 15 months without assistance. The child support kicked in _____ well after the child was cared for by me beginning after our son was released from _____. His support has been garnished from his salary otherwise he wouldn't pay. Up until earlier this month he was in arrears with child support, forced upon him by his attorney. He is still in arrears for medical expenses. Our son was born prematurely because of the abuse in our marriage.

Second, the order of protection wasn't even reviewed or discussed in court on

To make matters worse, I was given to the wolves with my son to appear for visitation three times a month for two hours. This is the very same man who abused me. The minutes recently mailed out, do not define the order of protection for me or my son. It also has boiler plate information that is not even pertinent or requested for this case. It is so vague that not even the police who was called could do anything to enforce it for me when my ex-husband violated the communication order with a third party harassing me, and going so far as to approach me at my car alone and bully me. I sent two letters to his attorney because it was so vague and I was putting him on notice. I still need to get clarification from the judge.

Thirdly, the judge is totally careless about my son's needs. She didn't even look into the care needed for (our son) who sees an Occupational Therapist, Physical Therapist and Developmental Specialist. He can't just move to another home when he has his care at my residence. He is too young to moved from house to house. He needs continued supervised visitation as his father hasn't taken CPR or any parenting classes. He has attempted to kill himself with his gun which scares me! He has a temper. Our son is crying and refuses to be held by his father. It is causing trauma to the child who already has endured a great deal. The grandparents travel frequently and are in their 70's. They live 40 minutes away from any hospital. The grandfather has a hearing problem and the mother doesn't drive. Neither of them are capable of caring for a special needs child. My mother on the other hand has training with special needs children. He can not attend daycare. Again it should be in the best interest of the child!

Fourthly, this case is frivolous at best. I sent a registered letter to the Respondent to work out a parenting plan in an attempt to pin him down with consistent visitation as he would cancel frequently last year and early this year and even in some cases not even appear (attached and presented to the judge). I was trying to follow the law as I know even though I was and I am still being abused that the Respondent is allowed to see his son. He refused as he wants joint custody to reduce child support indicated by his attorney

I feel at best I should have a new judge appointed to my case to be fair and/or this case needs to be dismissed. I will await your response. If I don't not feel it is fair then I will take it higher.

Thank you in advance.