

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 08-239

Complainant: No. 1345010755A

Judge: No. 1345010755B

ORDER

The commission reviewed the complaint filed in this matter as well as the recording of the hearing and found no ethical misconduct on the part of the judge. A judge is only permitted to rule on issues raised in motions that are set for hearing. Other matters must be addressed in separate proceedings.

The complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: November 18, 2008.

FOR THE COMMISSION

\s\ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on November 18, 2008.

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

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

FOR OFFICE USE ONLY

CJC - 08 - 239

COMPLAINT AGAINST A JUDGE

Date: 9-25-08

Instructions: Describe in your own words what the judge did that you believe constitutes misconduct. Please provide all of the important names, dates, times and places related to your complaint. You can use this form or plain paper of the same size to explain your complaint, and you may attach additional pages. Do not write on the back of any page. You may attach copies of any documents you believe will help us understand your complaint.

Please see attached write-up/Type-up. I can't write that long. Also VERY IMPORTANT: ALL EVIDENCE HAS BEEN FILED WITH THE COMMISSIONER'S OFFICE AND INCLUDES EVERYTHING I WAS HOPING FOR HELP ON, BUT THE COURT SYSTEM FAILED ME.

PLEASE SEE ATTACHED WRITE-UP

THANK YOU!

I am writing to file a complaint on the Conduct of Commissioner

I filed a "Petition to Stop Order of Assignment" The reason was due to the fact that the State of Arizona filed a garnishment against my personal Disability Benefits for Child Support, Illegally, for a Past Due amount that I owed during the time I was waiting for my Disability Benefits to begin and also for Social Security to begin paying the Petitioner, for my daughter's financial support/child support. About a week later I was sent a document from the Court telling me that I needed to serve since they are also a party to the case. I went to the Office signed my "Acceptance of Service" paperwork and also returned and had me sign his filing of the "State's Motion to Terminate Order of Assignment". I was surprised, because he filed it the day after I filed mine, and the date that he stated he served me with those papers was (by mail), but I actually did not receive them until I went into their Office, and was handed them on (???)

I read his filing and disagreed with six things that were wrong with his filing, so I made a "Response..." and filed it with the Court. The Court decided THEN to create a hearing date based on my response, because I was having a very hard time to get to accept the filing I made, by Process of Service. I finally had to request that the Sherriff Serve her, because of her non-cooperation. Every time that I filed a document with the Court, I was required to fill out a Fee Deferral Packet, because I could not afford the fees, this was the same with the Sheriff's Office Service of Process.

The Hearing Date for "Modification of Child Support" was scheduled

I went, as well as the Petitioner and The Petitioner's Lawyer, after me sending the exhibits/evidence I had against the Petitioner, requested for a "Withdrawal From Counsel...", which was granted. I had so much evidence of the wrongful acts that occurred by not only the Petitioner, but the State as well, acts that were against Federal and State Law. The Petitioner also violated trust rules with her Lawyer, because she stated to me that she spoke with him but in his request for withdrawal, he stated the last time he talked to her was I believe that because she withheld evidence from him, he did not want to jeopardize his license, so he made up a whole bunch of reason for withdrawal so that it would not look like it was her failure to provide accurate information and definitely made it sound like he had no idea.

When Commissioner came into the court room and started talking, she had this biased view of me, and spoke to me with a tone of attitude, as if I were causing them a burden by even being there. The Commissioner stated before we even

started that the issue started . When she asked me what I was here for today, I started to explain, but she cut me off. Every time I was asked to provide the State Law in which was broken, I found the Law within about four seconds or less and started to try to read the Law to her, but before I could begin or even finish the paragraph, she cut me off, every time.

lied to the Court and said that he was never served with my "Petition to Stop Order of Assignment". The reason I know it is a lie is because I Hand-Delivered the petition to himself he personally signed the "Acceptance of Service of Process" on that day, and I immediately went down to the Court, Clerk of The Court and filed that acceptance paperwork with them. There should be no doubt about him being served.

The Commissioner did not allow me to explain anything, did not allow me to provide facts/evidence to support my reason for being in the Court Room that day, did not even allow me to talk. did not provide any facts to the Commissioner to support or defend the State of Arizona for their actions. I needed and have been asking for a recalculation of what the actual past due Child Support obligation was, and to the day of the Court Hearing, and even to this day, still have not received it. I asked for to provide me proof of the calculations and how it was determined that the past due amounts were waived or satisfied, and when they were satisfied, and he did not respond, the Commissioner interjected and asked me why I needed that, she told me that is stating that the Arrearages have been paid in full. So why did I need that? I let her know that I need to know what they are using to determine that the past due amounts were paid in full and as of what date.

Never once did she ask for the evidence of how they came about that conclusion, nor did she ask for any other facts from Though, when she asked me to tell her where the State of Arizona broke State Law, and every time I started to read the State Law that they broke, she stopped me and did not give me a chance to state the Law or my complaints. I stated part of a State Law to her about the ex parte Order of Assignment, and the fact that the Clerk did not give me my due process, she then cut me off again and said, "This is not an ex parte order." I then started to try and find out why used that part of State Law in his motion, and her response was, he was just indicating that there was an active order of assignment that he was requesting to have terminated. She asked me where in that Law does it say that due process is required, what paragraph, I then started to read it to her, and again she cut me off.

I felt very discriminated against, due to the initial attitude the Commissioner had toward me, and by the way she made a decision based on no actual facts from

I had all the facts, but she was not willing to let me state my case and provide proof, she made her biased Judgment based on what she felt it should be, NOT based on any facts whatsoever. The Commissioner started to make her judgment that, "...the garnishment is ordered to be stopped, and that the arrearages have been paid in full ...", then interjected and said, "Lets go ahead and make it that way it is the end of the month. It makes it easier." and the Commissioner agreed to make that change.

THIS is why I needed the calculations and the proof of how the Division of Child Support Enforcement or determined that the arrearages were paid in full, because of this. filed his motion stating that all arrearages have been waived or paid in full, but now they are moving that judgment to a later date, and only giving me one month worth of garnishment to be able to collect on. It doesn't make any sense and it is certainly unfair to me to not have the proof of when and how, the satisfaction of past due arrearages were calculated and determined to be paid in full, ESPECIALLY by the Court Hearing date.

I was discriminated against, my rights were violated by the Commissioner, and Justice was NOT served, according to Law. The State Law is the same as the Federal Law, and if it isn't then it needs to be, but when it comes to "Due Process" everyone has that right by Federal and State Law, it is also in the United States Constitution and Arizona Constitution. The Clerk of The Court never gave me notice of my rights to contest or request a hearing for the Order of Assignment (made effective), whether it was an "ex parte" order or any other order. I have that right, and the State Court/Commissioner did not even want to recognize that there was a failure to provide that right to me. I did during the Hearing ask, in the Law, what did they mean by "Clerk", is it the Clerk of The Court or...She then verified that it is talking about the Clerk of The Court.

I thought that the Court would be different from the State agencies I have been dealing with over a year and a half now, but I was wrong, they are just as bad, but worse because they have the power to make biased decisions and there is no one, except a Federal Court, who can do anything about it.

The only way is to file my complaints in a Federal Court, which based on my research, is going to cost me close to \$500 just to file the paperwork on my own, and for this kind of battle for my rights, Statutory Damages, and Negligent Infliction of Emotional Distress, I am going to need to secure an attorney, and from what I have heard, that will run me into the thousands, and I don't just mean a couple of thousand, I mean in the \$20,000-\$30,000

range, just to have the attorney fight this case for me.

The State is still being allowed to continue to mistreat me, cause me to suffer emotionally and physically, and no one is helping me stop them. I do not deserve this, I am a good father, one of the best. My last hope for Justice to be served was in the Commissioner's hands and she failed to do her job. She failed to read the Response I submitted, she failed to review the exhibits or even request for those exhibits to be brought up in the hearing, she failed to ask for evidence from she failed to treat me fairly, she failed to let me state my case, she failed to bring up who is responsible to pay the filing fees for all the Court Deferrals/Waivers (???), and Sherriff's Service of Process costs, she failed to treat me as an individual with rights, she failed her obligation to hear the facts and be provided evidence to support those facts, she failed the entire Court System and Judicial Process. If you want to hear what happened in that Court Room to verify what I am telling you, is TRUTH, I'm sure you can request the Audio Recording of the Hearing. That will give you all you need to know to verify that she failed me. Also, pull up my case record with all the Exhibits I submitted to the Commissioner and you will see that I had so much proof and facts, that I have been tortured by the State of Arizona, and that is why I needed Justice for the Negligence of the Clerk of The Court, to send me Notice of my Rights to contest or request a Hearing as to why I do not believe that the Garnishment should have been made permanent. The proof is ALL there. If you fail to investigate this case, then you will be failing the numerous citizens that have to go through what I have gone through, every day, because they can't afford a lawyer. I am dying, so the Court System helped take away part of my life span. If it causes my death, then it will be even worse. My condition is called Scleroderma, in case you want to look it up for your own personal information. There are many types, but my case is a combination of all of the types, so I have the full disease, not just part of it.

I ask you to, please, investigate this Injustice and make it so that no one else has to suffer the way I have, for over a year and a half. My trust in the State of Arizona, as a whole, is gone. Only you, can make sure that the trust, of other citizens, in the Court System, stays strong. I have already been robbed by the State of Arizona, and was not able to get the Justice I deserved, but maybe my complaint can help someone else down the line. If that is all that comes from this complaint, I will be able to die knowing that I made a difference.

I thank you very much, and may God bless you!

Respectfully and Sincerely,