

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 10-324

Complainant:

Judge:

ORDER

The complainant alleged that a superior court judge was biased because he changed his rulings on a protective order and child custody based on ex parte information. After reviewing the complaint, the judge's response, and listening to a recording of the hearing, the commission found no evidence of ethical misconduct on the part of the judge. The complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: March 3, 2011.

FOR THE COMMISSION

Executive Director

Copies of this order were mailed to the complainant and the judge on March 3, 2011.

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

COMPLAINT AGAINST A JUDGE

Your name:

Judge's name:

Date: 11/29/10

Judge _____ is the Superior court Judge who is involved in the family court events of the July 13th incident in Parker Arizona. In totality, the case involves Domestic Violence, Criminal Assault charges against a minor daughter, Child Custody, Visitation, UCCJEA Jurisdiction, Victim Compensation Claim.

The agencies involved at this point are as follows: Justice for Children (Houston, TX), Defenders of children (Phoenix AZ), AZ coalition against Domestic Violence, CA coalition against Domestic violence, Arizona DPS victim services, La Paz county Crime Victim Services Division, La Paz County Attorney's office, Arizona Attorney General's Office, Voice for Crime Victims (AZ), Alternatives to Violence (CA), Legal Resource Center(Washington DC), Arizona State bar, Parker Police Department, La Paz County Sheriff's Department, Parker Magistrate court, Quartzsite Magistrate court, AZ community Legal Services, State of California Tehama Sheriffs Department, Tehama County District Attorney's office, Tehama County Superior Court, Santa Cruz County Superior Court,

In light of new evidence, I am presenting the facts of the case to the Arizona Judicial Oversight Agency to review the gross misconduct of
An overview of the charges include:

1. Assignment of sole custody of a minor to a person charged with assault against the minor because of loyalty to that party Rule 2.2
2. Accepting additional information from one attorney after case pending had been taken into submission (rule 2.9)
3. Conferring with one attorney and party in private without notice to other party (2.11. A1) rule 3.1 c and (rule 2.6 comment 3), (rule 2.9)
4. Conceding to extreme external Influence (Rule 2.4 B) rule 3.1 C
5. Refusal to state conflict of interest rule 2.11
6. Acts of impropriety (rule 2.11 comment 1), (rule 2.13 a1, a2)
7. Refusal to recuse himself after conflict of interest was established rule 2.11 a1
8. Allowing staff to make derogatory comments of income to one of the party's (rule 2.3 B) rule 2.12
9. Deliberately switching court dates to intentionally sidestep and negate consequences and outcome of criminal charges (rule 2.5 comment 4) (rule 2.14 and rule 2.15)
10. Allowing and hearing impromptu testimony from attorney during a trial that was not currently authorized to represent the client and had not submitted notice of representation because of loyalty in other cases. Rule 2.2

This case has been made complicated by the depth of collusion between judicial parties representing the Defendant Allen R. May. Judge Newman of the Parker Magistrate court has already recused himself in light of the facts surrounding this case, but Judge [redacted] who also have allegiance to the defendant has refused to do so and has acted with blatant disregard for his judicial responsibilities of fairness and impartiality. This pattern of impropriety has increased since the July 13th 2010 incident.

The beginning:

In November 2006, Judge [redacted] started the case DO2006 [redacted] in La Paz County for dissolution of marriage, custody and other items. Case included domestic violence, drug use and protective orders from several judges including Judge [redacted] himself which he negated and dismissed at the close of the marital dissolution. He also abandoned the ongoing drug testing for Allen May and cited "it was standard procedure" to dismiss the orders at the close of the divorce. During the course of the case Judge [redacted] was also observed having dinner and drinks at a civic function with the defendants mother and the defendant. The temporary closing of the case came in March of 2008 with the marital dissolution. Neither party lived in Arizona at that time and visitation was ordered under long distance guidelines.

Left unchecked, domestic violence and drug use escalated by Allen May and since the children and I were no longer protected we were in constant jeopardy. On July 13th 2010, Allen broke into my home, and injured myself and his daughter who is 6. He was subsequently arrested and thus started the trail of misconduct by several agencies involved. A protective order was issued, and then amended because the police report was considered inadmissible and the photos and video of the injury was not produced by the Parker PD as requested. For the purpose of this document, I will adhere to the actions by Judge [redacted] although there are many interrelated cases and events, whereas I will skip to August 13th 2010.

On August 13th 2010 the amended Criminal protective order was appealed by me because I wanted it to include my daughter as well since she was also injured by Allen May. Therefore, it was sent to la Paz Superior court Judge [redacted] for review. I was informed I would have a hearing within 60 days, but I was concerned for the safety of my daughter and myself in that time period so I filed an ex-parte sole custody order which was granted on Aug 15th 2010 and I left town. I registered the order within 2 days of arriving at my family's house in California during which time the defendant accelerated the ex-parte hearing and then held another impromptu ex-parte hearing with Judge [redacted] Judge [redacted] overturned his first Ex-Parte custody order to me and ordered sole custody to the father no more than 10 days after he signed the first order. He also obliged the defendant in receiving attorneys fees when I was using free council sponsored by AZ community legal services because I had no income. I submitted a motion for reconsideration which he denied to hear or put on the calendar. Allen May then filed an OSC after the ex-parte order and his request was granted and a hearing was scheduled for Nov 2nd 2010.

During this time, my appeal for the criminal protective order still was not heard although it was on calendar many times. It was placed on the calendar for Sept. 27, then October 5, then Nov 2nd. It was intentionally put off by Judge [redacted] for reasons of consideration and loyalty to the defendant Allen May in which time his attorney had frequent off record communication with the

court. Additionally, Judge _____ was in communication with the lower court judge and the criminal prosecutor for the case in which I was not notified. He and his staff refused permission for me to appear telephonically for these appearances. These acts of impropriety lead me to believe he would not act impartially or fairly on the bench.

I was also involved simultaneously with the La Paz county victim services division and was subsequently approved for a compensation claim for injuries sustained from Allen May in the July 13th incident. The hearing was heard the morning of Nov 2 right before the trial with Judge

On November 2nd Judge _____ combined the criminal protective order appeal and the defendants OSC family law case into one trial date which was long overdue and costing considerable expense to myself. He heard evidence from myself as to why it was not in the best interest of the child to uphold his Ex-Parte sole custody order for Allen may and that there was strong evidence such as medical reports, police reports and a resolution form the County attorney compensation program to show Allen had committed an injurious act against me on July 13th and was capable of injuring his daughter. He had evidence of four protective orders including one he had granted himself in 2007. He heard how I was still in danger even though I was out of town, by sheriff's report on 9/29 of Allen breaking the current protective order and having my house broken into and my windows smashed. He heard evidence of Allen Being under the influence of drugs and alcohol including Allen admitting in the police report he was drinking at the time of the July 13th incident. The Judge heard testimony of Allen being a vagrant, including statements by Allen on the stand saying he lived in a fifth wheel in an alley and was not working while awaiting trial. He heard evidence of how I have always been the primary care taker and Cally has always lived with me and her brother. He heard evidence that I was going to school for my second masters degree and had enrolled Cally in a new school as well and she was well adjusted and happy. He even heard from Cally herself in a video *in camera* interview. She presented written notes she prepared while waiting in the law library to speak with him. The Judge heard these facts presented in evidence on Nov 2nd

When it came time to closing statements, the Allen May requested a new attorney speak without prior notice or authorization and Judge _____ allowed closing statement from an attorney who had not filed a notice of representation. This was also the same attorney whom the judge had other pending cases with and who frequently discussed the case off record with the judge and his staff.

Despite all the evidence, Judge _____ ruled that Allen should have sole custody of his daughter even though he is still living in the alley waiting criminal trial for assault against this child. This order was not issued immediately.

At the close of the trial on Nov 2nd, Judge _____ put the case into submission or under advisement until further notice. On Nov 10th the defendant Allen May, had a criminal hearing for the charges against him, the parker prosecutor did not inform me of this date and continued the hearing until Dec 8th. He also asked that Judge _____ to quickly take the custody case out from under advisement and make the ruling before the criminal trial incase Allen was charged

and sentenced. Judge obliged and ordered sole custody of Cally may to Allen and ordered child support for Allen as well as attorneys fees. Judge and his court also conferred with the attorneys and other family members of Allen may about the case while it was under advisement which is a breach of judicial conduct.

Additionally, when I was filing documents with the superior court clerk, she made several derogatory statements about my financial situation when I submitted a request for waiver of fees. She did not look at the information, but merely tossed the paper aside and said "I know you and you can pay!" The sentiments of the entire court lie in allegiance with long time resident Allen May with complete disregard for judicial responsibility

As of this week, I have filed a motion to recuse the prosecutor from this case because of misconduct and collusion as well. Judge Newman, of the parker magistrate court did recuse himself stating conflict of interest and the criminal case was moved to a new jurisdiction with the Quartzsite magistrate court. Because of the collusion and involvement of so many agencies concerned for the welfare of this child it is very unlikely that Judge can honestly attest to being impartial and fair. The sheer number of agencies that have appointed their own attorneys to look into this case indicates there is something very wrong with the conduct of the judicial court in La Paz County. There are blatant impropriety's and misconduct of this case as a whole and I strongly urge this agency to look into the matter immediately and take these charges seriously.

Respectfully,