

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 14-188

Judge:

Complainant:

ORDER

The complainant alleged that a superior court judge ruled improperly, denied a litigant the due process of law, was biased, and violated various rules of the Arizona Code of Judicial Conduct.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the judge engaged in conduct that violated the provisions of Article 6.1 of the Arizona Constitution or the Code of Judicial Conduct and, if so, to take appropriate disciplinary action. The purpose and authority of the commission is limited to this mission.

After review, the commission found no evidence of ethical misconduct and concluded that the judge did not violate the Codes in this case. Also, the commission does not have jurisdiction to review the legal sufficiency of court rulings. Accordingly, the complaint is dismissed in its entirety, pursuant to Rules 16(a) and 23.

Dated: July 30, 2014

FOR THE COMMISSION

/s/ George A. Riemer

George A. Riemer
Executive Director

Copies of this order were mailed
to the complainant and the judge
on July 30, 2014

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

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2014-188

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.

Please see attached complaint with pages 1-11
and additional 46 page attachment with
exhibits

RE:
Judge
Case

On _____, Judge _____ stated that Mother _____ is not allowed to file any further motions regarding the fact that _____ has never been provided with Basic Due Process despite the fact that evidence will show Mother _____ has NEVER been allowed to present evidence or her side of the story. All motions previously filed by Mother have been denied and Mother has been referred to as a “bother” for questioning her right to a fair and unbiased hearing and application of the correct law.

According to the Arizona Code of Judicial Conduct, it apparent that Judge _____ is in violation of several areas:

Canon1. “A Judge shall uphold and promote the independence, integrity, and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety.”

- Rule 1.1 Compliance with the Law p.9

Canon2. “A judge shall perform the duties of judicial office impartially, competently, and diligently.”

- Rule 2.2 Impartiality and Fairness p. 11
- Rule 2.3 Bias, Prejudice and Harassment p. 11
- Rule 2.5 Competence, Diligence and Cooperation p. 12
- Rule 2.6 Ensuring the Right to be Heard A & B p. 13
- Rule 2.9 Ex parte Communications p. 15

All of the foregoing rulings and conclusions were made without a single, actual evidentiary hearing during this entire 21 month proceeding. Of the transcripts reviewed of the four primary court hearings in this matter _____, _____, _____ and _____ (all can be provided upon request), in not one of those hearings was Mother able to testify or otherwise present evidence to rebut the allegations against her.

In the Court’s minute entry _____ (filed _____), Judge _____ alluded to three (3) factors that have purportedly delayed this case and intimated that Mother is responsible for these delays, including: (a) the Dependency filed in _____; (b) Mother’s move to _____ with _____ and _____ and (c) _____ birth and his subsequent medical issues. However Judge _____ facts are wrong but without providing Mother _____ ever a chance to testify, Judge _____ continues to file minute entries containing erroneous information. The following is correct:

- The Dependency was filed by Father _____ not Mother
- Mother returned to _____ to be close to her _____, friends and support system, and there was no legal impediment to her return at that time

- The evidence shows that [redacted] does, indeed, have significant medical issues. (Letters written by the doctors and surgeons caring for [redacted] have all been previously submitted to the court in pleadings to show this. All of which Judge [redacted] has ignored.

History of this Case

Father [redacted] Man listed on birth certificate for [redacted] although it is believed he is not the biological father

On [redacted], Father [redacted] filed the out-of-state [redacted] custody order, but NEVER registered it according to ARS 25-1055.

On [redacted], Judge [redacted] ordered [redacted] to be placed with [redacted] despite the fact that in-loco parentis was never granted, despite the fact that the [redacted] custody order was never registered, despite the fact he did not have the jurisdiction to take sole, care and custody away from the Mother [redacted] was extremely traumatized by this abrupt removal from her Mother and now suffers from [redacted] relating to several traumatizing events cause by orders coming out of this case which were never fully briefed by an evidentiary hearing or providing the Mother [redacted] basic due process.

On [redacted] Father [redacted] filed a Dependency petition as to both [redacted] of Mother [redacted] and [redacted] despite the fact he is only listed on the birth certificate of [redacted] and only filed [redacted] court documents in regards to [redacted] This briefly sidetracked the [redacted] law cases and on [redacted] according to the minute entry Juvenile Judge [redacted] vacated all parenting orders in both cases. Both Father [redacted] and Father [redacted] were unhappy with all previous orders being vacated, so with their respective counsel demanded that Judge [redacted] stayed the [redacted] court matters during the pendency of the dependency matters according to a minute entry dated [redacted]

During the dependency matter, Mother [redacted] was vindicated of all the false allegations made against her by Father [redacted] regarding her mental state. Father [redacted] never contacted Mother or [redacted] during the dependency matter; instead he aided and abetted Father [redacted] in his continuous lies in an effort to bully Mother [redacted]

On [redacted], the juvenile court assumed jurisdiction over the [redacted] court matter, entering a minute entry that appears to memorialize an agreement among the parties:

- With respect to [redacted] Mother and Father [redacted] were to have joint legal decision-making authority, with Mother as the primary custodial parent and Father [redacted] to have specified parenting time. The Court also appointed a parenting coordinator.
- With respect to [redacted] Mother was to have sole legal decision-making authority, with limited parenting time for Father [redacted] Dr. [redacted] was to make an evaluation regarding Father [redacted] parenting time.
- Further, Father [redacted] was not to have any unsupervised contact with [redacted]

These temporary orders, the juvenile court noted were to remain in effect until acted upon by the court.

On _____, Father _____ moved for temporary orders for the purpose of establishing a clearer parenting time schedule and to memorialize (again) Dr. _____ involvement.

On _____, Judge _____ granted Mother _____ request for protected address based upon the lies and manipulation Mother _____ filed in regards to _____ and his wife _____

On _____, a return hearing was set for the _____ case with _____ ONLY. Judge _____ states on page 6 of the transcript line 19, "...it doesn't look like the order was every properly registered." Then on page 7 of the transcript, line 4 "...Under error section 25-1055 custody order entered by a foreign court, in court of another state, has to be registered not just domesticated, like one would domesticate a civil judgment. And until the registration steps have been followed as set forth in 25-1055, I don't have jurisdiction to modify the custody order..."

How did Judge _____ make orders and remove _____ from her Mother's care on _____ when Mother had sole, care and custody out of _____ and the _____ order was NEVER registered according to the Arizona Revised Statute?? Mother was threatened of losing her _____ and _____ forever if she did not comply with the forced agreement that was discussed in chambers without the Mother being allowed to testify her side of the story. Two "doctors" were allowed to cloud Judge _____ brain with false accusations and were believed without evidence being presented because they were doctors. All allegations against Mother were made by Father _____ with Father _____ tag-teaming mother, all of which remain ipse dixits.

"Ipsedixit" is a Latin phrase meaning, literally, "he himself said it." *New Mexico v. General Elec. Co.*, 335 F.Supp.2d 1266, 1284 n. 33 (D.N.M. 2004) (quoting BLACK'S LAW DICTIONARY 833 (Bryan A. Garner ed., 7th ed. 1999)). In the context of law, it is "[s]omething asserted but not proved." "Ipsedixit" simply cannot be the basis for relief in a court of law. *Neal v. Neal*, 116 Ariz. 590, 593, 570 P2d 758, 761 (1977) (noting that a trial court "cannot, ipse dixit, change [separate] property into a community asset").

Furthermore, Judge _____ gave Attorney _____ until _____ to register the order according to the statute and set a return hearing for _____. At the time Mother _____ was being assisted by a law student because she was left destitute and Father _____ decided he was no longer going to pay _____ support as ordered out of the State of _____ Judge _____ was also made aware that the date of _____ was close to Mother _____ due date (as she was pregnant after being raped by _____ on _____).

Mother's address with the court was correctly on file with the clerk of the court since _____ according to the clerk of the court (see affidavit signed by _____ on _____ Attorney _____ refused to send the registration to the address on file with the clerk of the court, therefore the _____ court order is still not properly registered in the State of Arizona. Another red flag is how Judge _____ is still ruling on case _____ when the out of state

custody order from [redacted] is still not properly registered and neither parent resides in the State of Arizona.

On [redacted], without Mother [redacted] being present because she was in active labor, Judge [redacted] ordered Mother [redacted] and [redacted] back to Arizona no later than [redacted]. This was the first court order in this matter directing that [redacted] be “returned” to Arizona and moreover the order was issued without any briefing or testimony.

- “The right of interstate travel has repeatedly been recognized as a basic constitutional freedom.” *Memorial Hospital v. Maricopa County*, 415 U.S. 250, 254-55, 94 S. Ct. 1076, 1080 (1974). Our citizens have the right to “migrate, resettle, find a new job, and start a new life....” *Shapiro v. [redacted]*, 394 U.S. 618, 629-31, 89 S. Ct. 1322, 1328-29 (1969). “This Court long ago recognized that the nature of our Federal Union and our constitutional concepts of [redacted] liberty unite to require that all citizens be free to travel throughout the length and breadth of our land uninhibited by statutes, rules, or regulations which [redacted] burden or restrict this movement.”

After a careful review of the entire record and as of [redacted], there is no order restricting Mother’s ability to leave Arizona with [redacted] and return to her permanent home in Arizona Revised Statutes section 25-408 did not restrict Mother’s ability to travel to either. Section 25-408 restricts a parent’s ability to remove a [redacted] from the State if, and only if, the parent’s “are entitled to joint decision-making or unsupervised parenting time and both parents reside in the state.” A.R.S 24-408(A) (emphasis added). Neither provision applied to Father [redacted]. In light of the juvenile court’s order of [redacted], Father [redacted] did not have joint legal decision-making or unsupervised parenting time and, in addition, he resides in [redacted] not Arizona. Mother [redacted] was not held by any law that prohibited her to return to her state of permanent residency. Mother [redacted] was never a resident of Arizona, never held a driver’s license in Arizona, never had a car registered in Arizona, never voted in Arizona, never paid taxes in Arizona, and never held a job in Arizona, Mother was never a resident of Arizona.

On [redacted], according to transcripts, an in-chambers meeting with counsel commenced at approximately [redacted] but was not placed on the record, neither was Mother [redacted] present. The court went on the record at [redacted] and once again, the hearing was not evidentiary in nature. Rather Judge [redacted] accepted only [redacted] of Father [redacted] and Father [redacted] only, Mother had neither the opportunity to testify nor present any exhibits.

Notwithstanding (1) the absence of any testimony or Mother’s ability to present evidence, and (2) Father [redacted] previous disavowal of an *en loco parentis* relationship with [redacted] (pleading filed on [redacted] by [redacted] Judge [redacted] found the following:

The Court finds that it is in all [redacted] best interests that Mother focus her energies on [redacted] and that [redacted] and [redacted] be placed with Respondent [redacted] on a temporary basis.

**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.**