

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 10-002

Complainant: No. 1382000555A

Judge: No. 1382000555B

ORDER

The complainant alleged a superior court commissioner presided over a case in which his niece was a party and that another judge issued erroneous rulings. The commission reviewed the complaint and found no ethical misconduct on the part of either judge. The issues raised involve legal and procedural matters outside the jurisdiction of the commission. Since the commission is not a court and cannot review evidence to determine whether or not a judge's decision is correct, the complaint is dismissed pursuant to Rules 16(a) and 23.

Dated: April 16, 2010.

FOR THE COMMISSION

\s\ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on April 16, 2010.

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

December 30, 2009

State of Arizona Commission on Judicial Conduct

1501 W. Washington Street, Suite 229

Phoenix, Arizona 85007

RE: Case No. in Tucson, Arizona (Pima County)

Dear Commission on Judicial Conduct,

I am writing this letter to you in hopes you will be able to assist me in getting a fair hearing in court. My name is I am a truck driver and the sole provider for our family for the past year and a half since my wife lost her job in May 2008. Our family consist of my wife and I and our 6 kids. My wife had 3 kids of her own when we met and the youngest child I adopted so she would have my last name since her own biological father has no contact with her. I have a son, from my previous marriage and we have a son together but we love them all the same and her children call me dad. got married on July 1, 2003.

My ex-wife and I married and divorced in Nogales Sonora, Mexico. We both at different times obtained our Resident Alien status and lived in the United States for part of our married life so both kids were born in the United States of America. When we divorced in Nogales Sonora, Mexico in June 2003 we had been legally separated since May 2001 and both were living in Sonora at the time. For reasons known to myself, I asked the judge to order a DNA test be done on both the children before child support was ordered. refused the test be done on the kids and stated she did not want nor needed child support for the children just don't do DNA testing on them. The judge found this very strange and asked why she was refusing the children be tested. gave no explanation and continued to refuse testing. I did not wish to drag the divorce proceeding and so agreed to the child support order, joint custody of both the children and did keep all our assets which were all paid

off; mobile home in Tucson Arizona, car and furniture. Later that same year 2003, [redacted] moved back to Tucson, Arizona with both the children. She is a hair dresser/ party planner and runs a beauty salon out of her home and takes cash only from clients. She makes a very good living. [redacted] went to the child support office in Tucson and told them that the judge in Nogales Sonora had not placed a child support order, which was completely untrue. She did not give them a complete copy of the divorce decree. She left out the child support order section. [redacted] has an uncle through marriage that is a judge in family court in Tucson Arizona, Honorable [redacted] and she soon told the child support office of this. A court order was delivered to me in 2004 with a court hearing date and the judge presiding in the case was [redacted] uncle. My wife and I went to the child support office to inform them there was a child support ordered at the time of our divorce and her uncle being the judge in this case was unfair and unethical. The reply given to me was they could do whatever they want. I also told them about having the children take a DNA test and they said absolutely not!!! In May 2004 my wife and I attended a child support seminar like event at the Holiday Inn in Tucson Arizona. At that event, after speaking to many people and explaining I was not refusing to pay child support but for reasons known to me, I wanted to have a paternity test done. God sent us a miracle that day and a person with authority there ordered the children be tested for confirmation of paternity. My swab sample was taken there that day but when [redacted] got the order to take in the children for testing, she refused and stopped all proceedings. I called the child support office and I was told [redacted] was not going forward with this.

[redacted] has never worked in a regular job in her life because she does not like to have obligations. She is a very unstable person with no regard for anyone, not even her children. She sold the paid off home I left them and she moved around for months being evicted from several places and even committed identity theft on me using my name and social security number giving me bad credit. We did not press charges on her because it would have hurt the children to see their mother in jail and we always put them first. She would leave the kids for days at a time alone without food when they were only 9 and 6 years old. We tried to take them from her, but the kids cried and said if we took them away she told them she would die of a over dose of drugs or crash drunk and it would be their fault. I had always provided for the children. Giving [redacted] the money for the kids was useless since they never had food or clean clothes where ever they were staying. When we bought them anything like clothes, shoes, and even toys, if the price tag was on the items she would return them and keep the money for herself. We had to take all price tags off the items and put them in grocery bags so she could not take them from the kids to return them. Even with the child support I pay, I still have to buy them clothes or whatever they need because she tells them she does not get the money that is taken out of my pay check, which is completely untrue.

I later found out that her uncle [redacted] had told her the DNA order was only good for one year and it would not be ordered again. So like clockwork a year later, I was served again with a new court date and [redacted] uncle, Honorable [redacted] was assigned to the case again. We went back to the child support office with a copy of the divorce decree translated to English by a court approved translator. The woman refused to even look at it and said [redacted] copy was what they were going by and she was extremely rude to my wife and I. By the way we were treated that day, we knew I was not going to get a fair hearing. In May of 2005 my wife [redacted] picked up the kids for what I thought was a routine weekend

stay. By Monday [redacted] was nowhere to be found and her parents that lived in Nogales, Sonora would tell us they did not know where she was and we had to keep the kids because they could not take care of them. Both the kids told us they had been evicted again but [redacted] had told them not to tell us. We later found out she was on vacation. The kids stayed with us for 3 months and our babysitter quit on us because she said they were just too hyper for her plus my children. My wife and I had to make arrangements at our jobs to be able to care for them and still maintain our employments. Thank God both our employers at the time were very understanding and helped us get through those months. During their stay with us, the kids asked to know about the paternity test because they had heard her talk about it. I explained to the kids in a way they could understand without getting hurt and emphasized my endless love for them. They understood and actually wanted to have the DNA test done. A couple of weeks later, [redacted] and I took [redacted] to the doctor because she was not feeling well. At that visit we were pulled aside because [redacted] had told the doctor she did not want to go back with her mom because her mom would take her to different houses to get her special "White powder" for inside her nose and smoke bad smelling cigarettes with the dry green smelly leaves. We were appalled at what we heard and were going to take action. [redacted] called the kids after 3 months of not knowing anything about her and told them she crashed into a brick wall because she was driving drunk. The kids started crying so we took them to see their mom at the grandparent's house. Thirty minutes after we left them we get a call from [redacted] yelling and screaming because she knew the kids had told us all they did. She told us we could not take them from her or something bad would happen to us and my wife's children and we could not see them again!!! Three days later I was served with a order of protection against [redacted] because I had told the kids about the DNA testing and she stated that scarred and hurt them. So I could not see my children for a whole year and I was just devastated over this. Two weeks before the order of protection was to expire, [redacted] calls me to tell me that the kids miss me very much and in 2 weeks I could see them and to keep them for a month or longer and we did.

The next court date was approaching so we borrowed some money and went to see an attorney. Our attorney filed a petition to change the judge for reasons already known. The judge was changed to Honorable [redacted]. A new paternity test was ordered on the children and [redacted] was furious. The bad part was they told me I owed over \$20,000.00 in arrears and was ordered to pay \$1,200.00 a month for child support because [redacted] lied and said she did not make any money which is not true, she makes great money. I was ordered to take in my financial affidavit completely filled out along with our tax returns for the past 3 years. [redacted] did not have any paperwork with her and the judge said that was fine and took her word for everything. We asked our lawyer to demand she bring in the same paperwork as I did. [redacted] does file tax returns filled with lies of course and gets a hefty return every year. [redacted] dragged her feet about taking the kids in for testing, she missed a couple of appointments but of course nothing was said to her just rescheduled the appointments. We had been told results would take 6 to 8 weeks and were we in for the surprise of our lives when 3 days later I got a notice in the mail that both children tested positive and were 99% my. [redacted] called me laughing saying she got away with it again and I was going to pay her. A couple of weeks later we saw the children and my daughter told us her mother was talking about cheating on the test to some lady and told me they knew the truth but I was the only father they knew and loved and mom would never tell them who was their biological father. I went back to court and the judge would not listen to what I had to say as far as

paternity but he did show her the copy of the complete divorce decree were she saw that child support had been ordered, at that point they immediately moved to modify child support instead of establish. I had copies of all the receipts for clothes and everything we had bought the children. ended up owing me money but they just said we will remove all arrears and start from scratch. We asked to see

financial information but again she had nothing with her and the judge was fine again with this and did not request her to show proof of anything. Needless to say we fired that attorney and later hired which was a great attorney but very expensive and when I lost my job we could no longer afford him. Mr. did get the child support lowered to eventually \$200.00 a month and proof

to the court I was due over \$700.00 in over payment. I never received the refund for over paying. I have been back to court many times to try to modify when I lost my job but they would not do it. Every time we go to court, changes her story, one day she is a hair dresser other she is a party planner, sometimes she says she wants to close the child support case because she makes good money and the judge has said NO and other times she says she only makes \$80.00 a month. Whatever the case and story with her may be she has never taken any proof of income, residency or any kind of proof. We have the children every vacation, weekends and days off and I do not get credit for that. In May of this year 2009 my daughter moved in with us and stated she was going to close the child support case if we were 100% financially responsible for and she would be 100% responsible for

the son. I agreed and and I went to the child support office to ask them to close the case because was living with us. They lady at the office said they could not do this but the court could. A court date was given set for September 8, 2009 in the meantime I continued paying child support for because it is taken from his pay check and refused to return it. Before the hearing started I saw coming out of her uncle the judge's chambers. When the hearing started, I told the judge we wanted to close the case because was living us and When

was asked if she agreed she acted like she did not know what I was talking about and that, had to move back with her next year so she could not close the case. The Attorney General told that was 14 years old now and could live with whom she pleased. She said no and she was going to get her back. again lied about her earnings and stated she was a party planner made no money at this time and was learning how to do hair. She has been a hair dresser since 2003 give me a break!!

also stated that she was providing AHCCCS health care for which is the government assistance and that she paid \$50.00 a month for What she failed to mention is that she is receiving FOOD STAMPS for because she falsely reported her living with her after had moved in with us. I have to continue paying child support for that lives with plus the \$50.00 for government health care that does not cost her a penny and again took NO paperwork of proof of anything with her to court. I was disgusted with all her lies and again asked the judge to order her for proof of tax returns, income etc. and again the judge said she had to take word and no paper work was needed of her. I asked Judge for credit of the child support he had been paying for

since May and she did not give it to me. I asked how could this be fair if we have my four children plus and wife as dependents and only has for a dependent. Judge replied my two oldest don't count because I am not the father, but still then I have 3 kids plus my wife as dependents then and she still said it did not matter, I had to pay what she stipulated. I reminded Judge that I am entitled to claim in my Taxes for 2009, I was entitled to both kids for the past 2 years but reported them on hers so to avoid any problems I did not exercise my right to

claim them but now I want this enforced and Judge agreed to this and told only to claim
 on her taxes for 2009. If it is true applied for AHCCCS and Food stamps for she is
 committing fraud because has been living with us since May 2009 and the judge saw nothing
 wrong with that. I am appalled at these so call hearings and am asking for this case to be reviewed
 closely and with a change of venue to get some shot at fairness and equality. Another court date has
 been set for May 2010 to see where is living and because is turning 18 years old this
 December 2009 but wants child support to continue for him because she said he is going to college
 and that is not true, has told us he does not like school and does not intend on attending college.
 Our fear is that she is never required to take proof of any sort so again she will lie and get away with it. I
 am pleading for justice so we may believe in our system again.

 has always applied and received government assistance and people like her that abuse the
 programs should not be allowed future assistance, give it to people that truly are in need of it.

Thank you for your time. Your assistance in this matter is extremely important and greatly appreciated.

Sincerely,