

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 13-251

Judge:	No. 1082414775A
Complainant:	No. 1082414775B

ORDER

The complainant alleged a superior court judge illegally terminated her parental rights.

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 Code in this case. 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: November 25, 2013.

FOR THE COMMISSION

/s/ George Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on November 25, 2013.

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

SEP 30 2013

September 24, 2013

2013-251

Dea

The following parties humbly request the Commission of Judicial Conduct to investigate the judicial oversight of the foster/adoption cases of _____ involving presiding Judge, _____ This grievance is a collective voice of the following referenced complainants; all of whom give permission to be contacted:

The foregoing information is an abbreviated account of events that have occurred involving the birth mother, _____ minor birth children _____ ;
and blood relatives.

BACKGROUND

born in was reared by her maternal grandmother, At an early age, was diagnosed with a and Her ailment was managed with received disability benefits for these conditions had an estranged relationship with her father, who had spent years in prison. Mr. did not know how to relate to condition and he was aggressive toward her. sought solace in dating a teen named] became a teen mother. In gave birth to their first son in encouraged to move to his hometown of which she did the following year.

CHILD PROTECTION SERVICES (CPS)

Shortly after arriving in a gave birth to a second son, worked part-time and went to school; whereas, did not maintain employment to support his family. became physically, emotionally, and verbally abusive toward also introduced to drugs which she admits to usage to cope with the volatility of the relationship. became severely to the extent that the children were In engaged in a physical altercation which led to thei nd the becoming dependents of .

Family members immediately pursued to complete the necessary requirements to have placed with family members. mother managed to get a homestead after the children were placed in . Her application was denied hen traveled to . She attended a court hearing, but she was not permitted to render testimony. A conference was held with . Ms. states that the foster parents were present (via phone) during the conference and said they desired to adopt CPS also suggested that Ms. move to as well if she desired to have contact with her Ms. declined to do so expressing that it would be better suited for and her children to return to where her family lived and she would have much support. Prior to leaving, Ms. gave CPS several relatives' names and their contact information for potential placement. CPS assured Ms. that they would work with the family to seek relative placement. This would not occur.

stated that it was during this period that she was threatened by case managers to relinquish parental rights to her sons. CPS threatened

that if she did not do so, the state of Arizona would still terminate her parental rights without her permission.

first state appointed attorney immediately requested to voluntarily surrender parental rights of her children, stating that she would not reunify with her children through the court. refused to do so; therefore, this attorney requested Judge to remove her from case which he did. was then appointed Attorney (who is now a judge). Ms. proceeded to do the same as previous attorney by telling her to surrender her parental rights.

Ms. advised against a psychological evaluation stating this would be used against her. did not receive a case plan or mental health evaluation prior to being coerced to surrender parental rights to states on the day that she was forced to sign papers regarding her children, she was crying and stating that she did not want to do this. stated that her attorney, Ms. kept pressuring her to do it. stated that Ms. told her that if she signed the papers; she could have other children and the state would not remove these children from her custody. Ms. transported in her personal vehicle to a location; whereas, she had to sign papers that were notarized. states that she did not understand at the time that she would not be seeing her children anymore and she could not stop crying. admits being depressed, nervous, and crying inconsolably when this occurred.

then notified her mother and grandmother as to what her attorney had coerced her to do. contacted and questioned why she had made do such a thing knowing was depressed and upset about what was occurring with her children and she was trying to reunify with them. further told Ms. that was very young, naïve, and intimidated by their CPS and court system, she did not know her parental rights, and she was pressured into signing forms that she did not understand. Ms. told Ms. "The advantage about voluntarily signing over her rights is that can have more children and CPS cannot remove those children from her care." Ms. informed Ms. that did not voluntarily sign anything, was forced to do this.

Ms. filed these papers in court without appearance. The presiding Judge, never assessed as to whether she had been coerced or bribed to sign the papers (which occurred outside of court), if she understood what she signed, if she was undergoing any etc. Judge accepted this without pause and this was just the beginning of what appears to be a pattern in his court with CPS and state appointed attorneys.

Several relatives attempted to adopt Their case manager, advised family members applications could not be filed simultaneously; only one

application at a time would be accepted. The maternal grandmother, completed the home evaluation and adoption class process. Ms. _____ had very high hopes of adopting her grandchildren only to be told after she completed the entire process that she did not meet CPS financial standard; the totality of her financial ability was not assessed, but assumed. Other relatives attempted to adopt, but was confronted with no return calls; yelled at and the phone hung up in their face; _____ sent gifts, clothing, and proceeded to complete the adoption process, but was told by _____ that the children had been moved to _____ the current _____ wished to _____ and it would be too traumatic on the children to move to another state; our family was denied visitation with the children and court dates.

_____ and _____ the father of these children is _____. CPS removed both children from _____ care at their birth citing concerns with _____ mental health. If CPS was so concerned about _____ mental health; how is it that she was forced to sign parental rights of her first two children (_____ to the state of Arizona with proven, diagnosed pre-existing mental health illnesses, no case plan, no psychological evaluation, or no assessment from the judge to determine whether _____ was depressed, under duress, or had been coerced/bribed?

_____ described the removal of _____ and _____ as a nightmare. After _____'s birth, _____ was discharged from the hospital and told _____ must remain due to jaundice. She returned to the hospital only to find that _____ was not there and in CPS custody. CPS did not notify the family that this had occurred, but _____ did. The case manager, _____ later informed _____ that _____ was born healthy and she was lured from the hospital with discharge and the jaundice hoax. When _____ was born, _____ proceeded to leave the hospital with him, stating CPS did not inform her that _____ was in CPS custody. Law enforcement and security personnel encircled and cornered _____. She crumbled screaming and crying in fear. _____ was removed from her grip.

CPS then smoke screened a case plan and services with _____ and _____ to reunify with _____ and _____ had housing, necessary childcare items, and employment. Both strived to meet the demands of their case plan. _____ attended counseling and parenting services. _____ gave updates from parenting provider, _____, who indicated she was doing well in parenting services and the services were expected to be completed. _____ Therapist, _____, complimented her progress and consistent attendance in counseling services. _____ stated that both testified in court on her improvement.

Despite her progress, CPS motioned to terminate _____ parental rights with _____ and _____ Judge _____ granted the motion. CPS bargained with _____ that if he

separated from [redacted] they would consider giving him custody of his children. He declined the offer. The court hearings were described as biased and partial toward CPS, who was allowed to alter and falsify case records during court proceedings. Our family would experience firsthand how false statements and records were highly favored in the court of Judge [redacted]

No one associated with CPS contacted any blood relatives for placement of [redacted] Maternal uncle, [redacted] begin making numerous calls in [redacted] to adopt his nephews. [redacted] Mr. [redacted] finally received an application for a home study from case manager [redacted] Mr. [redacted] completed the application and returned it immediately. Several months passed and there was no response from CPS. Mr. [redacted] then began receiving feign emails with pictures of his nephews supporting his efforts to adopt from the foster parent. Mr. [redacted] still made repeated calls to CPS without success. Mr. [redacted] started inquiring with the foster parents about what was occurring with his adoption process; he had not heard anything from the now case manager, [redacted] The foster parent pretended as though she was unaware as to why the process was lengthy for [redacted] when all the while CPS was working in favor of the foster parents to adopt the children. The foster parent was attending all the court hearings and the family was deleted from the CPS and court process.

Throughout this time, [redacted] contacted [redacted] and requested an application to adopt. [redacted] told Ms. [redacted] to submit her birth certificate, but her brother, Mr. [redacted] would most likely be adopting the children. Ms. [redacted] faxed her birth certificate to Ms. [redacted] who had not initiated to adopt [redacted] because CPS had stated simultaneous applications could not be submitted) contacted [redacted] early one morning in [redacted] and informed that the Lord revealed to [redacted] in prayer that CPS is deceptive and committing fraud through the legal system involving these children. [redacted] further stated that God is not pleased and He wanted her to intervene. Ms. [redacted] gave [redacted] contact information. Ms. [redacted] obtained [redacted] contact information and proceeded to make calls. Ms. [redacted] was met with stonewalling and then finally she was told by supervisor, [redacted] that [redacted] would not be removed from his foster home. She said, "His adoption will be done with an internal unit in our agency and the judge has already signed an order for him not to be removed from his foster home and placed with any family members." [redacted] would have the same fate. There was no reason given to the family other than Judge [redacted] signed a (rather discriminating) order denying blood relatives to be considered as placement options.

On [redacted] [redacted] contacted the children's guardian ad litem, [redacted] Ms. [redacted] stated that she had represented [redacted] and she claimed to have never heard of Ms. [redacted] prior to this date. Ms. [redacted] found this to be very [redacted]

odd since she had maintained constant contact with the case manager, Ms. [redacted] inquired on why Ms. [redacted] had not contacted family members herself; Ms. [redacted] said that [redacted] would not reveal any relatives names to her or CPS. Ms. [redacted] acknowledged that Judge [redacted] had signed such order for the children not to be removed from their foster home and placed with relatives. Ms. [redacted] suggested to Ms. [redacted] to retain an attorney file a Motion to Intervene.

Ms. [redacted] retained an attorney and filed an Accelerated Motion to Intervene. Meanwhile, the family was actively seeking information through CPS on where and who to file a complaint with on the mishandling of [redacted] cases. CPS advised that complaints are filed through the [redacted] filed a complaint with [redacted] of the [redacted] Ms. [redacted] attempted to file a complaint as well, but she was declined due to having retained an attorney; however, Ms. [redacted] listened to Ms. [redacted] frustration with CPS and the judge for signing an order preventing relative placement.

[redacted] and [redacted] contacted [redacted] the [redacted] of Legislative Office of [redacted] or assistance. Ms. [redacted] exact comments were that the judge owned the children to do with as he wishes; the cases could not be overturned or reopened because the judge had the final say it is over. She elevated her tone, and repeatedly said, "Once a mother's rights has been severed, It's Over, It's Over." "All the case managers who were involved in this have been fired. No one can overturn the judge's decision. It's final and It's Over." It was absolutely sickening to hear a "family advocacy representative" state that once a mother's rights are severed, the judge owns the children to do with as he wishes. Our children are not slaves and they neither their birth mother should have been treated as such.

Other contacts include [redacted], who was [redacted]. He advised that our issues be presented to [redacted] Park Avenue; Suite 180; Tucson, AZ 85714; (520-294-6655). Mr. [redacted] did not return Ms. [redacted] calls; therefore, the family forwarded a notice of complaint to his office in [redacted]. Mr. [redacted] responded stating he would send the complaint to CPS. CPS never responded. A correction that must be noted in the complaint forwarded to Mr. [redacted] is that [redacted] did not receive a case plan, services, or mental health evaluation in the case involving [redacted].

On [redacted] the Motion to Intervene hearing was held. Ms. [redacted] was scheduled to be available via phone; however, due to time zone reasoning; Ms. [redacted] called in at the incorrect time. Nevertheless, Judge [redacted] ruled in favor of CPS and commented that Ms. [redacted] and Mr. [redacted] should file a lawsuit against the state of Arizona. Transcripts reveal that CPS and the guardian ad litem presented false information at this hearing which

was evident to Judge [redacted] After this hearing, Mr [redacted] and Ms. [redacted] forwarded letters to Judge [redacted] proving that our children and family had been discriminated against, our family had been denied an opportunity to legitimately adopt our children without any valid reason, and we requested to be heard. There was no response. On [redacted] Ms. [redacted] filed a Motion for Reconsideration in court. To this date, Judge [redacted] has not ruled on this motion.

Our family believes that Judge [redacted] refused to rule in favor of Ms. [redacted] because he had already signed an order preventing the removal of [redacted] from the home of the foster parents as well as the fact that the family had filed a complaint the prior month requesting another judge assignment based on how he had presided over [redacted] cases in his court. No judge should have severed the parental rights of a mother who had pre-existing mental health illness and was [redacted] at the time of being coerced to [redacted] of her children. This is what occurred with [redacted] How can this judge believe that he made an informed decision in the best interest of our children when he never assessed the birth mother's mental state or the fact that she had been forced to [redacted] against her will? There should have been some inkling, since he had granted [redacted] first attorney to be removed from the case.

In the cases involving [redacted] Judge [redacted] enabled the actions of CPS to impede and delete blood relatives from case management and court activity by signing an order preventing relative placement. This was wrong and totally violates Title IV-E of the Social Security Act and 453 of the Social Security Act 42 U.S.C. s. 653(c)(4) which requires that states receiving federal funds for foster care and adoption services consider giving preference to an adult relative over a non-related caregiver when determining placement for a child, provided that the caregiver meet all relevant State child protection standards. Arizona is a state in which preference or priority is given to a relative in determining the placement of children. Thus, no blood relative was ever assessed to adopt [redacted]

As a result of being harassed and forced to relinquish her children to the state of Arizona and ultimately losing all her children [redacted] has experienced major setbacks because she is without her children. Within the past few years, she was diagnosed with [redacted] All of this has been so overwhelming for [redacted] that she recently gave durable power of attorney to her maternal cousin, [redacted] to address her affairs with CPS and the justice system. This experience has been beyond abusive, but overkill.

This was preventable. An impartial investigation (by CPS or the court) would have yielded a teen mother, who had no prior juvenile, criminal, or drug history prior to moving to [redacted] is a sibling of [redacted] all age appropriate (with the exception of [redacted] are [redacted]

high school graduates and gainfully employed. The younger siblings are honor students. [redacted] tried to excel academically; however, limitations with learning and mental health stifled her completion. [redacted] is the only child among her siblings who have these challenges. The matriarch, [redacted] is a retiree from the same school system where [redacted] was a host of other relatives who are educators. Most of who can vouch to her preexisting conditions. [redacted] mental health illnesses are similar to any other disorder (ex. [redacted] it is involuntary. She did not choose to have these unexpected clinical challenges and she should have never been threatened, bullied, and severed from her children due to her incompetence and need for help.

At the onset of realizing there was definitely suspicious activity occurring, our family requested contacts from CPS case managers and supervisors of individuals of whom we could file a complaint, appear in court, and prevent our children from being entangled in this diabolical situation. We were laughed at, refused court dates, phones were either hung up in our faces or unanswered with no return messages, and we were treated as worthless human beings by CPS and the judge. There was absolutely no assistance at all for the blood relatives to adopt [redacted] children. CPS and the guardian ad litem, [redacted] told family members [redacted] and [redacted] that [redacted] would not give any relatives names to adopt her children. [redacted] was told by CPS that her family did not want her children. All of this was intended to punish [redacted] and inflict irreparable damage upon a grieving birth mother and the blood relatives of our children.

We want justice and the opportunity to legitimately adopt our children. These are the only [redacted] children who are not living in our family and we did not forsake them. We were prejudged and profiled as unfit without due process by CPS and Judge [redacted] We have progressively advocated with elongated paper trails for fairness only to be ignored. We did not know where to go or who to seek for advocacy and support until enlisting the assistance of the [redacted] and Dr. [redacted] of the [redacted]. We strongly believe [redacted] is one of many victimized young women in [redacted] (and quite possibly other counties) whose children have been bribed and bargained from them through the intimidating CPS and judicial system. Specifically, those who do not have local family support, weakened self-esteem, and suffer from some form of clinical illness as do [redacted]

Our family maintains that our grievance is legitimate, there is evidence to prove our claims, and we are seeking options to gain visitation and custody of our children. We request that Judge [redacted] and [redacted] are removed from all foregoing court proceedings involving all referenced minor children.

We graciously appreciate your time and review of this matter.

Cc:

Enclosures: