

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 20-114

Judge:

Complainant:

ORDER

July 9, 2020

The Complainant alleged a justice of the peace erroneously issued two protective orders.

The role of the Commission on Judicial Conduct is to impartially determine whether a judicial officer has engaged in conduct that violates the Arizona Code of Judicial Conduct or Article 6.1 of the Arizona Constitution. There must be clear and convincing evidence of such a violation in order for the Commission to take disciplinary action against a judicial officer.

The Commission does not have jurisdiction to overturn, amend, or remand a judicial officer's legal rulings. The Commission reviewed all relevant available information and concluded there was not clear and convincing evidence of ethical misconduct in this matter. The complaint is therefore dismissed pursuant to Commission Rules 16(a) and 23(a).

Commission member Colleen E. Concannon did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on July 9, 2020.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2020-114

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 the attached Motion to Dismiss and Avowal of Counsel submitted to the Court. This Motion to Dismiss and _____ provides the complete factual history and reasons for why the OP and the Injunction were erroneously issued and why the procedure and process used by Judge _____ failed to adhere to the standards required under Arizona Law.

Procedural Irregularities of the ex parte hearing:

1. Judge combined an IAH hearing and OP hearing erroneously.
2. Neither party was placed under oath during the ex parte testimony.
3. Judge issued an IAH without sufficient factual support under A.R.S 12-1809, the ARPOP Rules.
4. Judge issued OP without sufficient factual support under A.R.S. 13-3601 and 13-3602.
5. Judge did not make sufficient inquiry into the basis for the IAH or the basis for the OP.
6. Judge did not make legally sufficient findings to issue either the IAH or OP.
7. Judge did not find that harassment or domestic violence had occurred or was likely to occur.
8. Judge did not make finding of which criminal statute was violated or likely to have been violated.
9. Plaintiff in the OP proceeding is my daughter who is mentally ill and had been released from a mental health facility _____ days prior to seeking the OP. The plaintiff, _____ is _____ years old and is still in high school.
10. IAH against harassment erroneously included my daughter's school and the entire _____ family. _____ are my daughter's school teachers, who took my mentally ill daughter home with them after she was released from a mental health hospital. I am not sure of their motivation for doing so but I believe that because my daughter told the _____ that she was "gay" - they as _____ or members of an _____ community - have taken it upon themselves to take my daughter through some type of conversion program. Also, I believe the judge made inappropriate comments on the record regarding my daughter and the situation without having all of the facts. All of the statements to the court by _____ and my daughter were false and a misrepresentation to the court.
11. After _____ and my daughter obtained the Orders, they then went to the Mental Health Court and had me involuntarily committed for a mental health evaluations. (See _____ of Counsel). I was hospitalized for _____ days with a final conclusion of no mental health issues.
12. After hearing, the OP and IAH were dismissed; however the injury that has occurred are as follows:
 - a. defamation of character
 - b. infliction of emotional distress
 - c. tortious interference with career (I am a law school graduate and currently attending _____ School of Law for an _____. I had intended to take the bar exam in _____ but instead had to postpone the bar exam to challenge the order of protection and injunction against harassment. I had to hire an attorney to challenge the orders). This may affect my admission to the bar as an attorney.
13. Judge _____ dismissed both orders and express concern that the _____ as school teachers had interferred with my parental relationship with my daughter at a time in which my daughter may have been incompetent to make the types of decisions that she made.
14. Neither the _____ or my daughter appeared for the hearing on _____
15. At a minimum, Judge _____ needs additional training on the proper procedure and questions that should be asked before issuing OP's and IAH's.

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Continued:

The _____ abused the process of the court with malfeasance and a motive of ill-will.

My daughter abused the process of the court with encouragement by the _____ and was incompetent at the time to make rational decisions regarding her well-being. My daughter was hospitalized from _____ to _____ for suicidal ideation and depression. She has been in counseling for years due to her depression. My daughter has never expressed her desire to commit suicide to me. I have been completely supportive of my daughter in her mental health treatment.

Judge _____ did not ask the right questions to establish a factual basis for issuing either order.

Orders of Protection and Injunctions against harassment should not be allowed to be used to cause harm to anyone.

County Justice Courts, Arizona

Case Number: _____ NCIC #: _____ DPS #: _____

Plaintiff _____ v. Defendant _____	HEARING ORDER: <input type="checkbox"/> ORDER OF PROTECTION <input checked="" type="checkbox"/> INJUNCTION AGAINST HARASSMENT <input type="checkbox"/> INJUNCTION AGAINST WORKPLACE HARASSMENT
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The request for:

- A protective order is granted denied withdrawn Reason: _____
- A hearing is denied
- A motion to continue is denied
- A motion to modify is denied
- The motion to dismiss is denied
- The court continues the hearing to:

Date: _____ Time: _____

- The court cancels the hearing set for

Date: _____ Time: _____

- At plaintiff's request, the court dismisses the protective order listed above.

At time of hearing:

Plaintiff: Appeared Failed to appear but did not have notice Failed to appear and had notice

Defendant: Appeared Failed to appear but did not have notice Failed to appear and had notice

- The court dismisses the protective order listed above.

A protective order is granted denied Brady applies

The protective order listed above remains in effect. Br

The court modifies the protective order listed above as at

Date: _____

Judicial Officer

I CERTIFY that a copy of this document has been or will be mailed provided personally _____ to:

Plaintiff Defendant S _____ nforcement Agency on: _____

Date: _____ By: _____

TRIAL COURTS OF ARIZONA IN

<p>Injunction Against Harassment</p> <p><input type="checkbox"/> Amended Order</p> <p><input type="checkbox"/> Dating relationship/sexual violence—no service fee</p>	<p>Case No. </p> <p>Court ORI No. _____</p> <p>County State _____</p>
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PLAINTIFF

First Middle Last

PLAINTIFF IDENTIFIERS

Plaintiff's Date of Birth

And on behalf of any minor family member or other Protected Person listed below:

v.

DEFENDANT

First Middle Last

Defendant/Plaintiff Relationship: Mother of close friend.

Defendant's Address: _____

DEFENDANT IDENTIFIERS

SEX	RACE	DOB	HT	WT
f				
EYES	HAIR	<i>Arizona Prohibits Release of Social Security Numbers</i>		
l	l			
DRIVER'S LICENSE #	STATE	EXP DATE		
	NA			

CAUTION: Weapon Alleged in Petition

Estimated Date of Birth

WARNINGS TO DEFENDANT: This injunction shall be enforced, even without registration, by the courts of any state, the District of Columbia, any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. § 2265). Crossing state, territorial or tribal boundaries to violate this injunction may result in federal imprisonment (18 U.S.C. § 2262). **Only the Court, in writing, can change this injunction.**

This injunction is effective for _____ year from date of service.

THE COURT HEREBY FINDS THAT:

It has jurisdiction over the parties and subject matter.

Defendant received actual notice of this Hearing and had an opportunity to participate.

THE COURT, finding reasonable evidence of harassment or that great or irreparable harm would result if this injunction is not granted before Defendant can be heard in opposition, and there are specific facts attesting to efforts to give notice to Defendant or there are reasons why notice should not be given, **HEREBY ORDERS:**

NO CRIMES. Defendant shall not commit any act of harassment (A.R.S. § 12-1809(S)) or sexual violence (A.R.S. § 23-371) against Plaintiff or Protected Persons.

NO CONTACT. Defendant shall have no contact with **Plaintiff** except through attorneys, legal process, court hearings, and as checked: Phone Email/Fax Mail Other:

NO CONTACT. Defendant shall have no contact with **Protected Person**, _____ except through attorneys, legal process, court hearings, and as checked: Phone Email/Fax Mail Other:

THE COURT FURTHER ORDERS:

PROTECTED LOCATIONS. Defendant shall not go to or near Plaintiff's or other Protected Person's:

Residence (confidential)

Workplace:

School:

Other:

OTHER ORDERS:

The Judge also grants the following requests:

Plaintiff	<input type="checkbox"/> Employer-Plaintiff if Workplace Injunction	Defendant	Case No.
<input type="checkbox"/> On behalf of minor/person in of protection named:		Defendant's address	PETITION for: <input type="checkbox"/> Order of Protection <input checked="" type="checkbox"/> Injunction Against Harassment <input type="checkbox"/> Workplace Injunction
Agent's name (if Workplace Injunction)		Defendant's phone	

This is NOT a court order.

This petition contains Plaintiff's allegations and requests. To see what the court has ordered, see "Order" form.

DIRECTIONS: Please read the Plaintiff's Guide Sheet before filling out this form.

- Defendant/Plaintiff Relationship** (or relationship between Defendant and minor/person in need of protection)
 - Married (past or present)
 - Live/lived together as intimate partners
 - Romantic or sexual relationship (past or present)
 - Parent of a child in common
 - One party is pregnant by the other
 - Related as parent, grandparent, child, grandchild, brother, sister (or in-law/step)
 - Live/lived together but not as intimate partners
 - Dating (but not romantic or sexual)
 - Other: Mother of close friend
- If checked, Defendant and I have a pending action involving maternity, paternity, annulment, legal separation, dissolution, custody, parenting time, or support in _____ County Superior Court, Case # _____.
- Name of court, if any, in which any other protective order related to this conduct has been filed.
Court name _____ Case # _____

(Continue to next page)

**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.**