

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 20-127

Judge:

Complainant:

ORDER

July 16, 2020

The Complainant alleged that a superior court judge violated the bankruptcy court's automatic stay by issuing a child support warrant for his arrest.

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 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 Louis Frank Dominguez did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on July 16, 2020.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

20-127

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.

On [redacted] at about [redacted] (Attorney) filed my chapter 13 bankruptcy paperwork into the United States Bankruptcy Court District of Arizona. When filing for chapter 13 bankruptcy, an automatic stay is put in place

On [redacted] at about [redacted] I contacted [redacted] and [redacted] through email notifying them that I had filed chapter 13 bankruptcy and provided both parties a copy of the filings.

Between about [redacted] and about [redacted] and [redacted] made several calls to the [redacted] Law firm; and spoke to [redacted] and [redacted] to inquire about the chapter 13 bankruptcy filing.

On [redacted] at about [redacted] filed a Notice of Filing with the [redacted] County Court to notify [redacted] that I had not paid the [redacted] purge. [redacted] included a specific note to [redacted] on her notice to let her know that I would be appearing before Judge [redacted] on [redacted] at [redacted] regarding a separate matter; and that a child support warrant should/ needs to be issued.

On [redacted], time unknown, Judge [redacted] issued a child support warrant for my arrest.

On [redacted], at the advice of [redacted], I submitted a copy of my Notice of Bankruptcy to the [redacted] county Superior Court through eFiling.

On [redacted] with the [redacted] Law firm stated to me that he had received several phone calls from [redacted] and [redacted] inquiring about my bankruptcy case. They were both aware of the Chapter 13 plan and the automatic stay, prior to the warrant being issued.

On [redacted] at about [redacted] I overheard a conversation [redacted] was having with [redacted] and she stated that "the idiot showed up", meaning me

On [redacted] at about [redacted] I overheard [redacted] state to the court clerk for Judge [redacted] "I just confirmed that [redacted] arrest warrant was active [redacted]". The clerk's name is [redacted]

On [redacted] at about [redacted], I appeared in court regarding case [redacted]. Upon leaving the court, I was met by [redacted] county sheriff's officers with a child support warrant. I was taken into custody, against my will and transferred to the [redacted] for processing.

During the entire time, I kept asking what the charges against me were, and every time the reply was a "Child Support Warrant". The warrant was for a completely different case, case [redacted] (Petitioner) and [redacted]

During the whole process I was never once read my Miranda rights.

On _____ at about _____ I was brought before a commissioner, who's name I do not know, inside of the jail facility. I informed and showed this commissioner my Bankruptcy paperwork and informed this commissioner that my Due Process rights had been violated, because I was protected by 11 U.S.C § 362. The commissioner stated that this matter had to go back in front of Judge _____ as she was the Judge that issued this warrant. I was given another court date and time of _____ I was released back to the jail's detention officer at that time.

On _____ at _____ a next friend on my behalf _____) filed an Emergency Motion to Quash Arrest Warrant with the _____ County Court. Judge _____ rejected this motion.

On _____ a next friend on my behalf (_____) filed a Show Cause Jurisdiction with the _____ County Court. Judge _____ rejected that motion, as well.

I remained in custody at the _____ Jail and appeared in front of Judge (Commissioner) _____ on _____ at _____. During this hearing the child support warrant was vacated, and another court date was set for _____ at _____ in front of Judge _____

To my knowledge, the district attorney, was never notified of the child support arrest warrant; and there was never a prosecuting attorney present when I was unlawfully taken into custody. To this date I am not sure why I must appear before Judge _____ for a warrant that was vacated by Judge (Commissioner) _____

On _____ filed for an Order of Assignment to have child support arrears garnished from my paycheck in the amount of _____

_____ has been collecting child support arrears in the amount of _____ month outside of the Chapter 13 Bankruptcy plan, which is a violation of my rights pursuant to 11 U.S.C. Section 362.

_____ is prohibited from "Double Dipping" or getting paid twice.

Judge _____ continues to violate my rights and harass me by bringing me into her court room for review hearings to monitor the status of the bankruptcy proceedings. I was forced to make an appearance on _____ and again on _____

Judge _____ ordered me to provide the court with an official document from the U.S. Bankruptcy Court concerning the status of my bankruptcy and any future hearings on or before _____

Judge _____ placed the case on the court's inactive calendar until _____ so the court may receive written statements from both parties as to whether I am complying subject to the bankruptcy plan.

Judge [redacted] ordered me to file another copy of the bankruptcy plan no later than [redacted] along with [redacted] of my most recent paystubs and she ordered me to provide a letter from the trustee asserting that I cannot make current child support payments.

The filing of Chapter 13 bankruptcy places into effect an automatic stay protection, pursuant to 11 U.S.C. Section 362. Under such provision, any and all action, including judicial actions, for purposes of collecting a debt against the debtor or the debtor's property are stayed with specific exceptions that are identified under section 362(b).

Judge [redacted] should be well familiar with Section 362 and understand that arrears existing on the date of case filing will be dealt with through the Chapter 13 case, under provisions where the bankruptcy court will not approve any order that does not fully resolve the pre-bankruptcy child support claim.

Judge [redacted] abused her authority by having me arrested and placed in jail, by allowing [redacted] to collect child support arrears outside of the Chapter 13 Bankruptcy plan, and by continuing to bring me into her court for review hearings.

Judge [redacted] needs to be punished for violating my rights and she should have to spend the same amount of time in jail that I had to spend, as well as pay me restitution for lost wages and pain and suffering.

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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF

In Re the matter of:

Petitioner,
vs
Respondent

Case No.:
Assigned to

**MOTION TO RECUSE AND FOR
CHANGE OF VENUE**

COMES NOW, competent to defend myself in a court of law, hereinafter respondent, and moves to recuse Judge from the above entitled matter under 28 USCS Sec. 455, and Marshall v Jerrico Inc., 446 US 238, 242, 100 S.Ct. 1610, 64 L. Ed. 2d 182 (1980).

"The neutrality requirement helps to guarantee that life, liberty, or property will not be taken on the basis of an erroneous or distorted conception of the facts or the law."

The above is applicable to this court by application of Article VI of the United States Constitution and Stone v Powell, 428 US 465, 483 n. 35, 96 S. Ct. 3037, 49 L. Ed. 2d 1067 (1976).

"State courts, like federal courts, have a constitutional obligation to safeguard personal liberties and to uphold federal law."

Also see Arizona Supreme Court Rule 81, Canons 1 and 2.

The above mentioned Judge has in the past deliberately violated respondent's personal liberties and/or has wantonly refused to provide due process and equal protection to respondent before the court or has behaved in a manner inconsistent with that which is needed for full, fair, impartial hearings.

The United States Constitution guarantees an unbiased Judge who will always provide litigants with full protection of ALL RIGHTS. Therefore, respondent respectfully demands Judge recuse herself from this case in light of the judicial complaint attached as Exhibit 1 detailing prior unethical and/or illegal conduct or conduct which gives respondent good reason to believe the above Judge cannot hear the above case in a fair and impartial manner.

**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.**