

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 20-158

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Judge:

Complainant:

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**ORDER**

The complainant alleged a superior court judge engaged in improper demeanor, prejudged a case, ignored the laws regarding service of process, failed to afford her attorney an opportunity to be heard, failed to issue timely rulings, prematurely considered a matter, and displayed bias in favor of the opposing party.

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.

After review, the Commission found that the judge failed to afford all parties the right to be heard and failed to make two rulings in a timely fashion. While this was improper under Rules 1.1, 2.5(A), and 2.6(A) of the Code of Judicial Conduct and Article 2, Section 11 of the Arizona Constitution, and Article 6, Section 21 of the Arizona Constitution, the Scope Section of the Code provides that not every transgression will result in the imposition of discipline. The Commission decided, after considering all the facts and circumstances, to dismiss the Complaint pursuant to Commission Rules 16(b) and 23(a), but to issue a warning letter to the judicial officer reminding him to ensure all parties are fully afforded the opportunity to be heard and to issue rulings in a timely manner.

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Commission members Denise K. Aguilar, Michael J. Brown, Colleen E. Concannon and Louis Frank Dominguez did not participate in the consideration of this matter.

Dated: February 3, 2021

FOR THE COMMISSION

/s/ Christopher P. Staring

Hon. Christopher P. Staring

Commission Vice-chair

Copies of this order were distributed to all appropriate persons on February 3, 2021.

**CONFIDENTIAL**

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

**FOR OFFICE USE ONLY**

20-158

**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.

## GENERAL INFORMATION:

This is a case involving my grandson, who I have third-party custody rights. The Respondents are my son, \_\_\_\_\_ and the mother, \_\_\_\_\_. The third-party/Respondent is the maternal great-grandmother who previously was awarded guardianship over my grandson. The case was previously assigned to Judge \_\_\_\_\_, and eventually was transferred to Judge \_\_\_\_\_ who is the present judge.

Judge \_\_\_\_\_ issued a warrant for arrest for \_\_\_\_\_ because she removed my grandson from the State of Arizona and fled to \_\_\_\_\_. This violated the court order. \_\_\_\_\_ did this with the help of the third party/Respondent. Eventually, I was able to get my grandson back, but only after opening a case in \_\_\_\_\_ and flying there to pick him up. Since then, my grandson has remained solely in my care. I believe sometime in \_\_\_\_\_ came back to Arizona, and she was arrested on the warrant. I believe that matter was heard before Judge \_\_\_\_\_ although I was never given any notice about the hearing.

I was previously and continue to be represented by \_\_\_\_\_ On \_\_\_\_\_ filed her petition to modify legal decision making authority and parenting time. \_\_\_\_\_ represents \_\_\_\_\_. She has never properly served my son, \_\_\_\_\_ as required by law. My rights to due process were also violated. In \_\_\_\_\_, due to a second violation, I filed a special action, which was reviewed, and Judge \_\_\_\_\_ order was reversed. Below are the multiple violations of Arizona law, the rules of family law, and the judicial rules.

1. On \_\_\_\_\_ Judge \_\_\_\_\_ held a hearing. I retained my previous attorney, \_\_\_\_\_. I found Judge \_\_\_\_\_ demeanor, arrogance, and attitude towards my attorney and me disrespectful. He seemed as though he had already predetermined the result in the case. Just like my son, I was not legally served, and the court ignored my motion to dismiss. When we appeared in court, my attorney and I believed we were going to argue the motion dismiss. When my attorney informed the court that I was not properly served, and neither was \_\_\_\_\_ Judge \_\_\_\_\_ response was, "\_\_\_\_\_." The court later stated, "\_\_\_\_\_." The court later addressed me directly and stated, "\_\_\_\_\_." Transcript, page. 5.

Judge \_\_\_\_\_ then states, "...I'm going to follow the law." Transcript, page. 6. Yet, according to him, I was served by him, stating those words above directly to me. I understand the requirement of Arizona law to be entirely different. As of today, \_\_\_\_\_ has not been legally served. \_\_\_\_\_ served \_\_\_\_\_ the same way I was served, without a summons or an order to appear. At this time, the hearing is presently scheduled for \_\_\_\_\_.

A judge's disregard for the law is in violation of Rule 2.2. Until \_\_\_\_\_ is properly served, the court should not proceed forward or place orders otherwise. The violations against me and \_\_\_\_\_ do not amount to a small oversight; it is misconduct. Judge's \_\_\_\_\_ conduct goes \_\_\_\_\_.

beyond a good faith error in the law. Rule 2.2, which states, "a judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially." I do not believe he has done that.

Further, when speaking about the case, Judge \_\_\_\_\_ stated the following, "

Transcript, page 10. His statement is made in reference to \_\_\_\_\_ and her ability to receive her requested relief. I do not understand how a judge can make those statements before an evidentiary hearing is held. I also cannot understand how a judge can make those findings without having a preconceived decision or some form of bias or favoritism for the other side. He came across impatient and upset for unknown reasons when speaking at me or with my attorney. His demeanor changed when addressing the other side. This is something that not only did I notice and feel, but so did my daughter, who was in the courtroom. My position in this is supported by the other examples of violations listed below. Rules 1.2 and 2.2. Rule 1.2, which states, "

Judge \_\_\_\_\_ went as far as not allowing my attorney to make a record or address the court. Judge \_\_\_\_\_ ended the hearing by telling my attorney after she asked if she could be heard, " \_\_\_\_\_ ' Transcript, page. 11. While he said this, he was getting up from the bench and walked away. His demeanor and attitude were unnecessary, unprofessional, and disrespectful. Rule 2.6(A), which states, "

I have provided a copy of the transcript for your review. Judge \_\_\_\_\_ also indicated during the hearing that he aware of the case, and he issued the arrest warrant against \_\_\_\_\_ Transcript, page 10. That is incorrect. Judge \_\_\_\_\_ issued the warrant. For your review, I have attached it.

2. On \_\_\_\_\_, a hearing was held, and the issue of service upon me and \_\_\_\_\_ was discussed. The opposing party acknowledged they did not properly serve me pursuant to Arizona law. Transcript, page. 5. The opposing attorney explained he sent a letter to \_\_\_\_\_ which does not comply with the law. My attorney explained why the service was defective. Pursuant to Arizona law and the Rules of Family Procedure, all necessary parties shall be served. This is NOT an option. However, Judge \_\_\_\_\_ has treated it as such stating:

"

" Transcript, page 8.

A.R.S. §25-411(L) states notice shall be given to all other parties. This is not an option, and Judge \_\_\_\_\_ has treated it as such. My due process rights and that of \_\_\_\_\_ have been violated on multiple occasions.

The law requires other means of service, and to find \_\_\_\_\_ attempted service is an abuse of discretion. She did not properly serve him a summons or order to appear. Her failure to follow the law does not make it okay to then just justify it by claiming she "attempted." Not serving litigants is a serious violation in the law, and due process is an essential and important aspect of our Nation's and State's Constitutions. When a judge is unwilling to uphold and protect those rights, it is not only a violation of the law but of the public's trust and confidence in the judiciary system.

For your review, I have attached a copy of the transcript.

Rule 1.2 states, "a judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety."

Rule 2.2, which states, "a judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially."

3. On \_\_\_\_\_ my attorney filed a motion to request that the attorney I retained in \_\_\_\_\_ can testify by telephone when this matter goes to a final hearing. The other side has never opposed that motion, and Judge \_\_\_\_\_ has completely ignored it. I find it discouraging and outrageous that \_\_\_\_\_ cannot legally serve litigants but is obtaining relief, and I have a valid, outstanding motion, and I cannot even get a ruling.

Rule 2.5 states, "a judge shall perform judicial and administrative duties competently, diligently, and promptly." This has not occurred.

4. On \_\_\_\_\_ the court held another hearing, which I was not present for. My attorney appeared on my behalf and waived my appearance. Before the hearing, the opposing party, \_\_\_\_\_ filed a motion for holiday parenting time with my grandson on \_\_\_\_\_. The time frame to respond was not due or had expired. The court granted the motion over my attorney's objection, and without notice to me. The court violated my due process rights again. This time around, I decided to hire another attorney to file a Special Action, which was reviewed by the Court of Appeals. The Court of Appeals found Judge \_\_\_\_\_ orders in violation of Arizona law. I believe this violation of the law, along with the other violations amounts to judicial misconduct. I do not believe these violations are diminutive.

The above also violated \_\_\_\_\_ due process rights.

At the hearing, the judge also, for some undocumented reason, ordered that if my attorney deposed \_\_\_\_\_ the deposition was limited to two hours. The Court of Appeals also overturned this order, as there was no legal justification to do this.

The multiple violations in the law is a form of misconduct. I do not have confidence in Judge \_\_\_\_\_ impartiality and or his ability to follow the law as he announced in \_\_\_\_\_. The violations are concerning, and I do not understand how \_\_\_\_\_ is granted any relief when she cannot properly follow Arizona law and the family law rules of procedure.

Rule 1.2 states, "a judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety."

Rule 2.2, which states, "a judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially."

Enclosed is the transcript and order from the

5. On \_\_\_\_\_ my attorney and the opposing attorney signed a stipulation to continue the hearing due to \_\_\_\_\_ executive order and the \_\_\_\_\_
- These orders are regarding the COVID-19 pandemic. Another stipulation was filed on \_\_\_\_\_ due to my attorney's pre-planned vacation because the court set the new date when my attorney was out of the office. Both stipulations state the matter should be reset to a date convenient to the court. The attorneys were emailing \_\_\_\_\_ Judicial Assistant, to agree upon a new date. I understand \_\_\_\_\_ sent an email on \_\_\_\_\_ stating if the hearing could not be set before \_\_\_\_\_ then they objected to continuing. The dates the court had available were: \_\_\_\_\_ . Instead of making a decision, the court scheduled a trial setting hearing for \_\_\_\_\_ I believe this was done due to the email objection. I do not believe it is proper that the court entertain objections that are not formally filed and in the court's record.

I appeared with my attorney via telephone. The opposing side was there in person. In the transcript, you will see the extent the court goes to, to appease the opposing party on the availability of dates. My attorney was expected just to move other cases she had. On another note, when she indicated she would file a motion to continue based on a \_\_\_\_\_ date, pursuant to the \_\_\_\_\_ seems bothered by it.

The following takes place:

THE COURT: "

\_\_\_\_\_ Transcript, page 7.

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\_\_\_\_\_ Transcript, page 7.

**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.**