

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 20-195

Judge:

Complainant:

ORDER

October 1, 2020

The Complainant alleged a superior court judge was biased against her, did not afford her an opportunity to be heard, and made improper rulings in a juvenile proceeding.

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 members Louis Frank Dominguez, Joseph C. Kreamer and J. Tyrrell Taber did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on October 1, 2020.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2020 - 195

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.

1. In the minute Entry dated _____ page _____ the judge states that I filed a motion to intervene on _____ and did not copy any of the parties. On _____ I filed with the clerk proof of mailing to all parties from the U.S. Postal Service certified mail. Further on or about _____ I filed with the clerk of the court the certified mail signature cards from parties served which _____ along with a signed proof of service.
2. The court issued a deadline for DCS and the Guardian Ad Litem to respond. The Guardian Ad Litem responded _____ to which I filed a response to the objection on _____ along with a proof of service document. On _____ I received the objection from DCS well past the _____ deadline. On _____ I filed another proof of service for the response to the Ad Litem along with the returned, signed certified mail receipts. Also on _____ I filed a response to DCS's objection along with proof of service.
3. Without notice or a hearing the judge issued a minute entry which was filed on _____ It was mailed to me as I do not have an attorney nor instant access to this information. I received the minute entry on _____
4. In the minute entry, the judge states " yet she waited more than _____ and _____ after the dependency was filed, and almost _____ months after the Court terminated parental rights, before she filed this motion to intervene." In fact I had filed a motion to intervene twice before as well as a motion for emergency change of custody on _____ and _____ The judge addressed this during THE REVIEW OF TEMPORARY CUSTODY HEARING on _____
5. On _____ Oral arguments, the question is being asked why aren't kin being considered as placement? The court states " the mother may not have administrative hearing rights, that that would be the individual maternal grandparent, great grandparent, whomever.
6. The Judge states " I'm not trying to traumatize these children. I very much see the benefit of familial bonds and fostering that, but, here again the court doesn't want to do harm to these children by placing them where they may not have much comfort or familiarity." and "Because the court , obviously wouldn't want, for example, a _____ visit where the kids haven't seen _____ parents in _____ and they're virtual strangers to them." Yet after being told that DCS is not vetting any of the family of the _____ placed the children with the paternal grandmother who hadn't seen or talked to the children nor made an effort to have any relationship with.
7. In the minute entry of _____ the judge states "Moreover and even more chilling, maternal grandmother testified at the trial that she was with the parents the night the youngest Child was abused in an attempt to help their case, when in fact, her testimony was blatantly untruthful." and "It is clear her untruthful testimony was solely offered to help the parents and not to protect the youngest child whom one or both abused."

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8. Court did not consider evidence submitted showing the Children's current placement was placing the children in substantial risk of harm by allowing the father to the _____ oldest children to be alone with the children.

9. Court did not consider evidence that the children have reported abuses and neglect in current placement nor reports to the case aid, the hotline and the police.

10. The court allowed additional time for DCS and the Guardian Ad Litem to file a response for the _____ motion to intervene until _____ DCS filed their response _____ In the minute entry Judge states "DCS did not file a response" The court allowed DCS to be present and participate in the hearing on _____

11. Court did not consider that I was an active participant throughout the entire proceedings and was present at every visit further establishing the bond between the children and their grandmother and is an implied consent to intervene. DCS allowed my presence at every visitation as did the Guardian Ad Litem. I was treated as a party to the case.

12. Court misinterpreted police file when it concluded that I stated I had not seen the children the night prior to the injury. The police file actually says - I asked her if she watches her and she says she gets her "often." I asked her when was the last time and she said _____. She asked me if I meant overnight and I told her either way. She said she doesn't usually stay overnight because she doesn't sleep through the night. She said the last time she had them on an overnight their parents were gone. She said she had her on _____ from _____ to about _____

13. On _____ I filed a notice to Appeal along with proof of service. On _____ I received notice from The Court of Appeals saying the notice of appeal was filed _____ day late and directed the superior court to determine whether to excuse the untimely notice of appeal. On _____ I filed with the court a Request for Late Filing Notice of Appeal Due to Excusable Neglect. I also filed a proof of service and sent notification to DCS case manager, Office of Attorney General and the Guardian Ad Litem. With this request I attached notification from the postal service dated on _____ showing delivery of the ruling from the court. I was within the _____ day requirement from when I received notice.

14. The court held a status conference on _____ for the untimely filing. The court allowed DCS to participate. The court had not reviewed what I had previously filed and took the matter under advisement to review the document. On _____ I received the minute entry denying the excusable _____ day late filing and denying my right to appeal. In the minute entry, the court does not address the evidence submitted and filed and refers me as being careless and not a reasonably prudent person. The court also recognizes that I had _____ days until _____ to file the appeal which is within the _____ day deadline.

The court clearly shows bias by allowing the other parties to not meet the timely requirements for filings.

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15. The court appears to compromise the independence, integrity and impartiality of a judge by only referencing the objections of the Guardian Ad Litem and does not give any reference to the case law I submitted in my response to the Ad Litem's objection. The Guardian Ad Litem erroneously stated no previous attempts had been made to intervene and the judge agreed. The court file should show my previous attempts and the transcripts where the court addressed my filings.

16. In the _____ minute entry, the court is not accurate in describing placement of the children. They are placed with the _____ older children's paternal grandmother. The court also says the parents could of filed a change of physical custody motion which they did as well as the motion for emergency change of physical custody that I filed. The court could have found the correct information in the court files before making statements in the minute entries that wasn't accurate.

17. The question was asked of the court why DCS was not looking into any family members for placement. The court did not follow the guidelines for placing children with relatives. The children went into a stranger foster care even though there were _____ family members approved to be safety monitors. DCS or the Guardian Ad Litem made generic statements about family and the court did not require them to provide any proof, evidence or reason. ARS 8-536, ARS 8-538 C..

18. The court did not demonstrate fairness and impartiality nor consider the evidence or history when making it's judgment that the children are at a "serious risk of further abuse and neglect" or "not in the children's best interest" to be placed with me the maternal grandmother. DCS claims I am in alignment with the parents therefor the children are not safe and claim I violated the safety plan and the court allows DCS's accusations to be true without allowing a right to be heard. The court's conduct creates an appearance of impropriety.

19. The court allowed delay in significant evidence being provided during trial. Visitation records were requested throughout the trial. A portion were submitted in the middle of trial. _____ of the final _____ of records were submitted on the final day of closing arguments with the remainder to be submitted after trial was over. Neither the parents nor I were allowed to discuss this evidence or refer to it as either a defense or to demonstrate credibility and show interaction with the children. These records clearly disprove another statement the judge said in the ruling. This unfairness and disregard for evidence again demonstrates bias and disregard for rules and rights.

20. During _____ trial there was a sidebar regarding one of the witnesses (whom the parents believe is responsible for the injury. The Judge says "I'm not stating an opinion one way or another. I'm just telling you my normal protocol. If someone could ultimately be charged with an offence, NOT THAT SHE WILL BE, but I understand it has a little bit of a chilling effect on a witness, but--" This statement leads one to believe the judge had already determined the parents guilt. This witness is possibly responsible for the injury and the judge makes this statement before she has heard testimony or evidence. This is conduct from a judge that demonstrates the loss of confidence in the fairness of the judicial process.

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21. For the hearing on _____ the court was not familiar with the motions filed for this matter. I had filed responses to the guardian Ad litem and to DCS's objection to intervene. _____ days prior to the hearing I had filed a motion for excusable neglect along with the proof of receiving date of the ruling. The court was unfamiliar with these documents and took the matter under advisement. In my opinion, the court should be prepared for the hearing and have knowledge of the documents to the matter of the hearing. This resulted in another avoidable delay of an additional _____ weeks to make the minute entry.

22. The court has numerous times emphasized how much time has passed before I filed to intervene and how long the children have been in their current placement. This trial was drawn out over _____ time frame which I had zero control over. The court also failed to recognize I tried to work with DCS's case manager, supervisors, and the _____ non stop to get my grandkids where they were familiar and safe. I filed to intervene on _____ for the

23. on _____ for the termination ruling the court makes it's findings that "one or both" caused the injury and one or both knew about it. How can a court find someone guilty of something when they can't determine who is responsible? Doesn't each person have their individual rights? If this was criminal court would a person who knew about a murder receive the same sentence as the murderer? I don't understand why so much evidence was disregard and thoughts and opinions and blatent made up nonsense was given so much credibility.

24. The court determined that a nurse practitioner was credible over medical doctors and it was the nurse practitioners opinion that the injury was caused by either a sharp object, a finger or a penis. If you can't determine what caused an injury how can a witness be considered an expert and use that expert to find one or both responsible? She didn't testify two sharp objects or two fingers or two penis'.

This court has left myself and many others with disbelief. We observed numerous times the disregard for the rules and policies and evidence. This court functions on opinion from DCS without giving credibility to anything factual. I am appalled that our justice system is no longer where wrongs get right, where a person is innocent until proven guilty, where your rights under the Constitution of the United States, were not only protected but acknowledged. There were many hearings and minute entries and testimony for the last almost _____ years where the court could have strengthened our beliefs in justice and each time everyone involved on this side was wondering how could that decision be made? That's not how the law is supposed to work. I am concerned for every family who has a case in this court because I believe there won't be impartiality or fairness and justice won't be served. The repetitive disregard for the laws was demonstrated numerous times.

SUPERIOR COURT OF ARIZONA
COUNTY

CLERK OF THE COURT

HONORABLE

IN THE MATTER OF:

MINUTE ENTRY

The Court has received a Request to the Court from the maternal grandmother.

The Request is ex parte and the Court will not take any action on it.

Docket Code ME

Form Dependenc

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