

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 20-341

Judge:

Complainant:

ORDER

March 4, 2021

The Complainant alleged a superior court judge had discriminated against him and improperly declared him to be a vexatious litigant.

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 J. Tyrrell Taber did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on March 4, 2021.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2020-341

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.

I feel discriminated by the _____ for being the Father of the child and the fact opposite party is a _____ Employee. I Filed For Emergency Custody of my child on (_____) after child was in the ER with multiple bruises sustained while in the care of his mother. Honorable _____ granted me sole custody and decision making of my child. Because of the _____ and the _____ my child is still the victim of abuse and is under the custody of his ABUSERS.

The way the _____ have been treating me recently is disappointing and unacceptable for a _____ to behave in such manner. I Respectfully request the commission to take action on the fact Commissioner _____ stated a False statement in the (_____) hearing and on the minute entry Judge _____ recently mailed(_____). Stating I choose not to show up to the (_____),

1. On the (_____) Hearing the Commissioner Assistant left me Voice-Mail On the (_____) stating hearing was Vacant for the _____ and rescheduled for the (_____) I Filed for a Emergency Custody Order the same day.

2. On (_____) I received in the mail. opposite party Pretrial Stament from her Attorney who is also a Protemper _____ Judge in the _____ mailed me a Pretrial Stament Stating Hiring was scheduled for _____

_____ behavior is also disappointing and unacceptable for an Attorney who is also a Protem Judge to mail the Pretrial Stament with the wrong Time for the hearing stating hearing was scheduled for _____ When the hiring was at _____ I assumed the hiring was vacant again by _____ according to Commisioner _____ assistant first hiring was reschedule by _____ because he could not attend the hiring on the _____ I called around _____ to verify the time. Hiring Was at _____ on the _____ hering was ruled as default on my part.

I may not know how to properly submit documents or some of the rules of _____ but I am trying to help my child and I cannot afford a attorney to help me with my case I havved spend over \$ _____ trying to help my child who is the victim of abuse. I expected to be treated with dignity and respect by _____ To My Disapointment Honesty is not even a Principle by _____ The Fact a Employee can easily manipulate the situation to the point Commisioners/Judges will make false staments to benifit _____ employee. I Respectfully ask the commission to take action in this matter and help my child and I belive in Our Justice System once again.

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OF ARIZONA

HONORABLE

CLERK OF THE COURT

IN RE THE MATTER OF

AND

MINUTE ENTRY RE MOTIONS FOR
PRE-DECREE TEMPORARY ORDER

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—
The Court having received Petitioner's *Motion for Post Decree Temporary Order without Notice for Modification of Legal Decision-Making/Legal Custody[;] Parenting Time[; and] Other: Enforce State Laws 13-2702/13-3620(O)P* filed

IT IS ORDERED denying Petitioner's
Temporary Order without Notice.

Motion for Post Decree

The Court entered a Rule 69 Agreement and Judgment on _____, awarding the Parties Joint Legal Decision-Making and Equal Parenting Time on a 5-2-2-5 schedule. Prior to the entry of the _____ Order, the Court appointed Court-Appointed Advisor, _____, who issued a detailed Report dated _____. This Court has reviewed the report carefully and notes that the evidence does NOT establish that the Child suffered physical or sexual abuse while in Mother's or Father's care. Regardless, in _____, the Court accepted the Parties' Rule 69 Agreement awarding Joint Legal Decision-Making and Equal Parenting Time.

Docket Code

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On [redacted] Mother filed a *Petition to Enforce Parenting Time*. ([redacted]). The Court held an Enforcement Hearing on [redacted] wherein Father was found in contempt, sanctioned \$ [redacted] ordered to pay Mother's attorney's fees, and ordered to return the Child to Mother on [redacted] ([redacted]). The next day, Mother filed an *Emergency Motion for Immediate Physical Custody of Child, Legal Decision Making, and Suspension of Father's Parenting Time* and informed the Court that Father would not respond to Mother or law enforcement to turn over the Child. ([redacted]). The Court granted the Emergency Order and granted Mother temporary Sole Legal Decision-Making, suspended Father's Parenting Time, directed law enforcement to take custody of the child, and ordered additional monetary sanctions. ([redacted]). Thereinafter, Father filed the first *Motion for Post-Decree Temporary Order* on [redacted] ([redacted]) and a second *Motion* on [redacted]. An Evidentiary Hearing was conducted on [redacted] and despite receiving proper notice, Father did not appear. The Court issued an Order denying Father's [redacted] and [redacted] *Motions*. ([redacted]).

Thereinafter, Father again filed multiple pleadings, including another *Motion for Pre-Decree Temporary Order* on [redacted] and two *Requests* [for] [redacted] *to Interpose in Child Abuse Case* on [redacted] ([redacted]). Father filed yet another *Motion for Post-Decree Temporary Order* on [redacted] ([redacted]). The Court set the matter for a hearing and appointed [redacted] as a Best Interest Attorney (BIA) for the Child on [redacted]. During the Temporary Orders Hearing conducted on [redacted] the Court had the benefit of hearing from both Mother and Father as well as the BIA. The Court denied Father's prior *Motions for Pre- and Post-Decree Temporary Orders* and other miscellaneous pleadings. The Court further affirmed the [redacted] Rule 69 Agreement as to Legal Decision-Making and Parenting Time and scheduled a Status Conference for [redacted] so that the Court could obtain an update from the BIA. ([redacted]).

Since the [redacted] hearing date, Father has persisted in filing multiple emergency *Motions* with the Court, typically late in the day or on Friday afternoon. A review of the docket shows at least seven such *Motions* between [redacted] and [redacted]. Father has not presented any additional evidence or information to support his continued insistence that the Child is suffering abuse or neglect. Father has also repeatedly dropped off documents and photographs with the Court.

Since [redacted], the Court has denied Petitioner's Emergency *Motions* without hearings. ([redacted]). The Court notes that the evidence of abuse and neglect raised in each of these motions dated back to [redacted] before the Rule 69 Agreement when the Child was [redacted] old. Father continues to allege that abuse is occurring but fails to provide any evidence other than reports, documents, and pictures that are now [redacted] old. As noted, a BIA has been assigned to the case and a Status Conference is scheduled in the coming weeks.

OF ARIZONA

The Court received a binder of documents on _____ and pictures on _____ that Father brought directly to this _____. There is no indication that the documents/pictures were provided to or served on Mother as required by Rule 43, *Arizona Rules of Family Law Procedure*. The Court considers these documents/photos *ex parte* communication and cannot consider such communications, nor can it give legal advice. Further, there is no evidence that these documents/photos have been filed with the Clerk of the Court in accordance with Rule 43(D), *Arizona Rules of Family Law Procedure*.

A.R.S. Section 12-3201(E)(1), defines "Vexatious conduct" under Arizona law to include:

- (a) Repeated filing of court actions solely or primarily for the purpose of harassment.
- (b) Unreasonably expending or delaying court proceedings.
- (c) Court actions brought or defendant without substantial justification.
- (d) Engaging in abuse of discovery or conduct in discovery that has resulted in the imposition of sanctions against the pro se litigant.
- (e) A pattern of making unreasonable, repetitive and excessive requests for information.
- (f) Repeated filing of documents or request for relief that have been the subject of previous rulings by the Court in the same litigation.

The Court believes that Father's conduct satisfies at least subsections (b) and (f) of this definition. For the foregoing reasons,

IT IS ORDERED that Petitioner/Father cannot file a document requesting affirmative relief in this action without first requesting leave of the Court to do so pursuant to A.R.S. Section 12-3201(B). If he requests leave of the Court, Father must attach to his request a copy of his proposed filing. This Order does not prevent Father from responding to Petitioner/Mother's requests for relief or to file a notice of appeal after the Court enters a final judgement in this case.

IT IS FURTHER ORDERED that Petitioner/Father shall not provide *ex parte* communications to the Court.

IT IS FURTHER ORDERED that the Court will view any actions taken by Petitioner/Father to file additional documents, motions, filings, or to bring information/documents directly to the Court without first seeking leave to do so as a violation of this Order, and the Court will issue sanctions as appropriate.

**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.**