

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 12-020

Complainant: No. 1421010906A

Judge: No. 1421010906B

ORDER

The complainant alleged that a superior court commissioner improperly rescinded an order of protection and was biased and demeaning in court proceedings.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the commissioner engaged in conduct that violated the provisions of Article 6.1 of the Arizona Constitution or the Code of Judicial Conduct and, if so, to take appropriate disciplinary action. The purpose and authority of the commission is limited to this mission.

After reviewing the information provided by the complainant along with the electronic court records, the commission found no evidence of ethical misconduct and concluded that the commissioner did not violate the Code in this case. The commission does not have jurisdiction to investigate the legal sufficiency of the commissioner's ruling. Accordingly, the complaint is dismissed in its entirety pursuant to Rules 16(a) and 23.

Dated: March 5, 2012.

FOR THE COMMISSION

/s/ George Riemer

George A. Riemer
Executive Director

Copies of this order were mailed to the complainant and the judge on March 5, 2012.

This order may not be used as a basis for disqualification of a judge.

CONFIDENTIAL

State of Arizona

Commission on Judicial Conduct

1501 W. Washington Street, Suite 229

Phoenix, Arizona 85007

FOR OFFICE USE ONLY**2012-020****COMPLAINT AGAINST A JUDGE****Your name:****Judge's name:****Date:** 1-4-12

Instructions: You can use this form or plain paper of the same size to file a complaint. Please describe in your own words what the judge did that you believe constitutes judicial misconduct. Be specific and list all of the names, dates, times and places that will help us understand your concerns. You may attach additional pages but not original court documents. Print or type on one side of the paper only, and keep a copy of the complaint for your files.

I feel Commissionerdisplayedobvious prejudice and bias against meduring our hearing on December 27, 2011 at9:00 am. Please see my attached statementwhich describes everything that happened.*(Attach additional sheets as needed)*

June 20, 2011

Commissioner Kip Micuda granted me an order of protection against Rickey G. Fugate. I was originally attempting to obtain an injunction against harassment, but court staff advised me that I had to file a petition for a protection order due to having a family court case. Commissioner Micuda, ordered no contact, because of the prior harassment from Rickey, except that defendant may contact plaintiff via email only for the sole purpose of coordinating parenting time or informing plaintiff of an emergency concerning a child. **See attached Petition and Order of Protection issued 6/20/11.**

November 29, 2011

I requested that my protection order be amended to no contact. I went before Commissioner [redacted] I provided copies of the harassing emails that I had been receiving from Rickey, which was not related to parenting time, nor were they regarding any emergencies with our children. Commissioner [redacted] denied my request, and advised me to report these violations to the local authorities. I told Commissioner [redacted] that I had in the past and the local police wouldn't do anything, and that they advised me to file a complaint with the issuing court.

Commissioner [redacted] scheduled a hearing for review, for December 27, 2011 at 9:00 a.m. I then went to the Wickenburg Police Department, immediately upon return to Wickenburg, and filed a formal complaint with them, regarding the protection order violation, as per Commissioner [redacted] advise. Rickey was cited and released on December 9, 2011 by the Wickenburg Police Department. **See attached Petition to amend, order dated 11/29/11, and newspaper article.**

Attached Order denied

December 15, 2011

Rickey filed a petition to amend his protection order. His request was denied as well. Rickey requested a review hearing. I then received a copy of Rickey's hearing request with a notice to appear for the same court date of December 27, 2011, at 9:00 a.m.

See Attached Request for hearing & Order to Appear

December 23, 2011

Rickey took our daughter Kendal from school, during my time, without my knowledge or consent. Rickey was arrested for custodial interference. This too violates my protection order against him, as it is ordered in my protection order that defendant shall not commit any crimes against plaintiff or protected person (s). I then filed a motion for temporary orders to modify custody. This petition went before Commissioner [redacted] at the closing of the day, December 23, 2011, due to Judge Chavez was not actively on the calendar. I was advised by court staff, that Commissioner [redacted] would hear on this petition during the December 27, 2011 review hearing. **See attached Petition for temporary orders with supplied evidence.**

December 27, 2011

Both Rickey and I appeared before Commissioner [redacted] for the scheduled 9:00 a.m. Review Hearing. I advised Commissioner [redacted] that prosecution was pending for the protection order violations in the Wickenburg Town Court, and that there is a court date scheduled either January 9th or 16th, according to what the town prosecutor told me.

During this hearing, Commissioner [redacted] belittled both Rickey and myself by telling us that we were embarrassing, and insinuated that our family court case lacked significance or importance in comparison to what she has seen on a daily basis.

Commissioner [redacted] quashed my protection order without appropriate probable cause and said "pretend it is still in force", with obvious bias, after I proved that Rickey violated the order. I had not violated either protection orders, nor did I request at any time to dismiss my protection order. All I asked for was no contact, due to his continual harassment. Commissioner [redacted] then ordered to leave Rickey's protection order against me in force. I believe the reason

Commissioner quashed my protection order was due to her personal bias towards me in reference to the custody matters that were heard in this hearing as well.

Also during this hearing, Commissioner wrongfully reprimanded me, stating "Shame on you for calling the police on him," referring to the December 23, 2011 custodial interference arrest. Commissioner obviously did not listen to a word I said, because I told her that the school called the police on December 23, 2011. All I did in this matter was to try to assert and protect my custodial rights. The police took it from there, and determined there was enough evidence and probable cause to arrest Rickey.

When Commissioner was giving me the opportunity to testify to my reasons for my petition for temporary orders, she made it very clear that I was to only discuss, the December 23, 2011 incident, even though in my petition I stated that he constantly takes the children or keeps them during my time. I also stated this in my underlying petition that I had to file to modify custody. Commissioner denied me the opportunity to state my case in its entirety, and limited my testimony to only what she wanted to hear. Then Commissioner acknowledged that Rickey did in fact take my daughter on my time, when she stated, "So he took her two hours early, so what?" I was not given an opportunity to reply, and advise the Commissioner that it was more than two hours early, or that it was my court ordered weekend with my daughter or tell her that it was still a violation of the court ordered custody arrangements.

Commissioner did give me an opportunity to question the other party after his testimony, but cut me short during the questioning, stating "you are being argumentative." I did not feel that asking the other party to give a short answer, or answer yes or no, was argumentative. I had many more questions in reference to the testimony that the other party gave, and Commissioner didn't even ask if I had any other questions.

Then Commissioner read inserts from Facebook messages that I submitted as evidence, in which she continued to belittle me, in reference to involving my children in court matters, but she failed to acknowledge this document in its entirety. Otherwise she would have then noticed my response to my daughter was that I was not involving her in court matters, and that she was involving herself.

Commissioner failed to address Rickey's 12-15-11 Petition to amend his protection order, in this same hearing. Even though, I had received a notice to appear for this date, with a copy of his request for a hearing, I was not given an opportunity to dispute his allegations against me.

After Commissioner rulings I requested to make a final statement to the court. As I was trying to make the statement, which started with "you don't know the history", Commissioner cut me off, and would not let me complete my statement.

See attached 12-27-11 minute entries.

Justice was unfairly, with bias, denied this day. I am submitting a request to reconsider and reinstate my protection order, as well as a request for a new hearing regarding the temporary orders.