

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 24-154

Judge:

Complainant:

ORDER

August 23, 2024

The Complainant alleged a superior court commissioner engaged in improper ex parte communication and decision-making regarding child custody in a family law matter.

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 Colleen E. Concannon did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on August 23, 2024.

2024-154

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.

The Honorable _____ has violated the code of conduct as judge in case _____ multiple times.

Section 1-303: Code of Conduct for Judicial Employees states that judicial employee shall perform the duties of judicial employment impartially, competently, and diligently. On _____ the petitioner in the case filed a Motion for Post Decree Temporary Orders Without Notice for Modification of Parenting Time, Verified Petition for Modification of Legal Decision Making/Parenting Time, and Amended Parenting Plan. An ex parte order was issued by the Honorable _____ on _____. As a general rule, "Due process entitles a party notice and an opportunity to be heard at a meaningful time and in a meaningful manner." Curtis v. Richardson, 212 Ariz. 308, 312, 16 (App. 2006) It also affords a party the opportunity to offer evidence and confront adverse witness. ID. Rule 48 (b)(1) Arizona Rules of Family Law Procedure, provides that the court may grant ex parte relief (i.e. an order entered before the other party is given the opportunity to respond) only if it "clearly shows by specific facts that if an order is not issued before the party can be heard, the moving party or a minor child of the party will be irreparably injured, and only if the moving party "provides written certification of the efforts given to notice the other party, or why giving notice should not be required." In other words, the Court may not grant ex parte relief unless the motion seeking such relief shows some form of injury, loss or damage that both: (a) is likely to occur, and (b) cannot be undone before the other party can be given a fair opportunity to present the Court with his or her own statements and other evidence that he or she would want the Court to consider. On _____ the only evidence listed was " _____ " On _____ an In Chambers Warrant was issued stated that the Petitioner _____ was granted primary physical custody of the minor child on _____. The order also stated the child was unlawfully removed from the state Arizona. The custody arrangement lodged in _____ was shared legal and physical custody. The petitioner was fully aware the child was visiting his mother in _____ and was staying in the state to fulfill his healthcare needs. Hearings were being held with the court, while having daily contact with the petitioner regarding the minor child.

On _____, the Petitioner in the case again filed MOTION FOR POST-DECREE TEMPORARY ORDER WITHOUT NOTICE FOR MODIFICATION OF LDM/ PARENTING TIME, SOLE LDM WITH PTNR PARENTING PLAN, VERIFIED PETITION FOR MODIFICATION OF LDM AND PARENTING TIME, PETITION TO MODIFY PARENTING TIME, POST-DECREE TEMPORARY ORDER WITHOUT NOTICE FOR MODIFICATION indicating that the minor child was not returned from _____ and was missing " _____ " with no other facts injury, loss or damage. The petitioner was contacted regarding the return by phone, text and email; however, the order was signed again signed ex parte. Rule 2.2 Impartiality and Fairness, Rule 2.8 Professionalism

On _____ while appearing telephonically Judge _____ shouted during the hearing "

Rule 2.5 Competence, Diligence, and Cooperation

In Chambers Order the minor child shall immediately begin therapy with _____ All sessions shall take place in person.

_____ does not accept children of this age and will not accept a court ordered patient.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

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The Petitioner in this case knowingly made false statements on:
by stating he had been taking care of the child since
by stating he had primary physical custody of the child since
Stating the child would suffer serious life-threatening injury or damage that could not be undone.
The honorable did not perform his duty as judicial employee shall perform the duties of
judicial employee by authenticating evidence and the petitioner provided no evidence of immediate
danger. Due to the ex parte order being granted on the minor child in the case was
denied a major dental procedure for months.

On EXPEDITED PROCESS REQUEST TO ENFORCE TERMS OF COURT ORDERED
LDM was filed by the petitioner without service to the respondent.
IN CHAMBERS WARRANT TO TAKE PHYSICAL CUSTODY OF MINOR CHILD
(UCCJEA) on , CIVIL ARREST WARRANT was issued for the respondent. The
respondent was unaware of any filings or orders. It is evident that Judge is not able to act fair or
impartial in this care.

The Arizona has an ongoing investigation into the abuse and neglect of the
child involved in this case. Judge has not acted fair or ethically, instead he acts as in a
retaliatory manner for disregarding his court order. The Honorable is quick to grant his ex parte
orders to the petitioner and I am never afforded the opportunity to present the Court with the evidence
that I would want to be shown. For example, in of the minor child reported to his medical
doctor evidence of sexual abuse and showed her evidence of physical abuse. Furthermore, the child
was having thoughts of self-harm and needed follow up for recently diagnosed and . The
petitioner was aware of the situation and the was unaware the child was
going to be returning to the father. The child was further traumatized by the sudden removal from his
home situation due to the ex parte order granted because of the Judge arrogance.

RULE 2.11 Personal Interests. (A) A judicial employee shall manage personal and business matters so
as to avoid situations that may lead to conflict, or the appearance of conflict, in the performance of the
judicial employee's employment.

The Petitioner in this case has stated from the beginning that he can " ' and that "
' given the fact that his sister is married to Senator son. Senator is a
lawyer who is also a partner in a prominent law firm in .

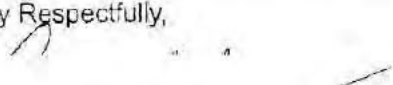
The Petitioner also emails the court Given the rulings in this case, it appears that he has a close
relationship with Judge and the Judicial Assistant. I did receive a courtesy copy of an order one
time from the judicial assistant via email, however, since then they have neglected to be fair and impartial
and treat all parties equally.

Good afternoon Your Honor,

My name is _____ and I am the petitioner in this case. I am writing to bring many violations of the court order from the respondent (_____) to your attention. We have a _____ year old son named _____. Multiple times in our court case _____ has decided to keep our son after being ordered by you to maintain our parenting plan. You have verbally warned her and even had to write a stipulation into the court order against further custodial interference. She has never made any payments to the clearinghouse for my ordered child support. She now owes _____ in back child support. I will be filing a motion today for that issue as well. On _____ moved to _____ without notice and dropped _____ off at my residence. I was excited to have _____ full-time without her interference in our daily lives. I told her that _____ still needed a mother and that I would give her time with him as listed and agreed: _____ week during _____ break, up to _____ weeks in the _____ week during _____ break, and _____ week during _____ break. Last _____ she held _____ approximately _____ week longer than agreed upon and it was a struggle to get _____ back to Arizona before school started. This _____ we agreed that _____ would be home by _____ so I could have vacation time with him for one weekend before school starts on _____. I sent text messages and emails to _____ starting _____ regarding his return flight information as I have to drive to _____ to pick him up from the airport and needed to plan accordingly. She did not respond for _____ days until _____ the _____ when _____ was expected to be flying home. She is always finding an excuse for her actions as you can see in the text messages provided. I continued to ask about his return once a day and did not get a response as you can see.

On _____ I received an email from _____ school notifying me unenrolled _____ from _____ with the intention of enrolling him in school in _____ without my knowledge or consent. This is in direct conflict with the parenting plan and legal decision-making order. This was only brought to my attention by the school administrator. It was never discussed between _____ and myself. It is very clear that _____ has no regard for the orders of this court. She has very clearly shown probable cause of parental kidnapping, or at minimum ARS 13-1302. I beg the court to put an end to these malicious attempts of _____ to use our son as a pawn and cause catastrophic emotional and mental abuse to both _____ and myself. I have never been in violation of the court orders and never plan to be. I hope that you will hold up justice and my rights as allowed in this court order.

_____ school, here in _____ starts on _____ the _____ and he will already have missed his open house by the time you are reading this. I plan on attending his open house without _____ and will be picking up all information and paperwork for his _____ grade year. _____ is enrolled in a reoccurring soccer team and he has many friends at his school. _____ will be devastated if you allow _____ to illegally keep him in _____ any longer.

Very Respectfully,


Re: Best Interest

From:

To:

Date:

Hello

I have reached out to you the last few weeks due to your lack of following the court order. You are out of compliance in many aspects of that order including healthcare and joint decision making involved with that. I thank you for bringing these items to my attention. I have been given zero information regarding any of healthcare visits until just now. I understand that you have recently appropriated health coverage for in This was ordered . Unfortunately resides in Arizona. In my opinion insurance dose not seem very reasonable under those circumstances. I will acquire my own insurance in AZ. for and ensure that all of your warranted healthcare concerns about are addressed. I will continue to be transparent with all procedures and I hope we can work together as a team throughout healthcare needs.

Regarding school records, you are listed as his mother and you have had the same access to all his information as myself. You have not only spoke with the administrator at his school, you unenrolled him without informing me and without my consent. You also enrolled him in school in where does not reside and did so without my consent once again. You are not on pick up list as you reside in and I don't foresee you driving to AZ. to pick up from school out of the blue. is comfortable at his school and he has lots of friends there. He is also in a soccer league and has many of his classmates in that same program. has a pristine wellness and attendance record while he has been under my parenting time (aside from a Covid scare with a 14 mandatory quarantine). I'm sorry to say that it is not the case while under your parenting time. It is undoubtedly in best interest to be under my parenting time while he is enrolled in school. If you were looking out for best interest you would have returned him to AZ. by last weekend so he could go to his school orientation this week. I made you aware of this multiple weeks ago and he is still in starts school days from now (the) and you still refuse to send him back to AZ.

As far as your concerns of height, I have gone up sizes in clothes and sizes in shoes over the last year. Not sure where you are getting your information from, but I can assure you that he is growing. I was extremely short until I was in the 9th grade. I assume that since has half of my genetic make up that he will also be prone to being a late bloomer as I was.

Now that I am aware of medical situation, I will find appropriate providers and keep you informed so you may contact them with any questions or concerns regarding any non routine procedures. This will allow you an opportunity through transparency to be able to make an informed decision on weather or not you feel the procedures are in best interest. That way we can ensure is getting everything he needs to grow up happy and healthy.

I will end this with the same question I'm sure you are tired of hearing. Will you please send home immediately? If so, please send me his return flight information.

Respectfully,

On , at wrote:

Dear

has been in my care since His insurance is which is only valid in . It was verified with the State of Arizona that was not enrolled in any healthcare program.

1. I took to the optometrist and was found to need reading glasses. His eyes are strained and self-correct when screen time is limited. This is not covered by insurance. I have ordered numerous pairs of glasses for him, none that he has found to be comfortable.

Exhibit M

2. I took _____ to the dentist. He has one _____ that needs a _____ and _____ along with a cleaning. This will be fully covered by his _____ insurance.

3. _____ has seen a counselor with us at our _____. He has stated he has thoughts of self-harm. _____ has another scheduled _____ appointment tomorrow. He can start individual therapy later this month. This would be a _____ day program and is fully covered by his insurance.

4. _____ growth has stalled, and he remains in the less than _____ height for his age. Since he has not shown any growth in the last year it is concerning, and I have scheduled him to see a primary physician. This is fully covered by insurance.

I have attempted to assist _____ with his reading this summer. I am unable to speak with anyone at the school as I am not listed as a contact. I had our school district request records without any response. I would appreciate it if you would allow me to be involved with his education plan for his best interest.

I feel it is in _____ best interest to attend to his mental, dental and health care needs prior to returning to Arizona.

Best regards,

**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.**