

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 24-005

Judge:

Complainant:

ORDER

May 24, 2024

The Complainant alleged a superior court judge made improper rulings in a child support matter and did not adequately disclose that she followed the opposing party on social media in 2020.

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 Barbara Brown and Delia R. Neal did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on May 24, 2024.

CONFIDENTIAL

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

FOR OFFICE USE ONLY

2024-005

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 Note: Since the modification to child support hearing in _____ took place, my legal name was changed from _____ back to my maiden name of _____ on _____. The adult child for the Child Support Order legally changed their name from _____ to _____ on _____.

I do not have court documents to submit with this complaint form. I did not receive any written court transcripts for the three modification hearings I attended in _____, however, I did order and pay for the CD transcripts that were offered to me in lieu of paper transcripts. If the CD's are needed, I am more than happy to ship them. If a paper transcript is needed – and available – I will order them. As a result of not having any paper transcripts from the hearing I cannot confirm or provide names of all who attended the hearing. I attended telephonically as it was during the Covid pandemic, and I live in _____ state. The only participants I can confirm who were present are Judge _____ AG _____ and the non-custodial parent,

I am attaching separate sheets of plain paper to file my complaint. Attached please find:

Pages 1 - 13 describing the events leading up to my complaint
Exhibits 1 - 16

COMPLAINT AGAINST A JUDGE

Name: _____

Judge's Name: _____

To Whom It May Concern:

I am writing to file a formal complaint against _____ Court Judge _____ who presided over a request to modify a child support order in _____ County.

I understand this complaint will have no bearing on Judge _____ order following the child support hearing(s) she oversaw in _____. None of the following statements are to be interpreted as an attempt on my part to address or change the outcome of those hearings. My sole intent is to summarize the actions and events that led me to believe judicial misconduct and poor judgement was exercised on the part of Judge _____.

Background

I, _____, am the custodial parent (CP) and _____ is the non-custodial parent (NCP) in this case. We are the parents of a _____-year-old son on the _____.

The original Child Support Order was issued with the _____ divorce decree in _____ County, Arizona. The _____ (_____) and the _____ (_____) in _____ eventually became involved in the case (Title IV-D). They have assisted with the collection of arrears/child support and modifications to the order over the years, and when I moved back to _____ state with our child in _____.

Our son had been receiving SSI since approximately age _____. Prior to turning age _____, we were advised he would need to apply for Social Security as an adult. In _____ he was approved for Social Security Disability / Disabled Adult Child (SSDAC; **not** SSI) and Medicare. I was also looking into his eligibility for services through DDA (Division of Developmental Disability) and Long-Term Care/Medicaid in _____ state.

Due to my receiving SSDI (not SSI), my son's Social Security income as an adult is now based upon my prior work history (not _____ - when the NCP retires, becomes disabled or passes away, our son's benefit will likely be transferred under his father's work record). Our child received SSI income from approximately age _____ through _____. I don't believe that income has ever been included previously in any child support calculations. If I had no work history or wasn't receiving Social Security, our son would have continued receiving SSI instead of SSDAC. His SSI income – before and after he turned _____ – has always been a part of our household income and budget.

In _____ I contacted the _____ to advise them our son was receiving SSDAC Social Security instead of SSI (SSI benefits had stopped for one year after he graduated from high school; while he applied for it as an adult) as I thought I needed to report it as an income increase of more than 15% in _____.

our household. I was advised that his SSDAC would NOT count as or against income in calculating child support. **Many financial and future life decisions for our son were made based upon this information.**

The original child support agreement required the NCP to provide medical insurance for our son. When our son became eligible for Medicare in _____, he was already enrolled as a dependent on his father's medical plan through his employer. That plan was his primary insurance. Medicare could not be billed unless the primary insurance was billed first. The NCP had chosen a _____ deductible that had to be met before any benefits could be paid. That was financially difficult for both the child and the CP. Our child could not utilize his Medicare insurance until the deductible had been met on the primary insurance. We were also having difficulty finding providers who would accept his out-of-state insurance, so removing the medical insurance order made sense to all of us.

The NCP and I discussed and agreed to request a modification to remove the medical insurance requirement for our son. Dropping the required medical coverage would ease the financial burden for all of us. The NCP would no longer have to pay a dependent premium; and this would help the CP and child with out-of-pocket expenses for care. Neither party brought up any other changes they wished to make in modifying the order.

The modification request was submitted in _____ to the _____ in _____ County, Arizona. It was my understanding – and the _____ - that the hearing would be straightforward with no disagreement or additional requests. I had explicitly assured the NCP and the _____ that I was not expecting to have the amount of child support changed, just the medical order. The NCP was concerned as his income had increased. I did not care if that would affect (assuming increase) the support order. I told the NCP I was okay leaving the order as it was. The _____ office said we would still be required to submit our financial affidavits.

The hearing was assigned to Judge _____ and scheduled for _____ Judge _____ ended up scheduling two additional hearings to address the modification on _____ and _____. As neither the NCP nor I live in _____ County, we appeared telephonically. An Amendment to Judgement was also processed on _____.

My claim (and documentation of evidence) against Judge _____ is outlined at the end of this document, in the Post-Hearing section.

Initial Hearing,

At the initial hearing on _____ Judge _____ introduced herself and said the hearing was to modify our case, but she did not provide any details. She said she wanted to “

_____”. She gave both parties the opportunity to request a different judge, if wanted.

Neither of us objected to having Judge _____ preside.

I had no prior interactions or knowledge of Judge _____ but I suspected _____ possibly might. After we divorced in _____, _____ married an attorney in _____. This resulted in complications over the years (i.e. not being able to retain local legal counsel or Judges due to conflict of interest, files / paperwork being “lost” or mysteriously misplaced at the courthouse, etc.). They eventually divorced

after I had left Arizona. I assumed it was likely that [redacted] had met or interacted with Judge [redacted] at some point in [redacted], while engaging with his former spouse's legal / social circles.

My prior experience with child support hearings in the [redacted] County Court system had always been difficult to navigate due to conflicts of interest in such a small community, but I did not object to Judge [redacted] presiding for two reasons:

- 1) I was not particularly concerned as our reason for the modification did not involve any sort of argument or disagreement, or the recalculation of child support. The reason for the modification had been discussed and agreed upon prior to requesting the hearing between the parties and with the Attorney General's office and the [redacted] to address / remove the order for medical insurance placed on the NCP. My understanding was that this would be a clearcut issue, so I did not think Judge [redacted] knowledge of the NCP would have any bearing on what was to be discussed.

To be on the safe side, I consulted a lawyer in [redacted] prior to the [redacted] hearing and he assured me that it was a simple case that would be "[redacted]" and would not require an attorney. He did not believe Judge [redacted] would display any bias with this request. He advised I save my money and appear without an attorney at the hearing. I agreed; I could not fathom Judge [redacted] could apply any bias toward the issue I thought we were addressing.

- 2) Judge [redacted] disclosure at the first hearing on [redacted] did not indicate that she had anything more than an awareness or fleeting/occasional acquaintance with [redacted]. She admitted having "[redacted]" but did not elaborate or indicate that she knew him in any continuous or regular capacity. Truthfully, I was NOT comfortable with her presiding over the case but told myself to trust her as a professional. This was evident in my response to her when I laughed nervously and said "[redacted]" to which Judge [redacted] laughed and then quickly cut me off. In hindsight, maybe I should have asked her to expound on her contact with him, but in all honesty, I didn't think that would be proper for me to ask and I did not see how the purpose of our hearing could be impacted by their relationship.

The hearing then moved to discussing income and what / whose income to compute at the hearing. I was not asking to have child support increased, so I did not understand why the hearing was jumping in this direction. The [redacted] has told me my SSDI can't be counted as income, even if I wanted it to be. In addition to SSDI, I have always tried to maintain earnings from part-time work and I have always provided them with tax returns showing my earned income. I'm not sure why or if the [redacted] office ever included those earnings in calculating child support (they don't share this information).

The [redacted] was [redacted]. After the NCP clarified his income, [redacted] advised the court she calculated child support would increase from [redacted] to [redacted] /month. Again, I stated to the court that I was not pursuing a change in the child support amount. I knew the NCP would hit the roof if child support was increased.

Judge [redacted] then asked, "[redacted]"

replied, “

Judge I continued “ (She literally put the words into mouth).

responded, “ (Note: The NCP’s argument has been that he wanted to pay child support directly to the child vs to the mother. I would have no problem with that, but Arizona apparently won’t allow him to pay our son directly. I set up an ABLE Account for our son a few years ago that his father could contribute to, but he has made zero contributions to it).

Judge : “

” (Note: The NCP was challenging whether support should continue to the CP of the adult child; he did NOT say it should be recalculated or reduced. Judge appeared to be acting as his lawyer applying legal advice, providing him with verbiage; she was the one who subsequently sought to calculate how it could be reduced or stopped)

Judge : “

I replied “ (i.e. In a hearing/stipulation, the NCP and I ended up agreeing child support would continue beyond the age of majority due to disability).

Judge completely changed the course of the hearing. She made no mention of what the initial request had been for the modification (the insurance issue).

I felt completely sabotaged and shocked at what was quickly happening. I was not prepared for this at all. It truly felt as if it had all been planned or played out. I had no doubt that she was fully aware of the NCP’s desire to stop child support – he had made this well-known in the community over the years and sometimes he was able to have it stopped. Judge certainly did not offer any words to put into my mouth. She changed the trajectory of the modification hearing – from what started off as an amicable, agreed-upon request regarding medical insurance between the parents – to a hearing that would (once again) require me to “prove” that our son met the disability requirement for the AZ Child Support Guidelines AND to argue for continued support. Our son has been on the since birth and will continue to have . With the proper supports in place (which take a lot of time and access to resources), my hope is that he will be able to live independently, but he will continue to need many different types of support. After almost years of arguing for this repeatedly in court, I thought that argument was over and settled.

Judge then said, “

(I have no idea what she meant by “

’) The Court had never asked me what our son’s SSI since age had been funding, so I was completely caught off-guard.

**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.**