

Constitution, statutes and settled law, Pennsylvania Rules of Civil Procedure and Rules of Evidence. He made numerous findings of fact completely unsupported or uncorroborated by the evidence. He entered prejudicial and restrictive orders in manifest violation of my due process rights. He abused his discretion in the misapplication of law, and he provides a safe harbor for criminal misconduct by the court. Judge Black intentionally misrepresented facts in his written opinion of the matter, and generally conducted the proceedings in a manner that demonstrates extreme prejudice and bias, undermines the integrity of the judicial process, and demonstrates a lack of fitness for the office he holds. His conduct constitutes malfeasance and misfeasance of office.

Judge Black improperly applied the amended child support guidelines *ex post facto*, depriving petitioner of his rights under the U.S. Constitution, Article I, Sections 9 and 10, and Pennsylvania's Constitution of 1968, Article I, Section 17.

Judge Black failed to follow statutory and case law guidance in the application of Pennsylvania's child support guidelines, Pa.R.C.P. Rule 1910.16 *et seq.*, which provides for a deviation from the guideline amount when the circumstances of the parties so demand.

The Pennsylvania child support guidelines are unconstitutional under the facts and circumstances of this case, having a disparate impact on the children of second families in all multiple family cases when the plaintiff has the higher income. In such cases, the presumption that the guideline amount is correct is rebuttable. Judge Black disregarded the disparate impact on my family, the inapplicability of the support guidelines, then, to further penalize affiant, misapplied the rule of law for the determination of net incomes for both parties.

This legislature must impeach Judge Black for malfeasance and misfeasance of office, for violating the Code of Judicial Conduct, and for abusing his discretion and acting unlawfully when he:

- ◆ enforced a law *ex post facto*, in violation of the U.S. and Pennsylvania Constitutions;
- ◆ entered orders in pre-trial and post-trial proceedings that deprives affiant of his Constitutional right to discover information in the possession of the court;
- ◆ conducted a procedure where the appearance of impropriety predicates and predicts the outcome, failing to protect affiant's Constitutional right to a hearing in a fair and impartial court;
- ◆ made numerous findings of fact and law completely unsupported or uncorroborated by evidence in the record, by statute or rule of law, or from reasonable conclusions to be drawn therefrom;
- ◆ entered prejudicial and restrictive orders in manifest violation of affiant's rights under the Constitutions of the United States and the Commonwealth of Pennsylvania;
- ◆ administered an unlawful procedure which, under Pennsylvania law, fails to reach the minimum standards for a hearing on the merits, thereby violating affiant's right to due process of law;
- ◆ violated Canons 1, 2, and 3 of Pennsylvania's Code of Judicial Conduct;
- ◆ disregarded Pennsylvania Rules of Evidence, accepting facts not in evidence, applying different standards for admitting evidence for plaintiff and defendant, and allowing misrepresentations and errors of fact and law to remain uncorrected as part of the record for appellate review;
- ◆ assessed charges against defendant for costs not evidenced in the record;
- ◆ abused his discretion by misapplying the relevant law for these proceedings (Pa.R.C.P. 1910.16 *et seq.*), contrary to the express language of the law;
- ◆ unlawfully allocated an income earning capacity for a party (my wife) not named in the action, disregarding competent, unrefuted testimony that she does not work, and has not worked in more than six months, and has (had) no plans to return to work;
- ◆ afforded superior weight to presentations and misrepresentations of fact and law by opposing counsel;

- ◆ authored an opinion in the matter replete with misrepresentations of fact and law;
- ◆ verbally expressed a prejudicial attitude toward my attorney;
- ◆ accommodated and harbored the unlawful alteration of the official record of proceedings, a criminal act under Title 18 of Pennsylvania’s statutes;
- ◆ participated in an unlawful cover-up of these criminal acts;
- ◆ when allegations of criminal misconduct were laid at his feet, he appropriately recused himself from the case, then, in violation of the Code of Judicial Conduct (Canon 3. A.), inappropriately withdrew his recusal and continued to exercise prejudicial judicial authority in this matter, including ruling on a motion demanding his disqualification; (See Attachment 2)
- ◆ conspired/colluded with court staff to prevent affiant’s access to court records, misrepresenting facts material to my request, and undermining the judicial process;
- ◆ knowingly permitted a court reporter to testify falsely, thereby suborning perjury; see Code of Judicial Conduct, Canon 1, 2, and 3. B.(2).
- ◆ disregarded the unrefuted sworn testimony by two competent witnesses who testified to specific discrepancies¹ in the transcribed record, alleging the criminal alteration of the record; a violation of the Code of Judicial Conduct, Canons 1. and 2. A.

Judge Black demonstrated a bias and prejudice so compelling that he has virtually drafted a completely new interpretation of Pennsylvania’s child support guidelines; Pa.R.C.P. 1910 *et seq.* The bias and prejudice of this court disregards the most fundamental protections for litigants in a court of law. The criminal acts perpetrated to preserve the court’s rulings must not be tolerated.

The following statements document specific acts complained of:

One of the fundamental requirements for a hearing on the merits in domestic relations matters is that both parties must testify, and that each party must be subject to cross-examination by the other party. Pennsylvania law holds that when both parties do not testify, a hearing on the merits has not been conducted. *Keating v. Keating*, 595 A.2d 109 (Pa.Super. 1991).

The United States Supreme Court has established that “The right of a litigant to an in-court presentation of evidence is essential to due process.” and further, “In almost every setting where important decisions turn on questions of fact, due process requires opportunity to confront and cross-examine witnesses.” *Goldberg v. Kelly*, 397 U.S. 254, 90 S.Ct. 1011 (1970).

Judge Black conducted a pseudo-hearing where plaintiff did not testify, and was not available for cross-examination. Contrary to Pennsylvania rules for a *de novo* hearing, Judge Black accepted facts not in evidence from the domestic relations hearing officer report.

In a blatant demonstration of the prejudice in the courtroom, the domestic relations conference officer (an officer of the court) attended a portion of the hearings, and consulted with plaintiff’s Title IV-D attorney. The Code of Judicial Conduct commands a court to avoid even the appearance of impropriety. Affiant contends that the consultation between the conference officer and the Title IV-D attorney constitutes an *ex parte communication* between the court and an attorney, and evidences the inappropriate relationship between the court and the Title IV-D attorney.

The record shows that my attorney demanded the right to cross-examine the conference officer. Judge Black denied the demand. My attorney demanded the right to cross-examine plaintiff. Judge

¹ Both witnesses testified to deletions from the record for substantive challenges to constitutional issues where the court deprived me of my rights under the constitution.

Black denied this demand. In so doing, Judge Black deprived my counsel of a full and fair opportunity to present my case, violating my due process rights.

Income and assets are fundamental elements of evidence for a child support hearing. Judge Black obstructed my right to discover the amount of plaintiff's husband's income. He also obstructed my right to discover plaintiff's other assets, including any amounts in savings or trust for the dependent child.

After closing the hearings, Judge Black conducted a post-hearing off-the-record telephone conference with the attorneys, from whence he determined that my Earned Income Tax IRS tax refund is "income" while the overpayment IRS tax refund of the opposing party is NOT income. He adjusted my net income accordingly. His ruling stands in direct contradiction to Pennsylvania Rules of Evidence and child support guidelines, denying me the equal protection of the law.

In support of his determination, Judge Black authored an opinion that contains statements so blatantly false as to raise the question of the integrity of this jurist, and his fitness for office. Facts material to the outcome are misstated. Judge Black improperly reframed issues raised by my attorney. When a court frames the issues, a litigant is denied due process. The fact that one issue was framed using language submitted by the Title IV-D attorney raises a question of collusion between the court and opposing counsel. The issue reframed by the court alters the issue that was claiming a deprivation of a fundamental due process requirement.

In his opinion, Judge Black states that defendant's petition to modify raised the question of increased income of plaintiff (mother). Judge Black failed to state that the basis for the petition also includes the issue of a second income in mother's household. This failure to accurately represent the basis of petitioner's claim is to tell a half-truth, which is, therefore, to lie. My demand for a *de novo* hearing attempted to raise the issue of mother's additional assets, including financial assets of the dependent child. Judge Black first denied my requests to discover this information, then intentionally misrepresented or omitted these facts from his opinion in an effort to color the issues appealed, thereby limiting the probability of success on appeal. This action violates the Code of Judicial Conduct, and stands contrary to the court's express objective to seek the truth.

His written opinion states that [petitioner / appellant] was afforded a full and fair opportunity to present his case. The record shows that plaintiff did not testify, and was not subject to cross-examination, thereby depriving me of due process. When due process is denied, a full and fair opportunity to present one's case has not been afforded.

These errors of law and misrepresentation of facts to an appellate court constitute egregious violations of the Code of Judicial Conduct, so as to render this judge unfit for office.

Judge Black committed egregious violations of the Code of Judicial Conduct when he disregarded Pennsylvania Rules of Civil Procedure and Rules of Evidence (PRE) as follows:

- ◆ he erred (intentionally) in miscalculating net incomes; Pa.R.C.P Rule 1910.16-2.
- ◆ he assumes facts not in evidence in support of mother's claim; PRE Rule 102.
- ◆ he disregards competent testimony to improperly assign an income capacity for affiant's spouse (my wife), an egregious error under the guidelines; PRE Rule 102.
- ◆ he disregards the clear language of the guidelines regarding health insurance premiums; Pa.R.C.P Rule 1910.16-6.
- ◆ he prohibits access to records of the court; PRE Rule 103(2).
- ◆ he excludes evidence, disregarding facts in the record and offers of proof; PRE Rule 103(2) and 201(d);

- ◆ he denied a request to amend my Income and Expense Statement; a prejudicial ruling contrary to the wide latitude afforded litigants in domestic relations hearings;
- ◆ he acted prejudicially in relaxing the rules of evidence for plaintiff, while holding affiant to strict compliance with the traditional rules of evidence. See Comment -- Rule 101.

This court employs criminal acts to preserve and protect the miscarriage of justice. The electronic (audio tape) recordings of proceedings are altered, a criminal act that obstructs justice.

Judge Black is aware of the alteration of records. He took steps that reasonable persons could construe as a “cover-up” for the criminal acts. He exercised capricious disregard of the Code of Judicial Conduct to rule that my attorney could not take steps to protect the integrity of the record. He contends that his rulings were made to prevent my attorney from altering the records then later advancing a claim that the court records are incomplete and inaccurate.

Judge Black’s argument is without merit, essentially contending that he is protecting my lawyer from committing a criminal act. Affording this protection is not the duty of the court. The court has a duty to protect the fundamental liberty interests of all parties. This court and Judge Black fail in that duty.

Judge Black thwarted my attorney’s efforts to correct the record in accordance with Pennsylvania Rules of Evidence, PRE 201(d).

Post-trial Proceedings

Petitioner moved the court for a reconsideration of the order. Judge Black knew that if reconsideration were granted -- plaintiff would be subject to cross-examination, her IRS tax refund would be raised as an issue for income, my Income and Expense Statement would be amended, and the basis for applying the support guidelines and the court’s recommended support order would be successfully rebutted. Judge Black arbitrarily denied the motion on his own discretion.

Petitioner demanded that the court correct the court’s “opinion” filed in the matter, offering proof of errors material to the outcome. Judge Black denied the motion on his own discretion, contrary to and in violation of Pennsylvania Rules of Evidence, PRE 201(d).

Petitioner demanded that domestic relations produce plaintiff’s prior year 1040 tax filing. Each party is required to produce this document for the court ordered hearing. (See Attachment 3). The documents are part of the court’s record in the matter. The Title IV-D attorney, acting on behalf of domestic relations², countered with a motion for protective order. Judge Black granted the protective order, and denied my attorney access to relevant information.

The Pennsylvania Supreme Court held that dual representation by a solicitor constitutes a deprivation of due process. *Horn v. Hilltown Twp.*, 337 A.2d 858, 461 Pa. 745 (Pa. 1975). The *Horn* holding is applied to domestic relations cases in several lower court decisions. My due process right to a hearing before fair and impartial court is denied because of the susceptibility to prejudice by the court.

² The Title IV-D attorney is serving as “solicitor” for the county when presenting this motion, thereby strengthening petitioner’s argument that she enjoys a improper intimate relationship with the court. This attorney represents “County of Lehigh” in other actions before this same family court.

After receiving a copy of the transcribed record, petitioner filed a motion to correct the record, noting instances where judicial notice of errors should be corrected and instances where the record was altered to delete or obscure evidence that supports my case. Altering the record is a criminal act.

Petitioner also entered a motion to review or receive a copy of the audio tape of the entire proceedings of October 20, 1999. This is a public record. Judge Black arbitrarily denied the motion without reason.

During the first hearing on the motion to correct, Judge Black stated that my counsel has ‘no credibility’ in his court, thereby authenticating a claim of prejudice and bias against this affiant, showing a lack of impartiality and a lack of dignity, courtesy, and tolerance. He refused to take “judicial notice” to correct the record as mandated under PRE 201(d) when proof is offered. His actions constitute a violation of Canon 3.A.(3) of the Pennsylvania Code of Judicial Conduct.

During the second hearing on this motion, Judge Black *surprised* our side by calling the court reporter as a witness. He admits to acting as a lawyer in the matter in controversy. This action constitutes a violation of Canon 3.C.(1)(a) or 3.C.(1)(d)(ii) of the Code of Judicial Conduct.

At this hearing, Judge Black was confronted with responsibility for the alteration of the audio tapes of hearings. **The chain of custody was broken when transferring the tapes from the court reporter to the judge. Upon this assertion before the court, Judge Black appropriately recused himself from the matter.** These allegations of criminal wrongdoing clearly raise substantial questions of Judge Black’s fitness for office and his lack of impartiality.

After “consultation with my colleagues” (see Attachment 2), Judge Black inappropriately withdrew his recusal over the objections of my lawyer. His action constitutes a violation of Canon 3.C.(1) of the Pennsylvania Code of Judicial Conduct.

During the third hearing on the motion, the court reporter returned as a witness and lied under oath. Judge Black was aware of the perjured testimony, and took no action. Affiant believes that the judge and his reporter conspired as to her testimony, intending to misstate facts for the record. False testimony undermines the integrity of the judicial system. When offered by an officer of the court, such testimony gives rise to a claim for deprivation of civil rights under color of law. See 42 U.S.C.A. 1983.

Petitioner contends that Judge Black abuses his authority to prevent my lawyer from obtaining evidence that supports the claim that the audio tape records of hearings were altered. Such conduct by the court constitutes abetting a criminal act, evidencing malfeasance of office.

This affiant twice attempted to file criminal charges against this court for the alteration of the records. I was turned away by the District Attorney’s office on two separate occasions. I contend that Judge Black had knowledge of my effort to file criminal charges, and was instrumental in thwarting an investigation.

SUMMARY

Judge Black’s administration of this matter constitutes an exercise of the most egregious violations of the Code of Judicial Conduct. His personal conduct throughout these proceedings demonstrates a level of arrogance and lack of integrity unworthy of a judge in this Commonwealth.

Canon 3.A.(4), Pennsylvania Code of Judicial Conduct states:

A judge should accord to every person who is legally interested in a proceeding, or his lawyer, full right to be heard according to law, and, except as authorized by law, must not consider ex parte communications concerning a pending procedure.

During pre-trial, trial, and post-trial proceedings, Judge Black unlawfully denied affiant access to specific court records.

Judge Black's conduct throughout the support proceeding demonstrates a predisposition for an outcome favorable to plaintiff (mother). His egregious violations of law or statute, his failure to protect my constitutional rights, and his disregard of case law all evidence an ingrained and rampant bias and prejudice against one party (father). His selective weighing of evidence, adept admission/exclusion of evidence, disregard of competent testimony, accepting facts not in evidence, misapplication of the support guidelines exceeds any definition of plain judicial error. Collectively, these acts evidence a corruption of the judicial process.

In conducting a hearing under a cloud of the appearance of impropriety and susceptibility to prejudice, and in authoring an opinion rife with misrepresentation, Judge Black exposes the prejudice and bias of the court.

Judge Black exhibits an inability or unwillingness to apply the law with fairness and impartiality, violating Canons 1., 2., and 3 of the Pennsylvania Code of Judicial Conduct.

Affiant avers that the audio tapes of hearings in this family court are criminally altered. Affiant contends that Judge Black is aware of the alteration of the records, and acted to thwart my lawyer's pursuit of justice and to cover-up the crime(s).

The alteration of court records constitutes a criminal act that undermines the integrity of the judicial system. This criminal act is so despicable as to demand a full and independent investigation to determine where and by whom the crime(s) is(are) committed.

Arguably, the act of undermining the integrity of the judicial system is a greater threat to the preservation of the American form of government than the heinous acts of terrorism inflicted against our Nation on September 11, 2001. The actions by this court compare with judicial acts perpetrated by judges in the Third Reich more than 60 years ago. Such blatant disregard of the rule of law must not be tolerated.

Judge Black's malfeasance and misfeasance of office violates the Constitutional rights of me, my wife, and our children. His conduct in this matter undermines the protections provided by federal and state Constitutions and state rule of court, and is repugnant to any person with respect for the rule of law. His conduct rises to the level of impeachable offenses.

This legislature has a duty to investigate the charges herein, and if found to be true, to bring an indictment for the impeachment of Judge Black before the Senate of Pennsylvania.

FURTHER AFFIANT SAYETH NAUGHT.

s/

Affiant – Farouk Z. Hamoui