

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 10-031

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Complainant: No. 0308110340A

Judge: No. 0308110340B

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**ORDER**

The judge self-reported that he inadvertently delayed ruling on a matter taken under advisement. The commission dismissed the complaint pursuant to Rule 16(a) with a comment reminding the judge of his obligation to dispose of all judicial matters promptly.

Dated: April 27, 2010.

FOR THE COMMISSION

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J. William Brammer, Jr.  
Commission Chair

Copies of this order were mailed to the complainant and the judge on April 27, 2010.

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

2010-031

FEB 05 2010

TELEPHONE



## Arizona Superior Court

YAVAPAI COUNTY COURTHOUSE  
120 SOUTH CORTEZ STREET,  
PRESCOTT, ARIZONA 86301  
February 3, 2010

State of Arizona Commission on Judicial Conduct  
Attention: Mr. Keith Stott  
1501 West Washington Street, Suite 229  
Phoenix, Arizona 85007

Dear Mr. Stott:

It is with great embarrassment that I believe I must report myself for apparently failing to rule within sixty days in a matter in Yavapai County Superior Court case number CR 2008-*State of Arizona v.*

This is a case that has had many motions and has a trial currently scheduled to commence on May 4, 2010. On November 18, 2009, the parties submitted evidence and the court heard oral argument on Defendant's motion to suppress evidence in a *Franks* hearing. I, as the judge, wanted to review the legal precedents cited and took the matter under advisement. I authored a ruling the week before Christmas and I thought that I delivered the ruling to my relatively new judicial assistant. The following week I was away from the office. There is no record to which I can now point that demonstrates that I delivered the ruling to my judicial assistant. Nor would I ever want to blame a staff member or the clerk of court's office when it was and is my sole responsibility to ensure the rulings are filed timely. I do not blame anyone other than myself. I quickly checked the docket on the AJACS system. The official court record reflected in the computer system does not show a ruling on this matter issued in December.

However, please allow me to place some context on the issue in an effort to assure you that this problem will not be repeated. In my division, my judicial assistant tracks the matters under advisement and this particular matter never made it to the tracking sheets. I have no good explanation why. My JA now knows from our discussions the importance of that procedure and the reliance I need to place on that procedure. In Yavapai County until recently we would also receive from Court Administration a monthly report of the cases which they believed were under advisement derived from the clerk's computer entries. Unfortunately, the employee in court administration who handled this advisory resigned in November. The computer system changed in late September, but I do not know if that had any impact on issuance of that advisory report.

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State of Arizona Commission on Judicial Conduct  
Letter: February 3, 2010

Thus the last notification for under advisement matters I show as having been received occurred on November 4, 2009 before this particular matter was taken under advisement. I have only four matters under advisement currently, all from late January. Three only deal with release modification issues.

But as I said before, I recognize that the timely filing of rulings is solely my responsibility. And on this occasion I failed to meet that obligation. I will also advise you that, in good faith and in my ignorance of the lack of issuance of the particular ruling, I signed my "60-day" affidavit indicating that I had no cases under advisement for which rulings had not been made, effective for February, 2010 paychecks to be issued. While that is now true, I was obviously mistaken at the time in that assertion.

I learned of the absence of a timely-filed ruling when my judicial assistant received an inquiry from Mr. John Sears, one of the defense attorneys, indicating that he was still awaiting a ruling on the motion to suppress. The inquiry was made by Mr. Sears on Monday, February 1, 2010. After ascertaining that the docket did not have an entry reflecting my December draft ruling, the ruling was filed with the clerk of court the same day and mailed to the attorneys.

I believed that the judicial canons as well as honesty and candor required my prompt notification of the issue to the Commission.

I regret that my actions may have placed an unnecessary and additional burden on you and the Commission. I was and remain very much embarrassed by this and hope that it does not reflect badly on my fellow judges and the judicial system. I personally thanked Mr. Sears for bringing the matter to my attention and I apologized for my delay any discomfort that it may have caused him to raise the issue with me.

Please advise in the event that you need additional information.

Sincerely,