

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 12-282

Complainant: Voluntary report

Judge: Fred Peterson

ORDER

Justice of the Peace Fred Peterson voluntarily reported that he delayed cases and back-dated rulings.

After reviewing the judge's voluntary report communication and conducting a related investigation, the Commission finds that Judge Peterson violated the Code of Judicial Conduct. Specifically, by issuing delayed rulings and then backdating those orders in order so that the rulings would not appear so delayed, Judge Peterson violated Rules 1.2 and 2.5(A). The judge's actions substantially and negatively impacted his staff.

Accordingly, Judge Fred Peterson is hereby reprimanded for his conduct as described above and pursuant to Commission Rule 17(a). The record of this case, consisting of the judge's voluntary report and this order, shall be made public as required by Rule 9(a).

The Commission commends Judge Peterson for his actions in taking steps to ensure against future delayed rulings and demonstrating remorse for his conduct both through his voluntary report and in his interactions with his staff.

Dated: December 4, 2012.

FOR THE COMMISSION

Louis Frank Dominguez
Commission Chair

Copies of this order were mailed to the complainant and the judges on December 4, 2012.

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

Riemer, George

From: Peterson, Fred
Sent: Monday, July 30, 2012 11:38 PM
To: Ruechel, Michala; Riemer, George
Cc: Hunt, Yvonne; Willis, Kimberly; Widmaier, David
Subject: I'm sorry

Dear Mr. Riemer and Honorable Judge Ruechel,

I am very sorry to report that some of my recent actions and inactions have put my Civil Clerk and my Lead Clerk in a very difficult situation, and I want to apologize and seek forgiveness. I had been dealing with a very challenging personal matter that had extended over a long period of time, and it resulted in several delays on my part, keeping a large number of files on my desk which required my attention. My failure to fulfill my duties in these matters have caused a great deal of stress to many, and I am very sorry. I am greatly relieved that the personal issue is now resolving.

I have had an excessive number of files on my desk. On a daily basis, and as my caseload allowed, I went through them, selecting the most urgent matters for rulings, leaving the less serious issues for a later time, due to a heavy calendar. Two misdemeanor files (State vs. Roselli, CR20120164MI and State vs. McManus, CR20120164MI) went over the sixty-day requirement before I ruled on them. This has never happened to me before. Both cases involved defense petitions to set aside convictions after guilty pleas at arraignment, and for which the prosecutor had opposed their being set aside. The prosecutor indicated verbally to me that the only reason he opposed this action was because the petitions to set aside were filed so soon after arraignment. I told the prosecutor that, although there was no requirement for a defendant to wait longer than to fulfill the sentencing requirements, I would hold the files for sixty days and then review them again with him at that time. That prosecutor was then assigned to another Court, and, due to that and the many files that I had on my desk at that time, I forgot about them and failed to set them aside until sixty-five days had passed. This has been a very bad experience for me, and in the future I will not delay, but will rule on these applications when they come in, regardless. I feel very embarrassed that this occurred and I realize that I may have brought harm to these defendants as a result. I will not do it again. I was thinking I had to set a hearing, but when I was finally able to look it up, I saw that I could just rule.

During this same time period, I was also needing to rule on some civil cases (Calvary Portfolio vs. Kevin and Rosie Walker, CV20080172RA, a garnishment; Capital One vs. Laurie Letner, CV20110109RA, a summary judgment; Capital One vs. Ladwanne Bryant, CV20110341RA, a default judgment; and Midland Funding vs. Brooke Samuelson, CV20120029RA, a default judgment) which I backdated, not for purposes of the sixty-day requirement, as only 30 to 35 days had expired, but because I had finally had a large enough block of time to allow me to work on the many files I still had on my desk, and that that was when I had hoped to rule on them. (A two-and-a-half-day jury trial, State vs. Breedlove, was continued at the last minute and freed me up. It was the first time in three or four weeks where I had had enough of a block of time to tackle these many files, and I was very eager to do so.) But I was also very surprised at how much time had elapsed, and in one other case (Capital One vs. Haven Romney, CV20110155RA, a summary judgment), I am very embarrassed that sixty-four days had passed. With the exception of what has been noted above in the two misdemeanor cases, this has never happened to me before. I am very much aware that such a delay is just the opposite of the term "summary" in a civil proceeding, and I feel very, very bad. I know how much timeliness can mean to litigants, and I am very sorry. In reviewing this file now, I feel sure that I had held it back to allow myself the time necessary to check for the plaintiff's compliance for summary judgment, and without realizing it, thought it was on the same calendar as the other cases I was then working. I was wrong, and I will not let that happen again. I will always check the date, and, if necessary, will tape a due date on the front of every file. I will also make time daily to assure that I never allow such a build-up of cases again, and I will never date anything other than the date I am working on it.

Worse yet, I have damaged the good will of my clerks and have caused delays for them and for you both, and for Judge Widmaier, the Presiding Justice of the Peace. I have spoken with everyone about this with complete honesty so far as I am aware, and with sorrow. I realize that a major fault exists on my part just in the large number of files my Lead Clerk is having to process all at once by my letting them build up. Although this is a very busy Court, I will not let a delay and build up of that magnitude occur again. I will daily, or near daily, move the files that come to me as they come. (It is possible that my Lead Clerk may find other errors on my part in the next few days. If so, I will report them to you at once. I have reviewed those files again today, though, and I do not note any.)

At the time I was giving the civil files to my clerk, while noting the back-dates to her, I was so happy about finally getting caught up. I began joking with her as a result, and totally thought she was only joking back when she said that litigant(s) had called. Although we have worked that out, I was wrong - even though she was joking, and I feel very, very bad. It will not happen again. I will never date a file differently than the date of my ruling. My intentions were, thoughtlessly, in regard to case flow, and the time frame within which I would have normally ruled. Thirty to thirty-five days is an enlarged time, but it still would have been right to have dated them when it was happening, and it was wrong for me to do otherwise. I was feeling a great deal of relief from the last of the files, as well as the resolution to the personal challenges I had been facing, something that has never happened to me before, and I completely erred. I am so sorry to everyone affected by this. No one will ever have to think about this happening again so far as I am concerned. I feel so bad.

On the topic of the delay on the judicial complaint I had received, that delay came for the same reasons I have noted above. I was just so very grateful to be given the added time, and to be able to get it off before the Judicial Conference, which I enjoyed immensely. I don't think I have ever made a response to a complaint that I haven't thought of other things later on, and have added them in, if only to my own edification. I hope that that did not contribute to these issues now at hand, although I was certainly feeling pressured to get it sent off at such a time.

I do have a respectful request, which I hope will be granted. As I indicated today when speaking by phone with Judge Ruechel, I feel that it would be very helpful for all of us at this Court to have an Operational Review. We have had them before, and they have helped us. I feel that it would help us re-frame, and to get the very best comments about the way we handle our files and the way we do our work. I do hope that that is a real possibility for us.

Please let me know if you would like any further information in this regard or if there is anything else expected of me. I am very sorry this happened, and I will do everything in my power to correct it in any way possible. I do not offer any of this information as an excuse, only to explain my willingness to do as I am asked, and to accept the direction and help you may give.

Sincerely, Hon. Fred L. Peterson, Snowflake Justice Court