

Administrative Office of the Courts



INVESTIGATION SUMMARY, DETERMINATION, PROBABLE CAUSE REVIEW, AND RECOMMENDATION REPORT

Complaint No. 23-C003

Certificate No. [REDACTED]

11/28/2023

Certification and Licensing Division

**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
INVESTIGATION SUMMARY, DETERMINATION, PROBABLE
CAUSE REVIEW, AND RECOMMENDATION REPORT**

<i>CERTIFICATE HOLDER INFORMATION</i>	Certificate Holder: Crystal Hereford Certificate Number: [REDACTED] Business Name: N/A License Number: N/A Type of Certificate: Certified Court Reporter
<i>COMPLAINANT</i>	Name: Timothy Geiger
<i>INVESTIGATION INFORMATION</i>	Complaint Number: 23-C003 Investigators: Sarah Penttinen Janelle Bauserman
Complaint Received:	07/25/2023
Complaint Forwarded to the Certificate Holder:	08/18/2023
Certificate Holder Received Complaint:	08/18/2023
Response From Certificate Holder:	10/03/2023
Period of Active Certification:	08/28/2014
Status of Certification:	Active
Availability of Certificate Holder:	Available
Availability of Complainant:	Available
Report Date:	11/28/2023

ALLEGATIONS:

- 1) Crystal Hereford failed to timely submit one transcript involving case numbers CR2010-007882-001 and CR-23-0113-AP.

DIVISION'S ALLEGATIONS:

None.

List of sources for obtaining information: (Investigative, records, outside resources, etc.):

- Written complaint submitted by Timothy Geiger ("Geiger"), Capital Case Staff Attorney, Arizona Supreme Court
- Written response and documentation submitted by certificate holder Crystal Hereford ("Hereford").

- Review of applicable filings in Maricopa County Superior Court case number CR-007882-001.
- Review of applicable filings in Appellate Court case number CR-23-0113-AP.
- Review of applicable Certification and Licensing Division (“Division”) records.
- Review of applicable sections of Arizona Codes of Judicial Administration (“ACJA”) § 7-201 and § 7-202, and Arizona Supreme Court Rules, and Arizona Rules of Criminal Procedure (“Az. R. Crim. P”).

PERSONS INTERVIEWED:

Gina Armstrong, Clerk of the Courts Office, Arizona Supreme Court

SUMMARY OF INVESTIGATION:

On July 25, 2023, the Division received a complaint via inter-office mail from Geiger. The complaint involved a July 25, 2023, letter from Geiger to Hereford. In his letter, Geiger informed Hereford that she failed to timely file one transcription in Maricopa County Superior Court case number CR2010-007882-001, (Arizona Supreme Court case number CR-23-0113-AP) despite Geiger’s multiple requests for the transcript.

On August 18, 2023, the Division forwarded the complaint to Hereford via certified mail and email, notifying her that a complaint had been received against her certification. A copy of Geiger’s July 25, 2023, letter was included. On September 14, 2023, Hereford responded to the complaint in which she acknowledged that she did not timely file the required transcript but did file the transcript on July 29, 2023.

Division staff confirmed the court’s receipt of the transcript on July 29, 2023, which indicates it was fifty-nine (59) days overdue.

INVESTIGATION:

Complaint information and response from Hereford

In his July 25, 2023, complaint/letter provided to the Division, Geiger informed Hereford that he had sent multiple email requests for her to file a required transcript in the above-noted case for a November 15, 2018, hearing, for which Hereford was the reporter. Geiger noted that the requests were emailed to Hereford on May 2, 2023, June 7, 2023, and July 5, 2023. Geiger indicated that per the Maricopa County Superior Court’s notification to court reporters sent to Hereford on April 25, 2023, the filing due date for the transcript was June 1, 2023. Geiger advised Hereford that the transcript was “problematically past due” and must be filed with the court by August 7, 2023, to avoid formal action by the court, including the issuance of an order to show cause.

In her September 14, 2023, response to the complaint, Hereford told the Division that on July 29, 2023, she discovered Geiger's email chain requesting the transcript. She explained that Geiger's May, June, and July emails had been routed to her "junk" email folder. Hereford stated that upon discovering Geiger's request on July 29, 2023, she immediately uploaded the transcript directly to AZTurboCourt, the Supreme Court's electronic case filing program, and emailed a copy to Geiger. Hereford included a copy of the email she sent to Geiger, which shows her response was not to Geiger's July 25, 2023 email but rather a chain containing only his June 7, 2023, and May 2, 2023 emails. Attached to Geiger's May 2, 2023 email, was the Superior Court's April 25, 2023, notification to court reporters for transcripts due.

In her response, Hereford stated, "The transcript had been completed years earlier and had been filed previously via TurboCourt as part of an appeal." Hereford said she did not know the date of the original filing. Hereford also noted that "the completed transcript was available via the backup files all court reporters are required to upload onto Maricopa County Superior Court servers upon separation of employment and could have been obtained through the Court Reporting Department of [Maricopa County Superior Court]." Finally, Hereford stated she was never contacted on this matter by phone or US Mail "as an alternative to email."

Division staff followed up with Hereford, via email, asking her to clarify the following: 1) how often she receives "dot gov" emails and how often they have gone to her "junk" email folder; 2) what her practice has been for checking the Arizona Supreme Court Clerk's Office's Case Transcripts Due Index on the court's website; and 3) what measures she has taken to prevent future similar incidents.

In her emailed response, Hereford stated she left employment with the Maricopa County Superior Court in November 2019 and has received progressively fewer "dot gov" emails to the point that now it is a rare occurrence. Regarding "junk" emails, she said, "I have had issues with my email randomly deciding what is junk just generally, as I think most people experience." Regarding checking the Case Transcripts Due Index page, Hereford said she formerly checked it a couple of times a week following her departure from the court, but "as the four years have passed, the transcript requests have dwindled, and my checking of the page has become less and less frequent." She stated over the last two years, her practice has been to check that web page once or twice a month. Lastly, Hereford admitted she made an error by not checking the Supreme Court tab on the Case Transcripts Due Index page. She stated that since this complaint was filed, she has been checking that page more frequently and going to the specific Supreme Court tab. She also said she has researched online to find ways to control better what items go to junk email, albeit without success.

Supreme Court Clerk of the Court

Division staff spoke with Gina Armstrong ("Armstrong") from the Supreme Court Clerk's Office to confirm receipt of the transcript. Armstrong confirmed the transcript was received on July 29, 2023, and there are no outstanding issues with Hereford at this time. Division staff questioned Armstrong about the court's policies regarding communication with court

reporters. Armstrong said she is unaware of any formal policy but explained that because court reporter activities are completed electronically, the court's usual procedure is to contact court reporters via email only. She said that telephone calls or regular US Mail are not generally utilized even when there is a lack of response. Armstrong added that the court reporters are aware of the Case Transcripts Due page on the Supreme Court's website to view what transcripts may be required from them should they not receive an email request.

Court docket(s) information

Division staff reviewed all Superior Court docket information for the involved court case. That information confirmed it is an appeal of a capital case, and the Notice of Appeal was filed with the court on April 18, 2023. A Notification of Notice of Appeal was filed on April 25, 2023. The transcript for the November 15, 2018, Status Conference transcribed by Hereford appears on the list of required transcripts. The Notification shows Hereford was copied on the notice. The due date for the court reporters to provide the necessary transcripts to the appellate court was June 1, 2023. A Designation of Record for Appeal was filed on May 18, 2023. Hereford again appeared on the list of court reporters required to submit transcripts. The filing shows a copy was mailed to Hereford on May 18, 2023.

Division staff also reviewed the Appellate Court docket for the involved case and confirmed that Hereford filed the transcript in question on July 29, 2023. Hereford's filing was the final transcript provided to the court, and on August 8, 2023, the Clerk of the Court determined the record on appeal was complete in the matter. There is no indication in either the Superior Court or Supreme Court dockets that Hereford's untimely filing of the transcript caused a substantive delay in those proceedings.

ANALYSIS OF ALLEGATIONS:

Allegation 1: Crystal Hereford failed to timely submit one transcript involving case numbers CR2010-007882-001 and CR-23-0113-AP.

As a certified reporter, Hereford is compelled to comply with the obligations as required by law, court rules, and all applicable sections of ACJA §7-201 and §7-206, as well as Arizona Rules of Criminal Procedure §31.8(c)(4).

ACJA §7-201:

(F) Role and Responsibilities of Certificate Holders. 1. Code of Conduct. Each individual certificate holder shall adhere to the code of conduct or standards of conduct, subsection (J) in the applicable section of the ACJA.

ACJA §7-201(H)(6)(a) and (k)(7):

(6) Grounds for Discipline. A certificate holder is subject to disciplinary action if the board finds the certificate holder has engaged in one or more of the following:

(a): Failed to perform any duty to discharge any obligation in the course of the certificate holder's responsibilities as required by law, court rules, this section or the applicable section of the ACJA.

(k): Engaged in unprofessional conduct, including:

(7): Failed in the performance of any responsibility or duty of the profession or occupation to use the degree of care, skill and proficiency commonly exercised by the ordinary skillful, careful and prudent professional certificate holder engaged in similar practice under the same or similar conditions regardless of any level of harm or injury to the client or a customer.

ACJA §7-206(J)(1)(a):

(J) Code of Conduct. The following code of conduct is adopted by the Supreme Court to apply to all certified reporters pursuant to Title 32, Chapter 40, Arizona Revised Statutes. The purpose of this code of conduct is to establish minimum standards for performance by certified reporters and registered reporting firms.

(1) Ethics

(a) A certified reporter and registered reporting firm shall avoid impropriety and the appearance of impropriety in all professional activities, shall respect and comply with the laws and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judicial system.

ACJA §7-206(J)(4)(c):

(4) Skills and Practice

(c) A certified reporter shall provide a transcript to a client or court in a timely manner. The certified reporter shall meet promised delivery dates and make timely delivery of transcripts when no date is specified. A certified reporter shall meet transcript preparation deadlines in accordance with rules, statutes, court orders, or agreements with the parties. A certified reporter shall provide immediate notification of delays.

Arizona Rules of Criminal Procedure § 31.8(c)(4):

The authorized transcriber must prepare the certified transcript promptly upon receiving a notice of appeal either:

(A) by the State; or

(B) by the defendant if the notice indicates that the defendant was represented by appointed counsel when found guilty or when sentenced.

Court records show notifications were sent to Hereford by the Superior Court on April 25, 2023, and May 18, 2023, requiring her to submit her transcription of the November 15, 2018, proceeding in case number CR2010-007882-001 to the Arizona Supreme Court. The April 25, 2023, notice provided a due date of June 1, 2023. A notice for Hereford's transcript was placed on the Arizona Supreme Court's Court Reporter Transcripts Due List, which court reporters must routinely check. After not receiving the transcript, the complainant emailed Hereford on four separate occasions in May, June, and July, requesting she comply with the court's April 25, 2023, notice. On July 29, 2023, Hereford filed the required transcript with the Supreme Court and forwarded a copy to the complainant. The transcript, due June 1, 2023, was fifty-nine (59) days overdue.

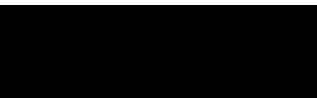
The Division found evidence that Hereford failed to timely submit one transcript involving case numbers CR2010-007882-001 and CR-23-0113-AP.

Allegation 1 is substantiated.

DISCIPLINARY HISTORY:

None.

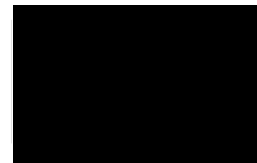
SUBMITTED BY:



Janelle Bauserman
Certification and Licensing Division

Date: 11/28/2023

REVIEWED BY:



Aaron Nash, Division Director
Certification and Licensing Division

11/28/2023
Date

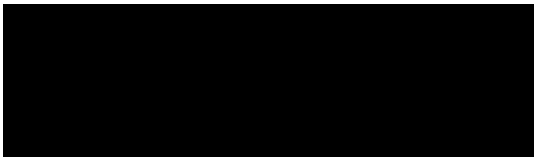
DECISION OF THE PROBABLE CAUSE EVALUATOR:

Having conducted an independent review of the facts and evidence gathered during the course of the investigation of complaint number **23-C003**, the Probable Cause Evaluator:

- ☐ requests division staff to investigate further.
- ☐ determines probable cause does not exist the certificate holder has committed the alleged acts of misconduct as to Allegation(s):

☒ determines probable cause exists the license holder committed the alleged acts of misconduct as to Allegation(s):

_____ Allegation 1: _____



11/28/2023
Marcus Reinkensmeyer
Probable Cause Evaluator

Date

**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
ORDER OF THE BOARD**

***CERTIFICATE
HOLDER
INFORMATION***

Certificate Holder: Crystal Hereford
Certification Number: [REDACTED]
Business Name: N/A
License Number: N/A
Type of Certificate: Certified
Court Reporter

**RECOMMENDATION TO THE BOARD OF CERTIFIED REPORTERS
("BOARD"):**

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Crystal Hereford has committed the alleged act(s) of misconduct as detailed in the Investigation Summary, Determination, Probable Cause Review, and Recommendation Report in complaint number **23-C003**.

It is further recommended the Board enter a finding grounds for informal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a) for act(s) of misconduct involving ACJA §7-201(H)(6)(k)(7); ACJA §7-206(J)(1)(a); ACJA §7-206(J)(4)(c); Arizona Rules of Criminal Procedure § 31.8(c)(4).

It is further recommended the Board direct the Division to issue a Letter of Concern.

SUBMITTED BY:

[REDACTED]

Aaron Nash , Division Director
Certification and Licensing Division

11/28/2023

Date

DECISION AND ORDER:

The Board having reviewed the above Investigation Summary, Determination, Probable Cause Review, and Recommendation Report, regarding complaint number **23-C003** and **Crystal Hereford** certificate number [REDACTED] makes a finding of facts and this decision, based on the facts, evidence, and analysis as presented and enters the following order:

- ☐ requests division staff to investigate further.
- ☐ refers the complaint to another entity with jurisdiction.

Referral to: _____

- ☐ dismisses the complaint against _____, under ACJA §7-201(D)(5)(c)(1)(f)(iii):

- ☐ with prejudice
- ☐ without prejudice

and

- ☐ requests division staff prepare a notice of dismissal under ACJA § 7-201(H)(5)(c)(1).
- ☐ requests division staff prepare a notice of dismissal and an Advisory Letter pursuant to ACJA § 7-201(H)(5)(c)(2).

☒ determines grounds for discipline exist demonstrating the certificate holder, [REDACTED] committed the alleged act(s) of misconduct and:

☒ enter a finding the alleged act(s) of misconduct or violation(s) be resolved through informal discipline, pursuant to ACJA § 7-201(H)(7) and issue a Letter of Concern.

- ☐ enter a finding the alleged act(s) of misconduct or violation(s) be resolved through formal disciplinary proceeding, pursuant to ACJA § 7-201(H)(9).

☐ requests the license holder appear before the Board to participate in a Formal Interview, pursuant to ACJA § 7-201(H)(8).

☐ orders the filing of Notice of Formal Charges, pursuant to ACJA § 7-201(H)(10).

☐ enters a finding the public health, safety or welfare is at risk, requires emergency action, and orders the immediate emergency suspension of the license and sets an expedited hearing for:

Date, Time, and Location: _____

☒ adopts the recommendations of the Division Director.

☐ does not adopt the recommendations of the Division Director and orders:



Carolyn Sullivan, Chair
Board of Certified Reporters

12-7-23
Date