

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 06-155

Complainant: No. 1242010319A

Judge: No. 1242010319B

ORDER

A review of the complaint filed in this matter reveals that there was no misconduct on the part of the judge. The court had signed transport orders to bring the complainant to court, but due to actions of other agencies outside the court, the complainant was held in Texas. The complainant is represented by counsel, who is trying to have him transported. There is no evidence that the judge intentionally delayed in making any rulings or contributed to the complainant's plight.

The complaint is dismissed pursuant to Rule 16(a).

Dated: June 20, 2006.

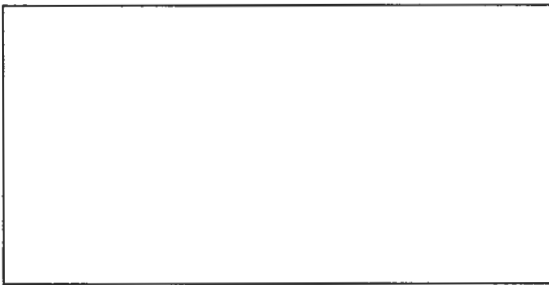
FOR THE COMMISSION

/s/ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on June 20, 2006.

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

JUN 05 2006



COMMISSION ON JUDICIAL CONDUCT
1501 W. WASHINGTON ST. SUITE 229
PHOENIX, AZ 85007

30 MAY 2006



Dear Mr. E. Keith Stott, Jr. or Predecessor

This case was filed against judge [redacted] and was closed according to your letter of [redacted]. Your letter stated judge [redacted] conduct did not violate the Code of Judicial Conduct. But, "she was however, reminded that Canon 3B(8) requires a ~~judge~~ ^{judge} to dispose of all cases promptly and that judges have an obligation to avoid even the appearance of impropriety in their judicial conduct."

Currently, I am temporarily housed in a privately owned detention facility [redacted] due to an alleged shortage of bed space in Arizona prisons, and as such the proper complaint form is unavailable at this time.

The original complaint listed [redacted] as attorneys of record. [redacted] was replaced by Judge [redacted] for failing to file Defendant's Rule 32 Petition for post-conviction relief on [redacted]. [redacted] was appointed as attorney

of record at that time.

[redacted] and his associates [redacted] [redacted] asked for and were granted extensions of time totalling 353 days till the Rule 32 was filed on [redacted]. The time for filing was stayed by Judge [redacted] on [redacted] "until counsel has been provided with the missing transcripts and pleadings." [redacted] notified the court that he was satisfied with the status of disclosure on [redacted] the time for filing the Rule 32 began totalling again at this time. Status Conference of [redacted] [redacted] asked for one more status conference and states they will be filing petitions. Status Conference of [redacted] [redacted] indicates he has learned the Defendant has been moved to the state of [redacted] and asks for time to locate an address for him." This was in essence a request for extension of time. The judge was unaware that the Defendant notified [redacted] of his address by letter dated [redacted] and [redacted] responded to Defendant's letter one week before the status conference on [redacted]. The court ordered another status conference for [redacted] at the status conference [redacted] stated he will file a petition within 45 days. Judge [redacted] set the deadline for filing the Rule 32 on [redacted]. On [redacted] [redacted] requested an extension of time to file the Rule 32 petition for a period of 60 days, pursuant to Rule 8 of the Arizona Rules of Criminal procedure. Rule 8 of ARCP is for criminal prosecution and speedy trial. To my knowledge this motion was never rule upon. On [redacted] [redacted] again requested an extension of time for 60 days. Here again, to my knowledge this

motion was never ruled upon. This Motion was also submitted pursuant to Rule 8, ARCP.

On [redacted] ~~addressed~~ Motions the Court, Request for expert fees. [redacted] addressed this issue on [redacted]. The Court ruled granting expert fees at a separate time on [redacted] [redacted] by Motion "Supplemental Brief in Support of Request for Expert fees". This Motion while poorly written was asking the court for permission to file a supplemental brief in support of the Rule 32 petition that was filed on [redacted]. To my knowledge the court never ruled on this motion.

The state requested "Motion for extension of time to file the Rule 32 petition", while awaiting a copy of the supplemental petition of the defense. Request for 30 days, submitted on [redacted]. The court granted a 60 day extension of time on [redacted]. A.R. 5.13-4236 is explicit that the prosecution may be granted a 30 day extension of time to file a response. Additional extensions shall be granted only upon a showing of extra ordinary circumstances. The state requested an additional extension of time for 45 days on [redacted] while awaiting defense counsels submission of supplemental brief. It should be noted the supplemental brief was never filed. The state filed the response on [redacted].

Counsel for the Defendant did not file a Reply brief.

I have not been notified if Judge [redacted] after reviewing the records identified any of the issues that were precluded under the law. I can only conclude, all issues, as submitted in the

Rule 32 petition were found to be colorable.

On [redacted] Judge [redacted] set a hearing for the Rule 32 to be heard on [redacted] with instructions. Defendant is to be present and Defense counsel was directed to prepare a Writ for the Court's signature. [redacted] submitted a Writ of Habeas Corpus Ad Prosequendum on [redacted]. This Writ was not only untimely as the Defendant is two states away, but it is a Writ reserved for the prosecution. Additionally, [redacted] submitted a Motion to the court for a two and a half month continuance of the evidentiary hearing. Pursuant to Rule 8 ARCP, Rule 8 has nothing to do with a Rule 32 evidentiary hearing. This Motion is dated as being submitted on [redacted] but was not handed/mailed till [redacted], the same day as the hearing was scheduled for. The reasons for this continuance, "Counsel did not have the proper paperwork to have defendant transported", and "that was the sheriff of [redacted] and the Department of Corrections have two months to have defendant ready for the hearing." Evidently Judge [redacted] granted this motion as I've not had the hearing as of this date. The reasons as set forth are not valid.

I don't know if the proper Writ has been submitted to the court as I've not received a copy nor have I received an Order granting the continuance.

I contacted the Clerk of [redacted] Superior Court by letter dated [redacted]. The Clerk responded on [redacted] stating if I would pay for the requested copies of the documentation they would be sent. I sent the Clerk another letter dated [redacted], explaining I was the Defendant in the case and my attorney

was not sending the requested information and asked for a status on the evidentiary hearing which was scheduled for [redacted]. Judge [redacted] interceded and Ordered on [redacted], "The court has reviewed letters from Defendant dated [redacted] [redacted]. The court refers these matters to counsel as Defendant is represented." To date, I've not been updated by counsel and have no idea when the hearing is scheduled for.

There appears to be a question of subject matter jurisdiction in my case. I was transferred out of state involuntarily and without judicial authorization, usurping a valid commitment Order. A Writ of ad subjiciendum is a simple process for an experienced attorney, unless the court lacks subject matter jurisdiction. If that is the case, Judge [redacted] has violated no laws, rules or regulations, other than wasting precious resources by hearing and ruling on issues without jurisdiction. On the other hand if [redacted] County Superior Court maintains subject matter jurisdiction then Judge [redacted] and Counsel for Defendant stands in violation of the Due Process clause of the 14th Amendment, Arizona's Constitution and laws governing appellate processes, not to mention the canons of judicial/ethical conduct.

Any documents in my control are available upon request.

The forementioned is true and factual to the best of my knowledge.

Sincerely,

[redacted]

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