

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 06-252

Complainant: No. 0308110453A

Judge: No. 0308110453B

ORDER

The commission reviewed the complaint and dismissed the case because of the judge's prompt action when the problem was brought to her attention. The judge was reminded to rule on matters on a timely basis. The case is closed pursuant to Rules 16(a) and 23(a).

Dated: 21, 2006.

FOR THE COMMISSION

/s/ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on November 21, 2006.

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

MEMORANDUM

CJC-06-252

To: Keith Stott
Judicial Conduct Commission

SEP 26 2006

From:

Date: September 26, 2006

Re: Self-Report of 60-day Violation

I have what I thought was an effective Rule 32 tracking system, but it has proved to be fallible. A petition for post-conviction relief was filed in Superior Court, on March 7, 2005. It was recorded on the form we use to track these cases, and I did some initial work on it. The response should have been filed and a decision made in late April. The state did not respond; however, our procedures should have brought the case to my desk for decision even in the absence of a response. In addition to our system by which we keep a record of all activity in our Rule 32 cases, I personally go through these files by hand approximately quarterly, and my law clerk checks the logs and files as well. I did not recognize that this file required attention at the time the response time had expired or for many months thereafter. I do not know why this is so, although the departure of the law clerk familiar with the matter shortly after the response due date may have contributed, since my law clerks record and monitor Rule 32 pleadings when they come in. There has been no inquiry by either party. My current law clerk discovered the problem in the course of a normal review of the files, and the order was completed and filed on September 20, 2006. Needless to say, I have substantially exceeded both the 60 day rule and the time for orders in Rule 32 cases. I am instituting a procedure for review of these files on stated dates to ensure this cannot happen again.

It should be noted that the delay in this case had no impact on the petitioner. The petition was a third request for post-petition relief, raising issues which, with one exception, were precluded from consideration. The exception was a Blakely claim that factors aggravating petitioner's sentence had been determined by the court rather than by a jury. Petitioner's sentence had been final for several years when Blakely was decided. For this reason, among others, he was not entitled to relief on Blakely grounds. In short, no relief could have been granted in any case.