

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 06-276

Complainant: No. 0308110574A

Judge: No. 0308110574B

ORDER

The commission reviewed the complaint and dismissed the case because of the judge's prompt action when the problem was brought to his 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: February 16, 2007

FOR THE COMMISSION

/s/ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on February 16, 2007.

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

October 26, 2006

CJC-06-276

E. Keith Stott, Jr., Executive Director
State of Arizona Commission on Judicial Conduct
1501 West Washington Street, Suite 229
Phoenix, AZ 85007

Re: Tardy rulings on motions pending for more than sixty (60) days

Dear Mr. Stott:

Regretfully, I report my recently discovered oversight that resulted in my failure to timely rule on pending motions in the referenced matter. Canon 3.C. of the Arizona Code of Judicial Conduct.

The referenced case was assigned to me while my Division Pro Tem A ("PTA") was seated in the [redacted] I timely rendered an under advisement ruling on [redacted] My Division was reassigned to the [redacted] Judicial District on [redacted] On [redacted] the case was reassigned to [redacted] Judicial District. On [redacted] [redacted] referred the case to PTA until entry of the Decree of Dissolution of Marriage. On [redacted] I granted a request to retain the case in Division PTA. I subsequently failed to track the file and the pending motions.

The oversights described below came to my attention upon receipt of a Response to Request for Rulings on Outstanding Motions and Requests, filed on [redacted] which was brought to my attention on [redacted] In reviewing the file for the "Outstanding Motions and Requests," the following motions/requests were discovered in the file to have been pending for more than sixty (60) days:

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1. Pending motions with rulings due [redacted]
 - Notice of Lodging (by Petitioner)
 - Objection to Proposed Form of Decree of Dissolution of Marriage . . .
 - Reply to Objection to Lodged Form of Decree of Dissolution of Marriage
 - Motion for Reconsideration of Under Advisement Ruling Entered [redacted]
 - Motion for Reconsideration of Under Advisement Ruling Entered [redacted]
 - Second Issue: Child Support
 - Request Pursuant to Rule 35(D) for Notice from Court to File Response to Respondent's Second Motion for Reconsideration

2. [redacted] - Respondent's Request for Supplemental Rulings
 - [redacted] - Petitioner's Response to Request for Supplemental Rulings
 - [redacted] - Reply
 - Ruling due [redacted]

3. [redacted] - Notice of Lodging of Form of Decree and Motion for Entry
 - [redacted] - Motion to Strike and Objection to Respondent's Lodged Form of Decree
 - [redacted] - Response to Motion to Strike and Objection
 - [redacted] - No reply
 - Ruling due [redacted]

After discovering the Response to Request for Rulings on Outstanding Motions and Requests, filed on [redacted] and subsequently the foregoing documents in the file, I ruled on Respondent's Objection to Lodged Form of Decree, Petitioner's Motion to Strike and Objection to Respondent's Lodged Form of Decree, and Petitioner's Request Pursuant to Rule 35(D) for Notice from Court to File Response to Respondent's Second Motion for Reconsideration on [redacted]. I also provided the parties notice that Petitioner was provided 15 days to file responses to Respondent's Motion for Reconsideration of Under Advisement Ruling Entered [redacted] and Motion for Reconsideration of Under Advisement Ruling Entered [redacted] Second Issue: Child Support. On that same date, the judicial assistant for Division PTA scheduled a telephonic conference for me with the attorneys in the case for [redacted] for me to explain the oversight and to address Respondent's Request for Supplemental Rulings. At that conference, I informed the parties that I deemed Respondent's Request for Supplemental Rulings to be a third motion for reconsideration and notified the parties notice that Petitioner was provided 15 days to file a response to Respondent's Request for Supplemental Rulings.

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Division PTA's judicial assistant calendars matters that I have under advisement and "at issue" electronically, but this file was overlooked incident to the relocation of my Division and reassignment of cases, repeated reassignments of the referenced case, and confusion with which Division was assigned to the case when the referenced motions were filed and placed in the case file without being calendared for ruling.

Until now, my Division had been calendaring due dates for responses and replies prior to pending motions becoming "at issue" by the judicial assistant maintaining the motions and responses in a tickle folder at the judicial assistant work station. I have discovered that occasionally, motions were inadvertently placed into the court files without the knowledge of my judicial assistant and without being tickled for response deadlines, reply deadlines, and ruling deadlines.

To remedy this problem, Division personnel have begun to review every case assigned to Division PTA to determine whether any case file contains pending motions that have not been calendared. I am also expanding the electronic tickle system in my Division to include response deadlines and reply deadlines to insure that all motions are calendared electronically for timely ruling even if a motion is inadvertently removed from the tickle folder and replaced in the case file prior to my ruling. I believe the problem will be remedied by these changes in the calendaring process.

Please bring this matter to the State of Arizona Commission on Judicial Conduct, allow me to provide you any additional information requested, and advise me of any action needed to be taken.

Sincerely,

[Redacted Signature]

[Redacted Address]