

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 07-115

Complainant: No. 0308110355A

Judge: No. 0308110355B

ORDER

The Commission on Judicial Conduct reviewed a self-reported incident where a judge delayed ruling on a request for attorney's fees for over two years. The judge reported the problem immediately and indicated that an affidavit for fees was in the file, but she had overlooked it.

The commission found that neither party filed a request for a ruling during the two-year period, that the judge immediately ruled on the motion when she discovered the error, that the judge had not been disciplined for delay in the past, and that she implemented procedures to prevent this type of error in the future. Accordingly, the Commission voted to dismiss the complaint and resolve the matter privately pursuant to Rules 16(a) and 23(a).

Dated: July 11, 2007.

FOR THE COMMISSION

/s/ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on July 11, 2007.

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

April 24, 2007

CJC - 07 - 115

Keith Stott, Executive Director
Commission on Judicial Conduct
Administrative Offices of the Court
Arizona Supreme Court
1501 W. Washington, Ste 229
Phoenix, Arizona 85007

RE:

Dear Mr. Stott,

I set forth below a chronology of pleadings and orders I am self-reporting to the Commission on Judicial Conduct regarding the issue of whether I complied with the 60-day rule set forth in Article 6 §21 of the Arizona Constitution in the above cause number.

On by minute entry order filed with the Clerk of the Court on I issued a ruling after evidentiary hearings held on an Order to Show Cause Petition for Contempt re: Support and Related Issues, Petitioner's Response, and Respondent's Motion re: Spousal Support. I awarded Respondent wife her "reasonable attorney's fees and costs regarding the issues of spousal maintenance and medical, vision, and dental insurance." I further stated: "The actual amount of attorney's fees and costs are to be determined after submission of Respondent's memorandum of Law and Petitioner's response. Respondent's memorandum shall be submitted within 30 days of the filing of this minute entry." I then waived Rule 58(d) requirements and signed the minute entry as a formal order of the Court.

On Respondent wife filed an Expedited Motion for Reconsideration and Affidavit of in Support of Application for Attorney's Fees.

On (dated stamped in error by the Clerk of Court as Petitioner husband filed a Motion for Reconsideration; Motion for Relief from Order; Response to Respondent's Expedited Motion for Reconsideration.

On [] Respondent filed a Motion for Expedited Ruling. CJC-07-115

On [] I signed an Order re Motion for Accelerated Ruling which denied Respondent's Motion for Accelerated Ruling.

On [] Respondent wife filed Respondent's Acknowledgment of Petitioner's Motion for Reconsideration and Motion for Relief from Order.

On [] I issued a ruling by minute entry filed [] which considered the [] Expedited Motion for Reconsideration and Affidavit of [] the [] Motion for Reconsideration, Motion for Relief from Order and Response to Expedited Motion for Reconsideration. I denied both Motions for Reconsideration. Then I stated: "Counsel for Petitioner shall delineate those attorney's fees incurred for the issues of spousal maintenance and insurance only in an amended affidavit to be filed within 30 days of this order." My minute entry contained a typographical error in that Respondent, not Petitioner, should have been the party from whom an amended affidavit of fees and costs would be forthcoming.

On [] Petitioner husband filed a Motion to Clarify as to whom should be filing for attorney's fees.

On [] the legal file shows that an Affidavit of [] in Support of Application for Attorney's Fees was filed. I do not believe that I received this document. However, it is referenced in the next pleading filed by Respondent and I am listed on the mailing page of the affidavit.

On [] Respondent filed Respondent's Response to Motion to Clarify Minute Entry dated [] This pleading does reference the [] Affidavit of [] but I apparently missed the reference when I reviewed the pleading.

On [] I ruled on the Motion to Clarify and Response by ordering that counsel for Respondent "shall prepare the amended affidavit regarding attorney's fees incurred for the issues of spousal maintenance and insurance only as stated in the [] minute entry."

I received no other pleadings or forms of the order or judgment, and none are in the legal file, until a Motion for Ruling re: Affidavit of [] in Support of Affidavit for Attorney fees was filed [] and forwarded to me. I received that motion on [] The Motion had attached as exhibit B a form of the Judgment for signature. I issued a minute entry on [] (filed [] by the Clerk of the Court) setting forth an objection and reply schedule for the form of the judgment attached. No objection was received or reflected as lodged in the computer system, and I signed a Form of the Judgment as amended by me on [] A minute entry has been issued on the judgment signed.

I am self referring this matter because final resolution of the issue of attorney's fees ordered back on [] did not occur until Judgment was signed on [] After careful review of the legal file, I see that my [] Order requesting an amended affidavit for attorney's fees does not acknowledge the

[redacted] affidavit for attorney's fees filed. I do not believe that I received the [redacted] Affidavit of [redacted]. All pleadings received are noted in the computer by my JA. No notation was made reflecting receipt of the [redacted] affidavit. However, upon close re-examination of the pleadings, I should have been aware that the [redacted] affidavit existed as it is referenced in the [redacted] Response to the Motion to Clarify. I did not catch that reference and its significance in my [redacted] ruling. As I did not thereafter receive an "amended affidavit" as ordered, the issue of attorney's fees remained unresolved until the Motion of [redacted] was filed by Respondent's counsel.

I sincerely apologize for the long delay regarding resolution of the issue of attorney's fees experienced by the parties. The delay was unintentional on my part. I have reviewed my office procedures and discussed this problem with my staff. As a result, I have changed our calendaring procedure. My office will now calendar due dates for counsels' attorney's fees affidavits for follow up if not received.

I appreciate your attention to this matter. I can deliver copies of all the pleadings, minute entries, and orders referenced in my correspondence if you would find them helpful to your review. I am available at your convenience for any additional information you may need.

Sincerely,

[redacted signature box]