

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 08-268

Complainant: No. 0308110714A

Judge: No. 0308110714B

ORDER

The Commission on Judicial Conduct reviewed a self-reported incident involving delay, and found no misconduct on the part of the judge. Although a motion was ruled on after the applicable time limits had expired, the cause of the delay was a procedural problem within the court that the judge has since corrected.

The complaint is dismissed pursuant to Rules 16(a) and 23(a).

Dated: December 12, 2008

FOR THE COMMISSION

\s\ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on December 12, 2008.

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

CJC - 08 - 268

OCT 31 2008

October 29, 2008

Commission on Judicial Conduct
1501 West Washington
Phoenix, Arizona 85007

Re: Violation of the 60-day Rule

Dear Commissioners:

I write this letter to self-disclose an inadvertent violation of the 60-day rule. The facts are as follows.

I held a temporary orders hearing
This is a high-conflict paternity case involving the parents
I conducted an in camera interview of one child after the hearing, and took
the issue of temporary orders under advisement pending an interview of the second child
A full evidentiary hearing was scheduled

The interview took place and, , I e-mailed the text of my ruling to the clerk assigned to our chambers, with a copy of the e-mail to my judicial assistant. This is our normal practice for anything but the most routine rulings. Typically, within a day or two the clerk brings me a draft minute entry containing my e-mailed text, which I edit and return to her for filing.

While preparing for the evidentiary hearing, I reviewed the prior minute entries and discovered that my temporary orders ruling was not there. From what I can discern, two things went wrong. First, my e-mail apparently did not reach my clerk. I don't know why that is, but she has searched her records and has no record of my e-mail.

Second, the floater clerk who handled the hearing did not place the matter on the “under advisement” list. I understand that it is the clerk’s office policy -- and I know it is the practice of my clerk, who is excellent -- to always put a case on the “under advisement” list whenever I take a matter under advisement following a hearing. This is our safety net, and it was not in place here.

At the hearing, I informed the parties what had happened and apologized.

I and my staff pride ourselves on issuing timely rulings, especially on temporary orders. It upsets me greatly to know that these people did not have the benefit of a temporary order that, I thought, would ease some of the conflict for the children.

We have taken steps to prevent this problem from recurring. First, my courtroom clerk and I have discussed the importance of making sure any substantive matter I hear is put on the “under advisement” list to ensure that rulings are timely issued. Second, I have asked the Clerk’s office to emphasize this same point with the floater clerks that are assigned to me from time to time.

Please contact me if there are questions, or if there are further steps I need to take.