

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 09-210

Complainant: No. 0308110819A

Judge: No. 0308110819B

ORDER

The Commission on Judicial Conduct reviewed a self-reported incident involving delay and found that although the judge ruled after the applicable time limit, he immediately resolved the situation, took affirmative steps to prevent future delays, and reported the matter to the commission. Pursuant to Rules 16(a) and 23(a), the complaint was dismissed with a comment reminding the judge of his obligation to rule on matters promptly.

Dated: December 2, 2009

FOR THE COMMISSION

\s\ Keith Stott

J. William Brammer, Jr.
Commission Chair

Copies of this order were mailed to the complainant and the judge on December 2, 2009.

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

JUDGE

PHOENIX, ARIZONA

August 11, 2009

AUG 14 2009

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

Dear Mr. Stott:

I write to advise you and the Commission of an issue that just came to my attention.

I sign the Judicial Certification each pay period noting that to the best of my belief, I had no ruling pending for more than sixty days. I am contacting you and the Commission to make you aware of the inadvertent discrepancy between my regularly signed Judicial Certification and what occurred in the following matter.

Background

I recently discovered a case in which I took the issue of attorney fees under advisement on April 21, 2009. All other issues were resolved by the April 21, 2009 minute entry. On July 28, 2009, it came to my attention that I had not ruled on the attorney fees issue when one of the parties inquired about the status of my ruling on attorney fees.

When I looked into this issue, I found that the under advisement regarding attorney fees had been overlooked and was not docketed. I remedied the matter by directing the clerk assigned to my Division to docket the under advisement regarding attorney fees, ruling on the attorney fees issue the same day that I learned of the oversight, and directing the clerk assigned to my Division to finalize the minute entry with the ruling that day. However, July 28, 2009 was 97 days after I took the issue of attorney fees under advisement.

Under Advisement Tracking Systems

When I took the bench a few months ago, I put the following systems in place to avoid such an oversight:

SUPERIOR COURT

CJC 09-210

PHONE

JUDGE

PHOENIX, ARIZONA

- I keep track of matters that are under advisement on the hearing calendars, marking the calendars and retaining them until there are no pending matters, either under advisement matters or minute entries. It appears that I did not log the attorney fees issue as under advisement because I long ago discarded the calendar from April 21, 2009.
- The clerk assigned to my Division logs the matters that I take under advisement and tracks them.
- My Judicial Assistant logs my rulings to ensure that pending motions, petitions, and "under advisement" matters are not overlooked.

I believed that my Division had the necessary safeguards against delay. I developed the above system after talking with experienced judges and staff. Nonetheless, despite my best efforts and honest belief to the contrary, I did have a matter pending for more than 60 days.

Under Advisement Tracking Systems

In light the above incident, I have added two new levels of tracking:

- When my Judicial Assistant logs the minute entries and rulings, she reviews them for any notation that an issue is under advisement. If she finds any issue that is under advisement, she circles the words "under advisement" in red and she gives me the minute entry to ensure that I resolve it.
- I have always reviewed and approved every minute entry. Now, when I review the minute entries, I review them for any notation that an issue is under advisement. If I find any issue that is under advisement, I check to be sure that the hearing calendar that I use to track pending matters, either under advisement or minute entries, to ensure that it is correctly noted.

I take my oath and responsibilities seriously. I, therefore, stand ready to address this issue as you deem appropriate.

Thank you for your time and consideration. Please contact me at your convenience.

Sincerely,