

State of Arizona  
COMMISSION ON JUDICIAL CONDUCT

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Disposition of Complaint 09-289

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Complainant: No. 0308100144A

Judge: No. 0308100144B

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**ORDER**

The commission reviewed the complaint and decided that there was no misconduct on the part of the judge. The commission dismissed the complaint and reminded the judge of his obligation to dispose of all judicial matters promptly.

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

Dated: January 15, 2010.

FOR THE COMMISSION

\s\ Keith Stott  
Executive Director

Copies of this order were mailed to the complainant and the judge on January 15, 2010.

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



CJC 09-289

**SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR MARICOPA COUNTY**

OCT 22 2009

Office: (602)  
Fax: (602)

October 19, 2009

Mr. E. Keith Stott, Jr.  
Executive Director  
Arizona Judicial Conduct Commission  
1501 W. Jefferson, Suite 229  
Phoenix, AZ 85007-3222

Dear Mr. Stott,

I hope that you are well.

I write to self-report a possible violation of the Judicial Code of Conduct. I currently serve as the judge who oversees

\_\_\_\_\_ is responsible for processing all petitions for  
\_\_\_\_\_ Arizona Rules of  
Criminal Procedure. \_\_\_\_\_ is staffed with four people, including a lawyer, and is  
overseen by a deputy court administrator.

I am the judge responsible for monitoring the \_\_\_\_\_ functioning, answering questions  
about \_\_\_\_\_ issues, issuing minute entries to secure transcripts and assigning each  
to the appropriate judicial officer for resolution. I returned from vacation on Monday,  
October 19, 2009, to learn that the \_\_\_\_\_ had not timely processed over \_\_\_\_\_ or  
\_\_\_\_\_ -related documents. Because I am ultimately responsible for the functioning of the  
\_\_\_\_\_, I may have violated Rule 2.12 of the 2009 Judicial Code of Conduct by not  
exercising proper management oversight of the \_\_\_\_\_

As noted above, the \_\_\_\_\_ processes all \_\_\_\_\_ filed with the Maricopa County Superior  
Court. All judicial officers have been instructed to forward any \_\_\_\_\_ -related  
pleading that they may receive to the \_\_\_\_\_. All judicial officers have been instructed not  
to take any action on any \_\_\_\_\_ -related pleadings until after the \_\_\_\_\_ is assigned

to them by me. and related pleadings are also sent directly to the by lawyers and self-represented defendants. The orders all necessary transcripts, assembles any response and reply and then I assign the to the judicial officer who sentenced the defendant. The Unit's lawyer also will often prepare a draft ruling for the assigned judicial officer on those that are not timely filed. Once the is ready for ruling, the package of pleadings and any draft ruling is delivered to the assigned judicial officer. After the is assigned to a judicial officer, Rule 32.6(c), Arizona Rules of Criminal Procedure, gives that judicial officer twenty days to review the petition and, if necessary, set a hearing within thirty days.

Until the is assigned by me, no judicial officer has management responsibility over any In most cases, the judicial officer who eventually is assigned to handle the does not know until the package is delivered to his or her chambers that a has been filed. Even if the was initially sent to a judicial officer, that judicial officer may not be the one who ultimately is assigned to handle the because more than one judicial officer may have been involved in the case. For example, it is not uncommon for one judicial officer to accept a plea or conduct a trial and then place the defendant on probation. If that defendant violates his or her probation, the probation violation is handled by one of the Commissioners in the Probation Violation Center. If that defendant is sentenced to prison or reinstated to probation and then files a that is assigned to that Probation Violation Center Commissioner, not the judicial officer who initially placed the defendant on probation. Rule 32.4(e), Arizona Rules of Criminal Procedure, requires that the be assigned to the sentencing judicial officer if he or she is still with the court. We have applied that rule to mean the judicial officer who last sentenced the defendant. If the judicial officer who sentenced the defendant is no longer with the court, the assignment is made on a rotating basis to one of the criminal department judges.

Because of the failure to timely process these I know that some defendants have filed judicial conduct complaints against judicial officers. As stated above, prior to assignment of the to a judicial officer, I am the one responsible for management of the through the Unit. If the complaint relates to a pre-assignment delay in the processing of the the complaint should be dismissed as to any judicial officer other than me. As noted above, prior to my assigning a to a judicial officer, it is likely that the judicial officer was not aware that a had been filed. Should the Judicial Conduct Commission decide that it is appropriate to pursue a formal complaint and sanctions as a result of the delay in processing with the that action should be against only me and not any other judicial officer.

We are conducting a review of our practices for managing and investigating why the were not timely processed and why I was not informed in my monthly staff

meetings of this backlog. I can assure you and the Judicial Conduct Commission that steps are being taken to remedy the situation.

If the Commission needs any additional information, I will provide it to you.

Sincerely,

cc: Hon. Barbara R. Mundell  
Presiding Judge