

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 11-117

Complainant: No. 0308110851A

Judge: No. 0308110851B

ORDER

A superior court judge voluntarily reported that he inadvertently delayed ruling on a matter six days beyond the 60-day deadline because a substitute clerk had not placed the issue on his "under advisement report." The commission decided to dismiss the complaint with a private comment reminding the judge of his obligation to comply with statutory and constitutional time limits on resolving pending matters. The complaint is dismissed pursuant to Rules 16(a) and 23(a).

Dated: May 31, 2011.

FOR THE COMMISSION

/s/ Louis Dominguez

Louis Frank Dominguez
Commission Chair

Copies of this order were mailed to the complainant and the judge on May 31, 2011.

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

April 18, 2011

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

APR 21 2011

RE: Self Report of Inadvertent Violation of 60-day Ruling Requirement

Dear Mr. Stott:

I am writing to advise you and the members of the Commission that I recently discovered that I inadvertently failed to rule on a submitted matter within the sixty days required by Arizona Constitution Article VI, section 21. *See also, Wustrack v. Clark*, 18 Ariz.App. 407, 408-09, 502 P.2d 1085-86 (1972). I immediately instituted remedial measures to ensure no such future error occurs. The relevant facts are as follows.

Factual Background

On Friday, January 21, 2011, I conducted an evidentiary hearing in cause number FN 2010- . On that day, my regular clerk was replaced by a substitute clerk assigned to my courtroom for the day by the Maricopa County Superior Court Clerk's Office. At the conclusion of the hearing, I took the matter under advisement, making the matter due to be ruled on by Tuesday, March 22, 2011. On Wednesday, March 23, 2011, the attorneys involved contacted my division inquiring about the ruling, which I had not yet issued.

An immediate review of the Under Advisement Report generated by the Maricopa County Superior Court Clerk's Office did not show the matter as pending in my division. The substitute clerk had failed to put the matter on the Under Advisement Report, which is why I did not realize the matter remained pending for my ruling. Complicating matters, the substitute clerk inexplicably sent

the exhibits downtown, rather than placing them in the exhibits closet in my SEF courtroom. This necessitated a request for the exhibits to be sent back to Mesa in order to make a factually and legally supported ruling. As soon as I received the exhibits, I reviewed the evidence and relevant law, and drafted a ruling. I filed the minute entry order on Monday, March 28, 2011, six calendar days past the due date.

Remedial Measures

Upon filing the minute entry, I promptly set up a telephonic conference with the attorneys in this matter. During the conference, I apologized to the attorneys and their clients and explained why I had not ruled on the matter in a timely fashion. I further told the attorneys that I had implemented remedial measures to ensure no such further oversight, and, additionally, that I intended to self-report the incident to this Commission.

To eliminate the danger of a matter being under advisement in excess of the requirements of the Arizona Constitution by a docketing failure, it is now calendared in my division that *every* Friday, I receive an updated Under Advisement Report from the Clerk's Office. I then personally review the UA Report and match each matter listed on the report with the actual physical files in my chambers to confirm the matters that remain pending under advisement.

I take the issue of delay seriously, and generally file matters pending under advisement in my division well ahead of the 60-day deadline. I will make every effort to ensure that a lapse of this nature never happens again. Please feel free to contact me should you have any questions or concerns regarding this matter.

Sincerely,