

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 11-235

Complainant: No. 0308110937A

Judge: No. 0308110937B

ORDER

A superior court judge voluntarily reported that he delayed ruling on a motion.

The responsibility of the Commission on Judicial Conduct is to impartially determine if the judge engaged in conduct that violated the provisions of Article 6.1 of the Arizona Constitution or the Code of Judicial Conduct and, if so, to take appropriate disciplinary action. The purpose and authority of the commission is limited to this mission.

After review, the commission decided to dismiss this matter with a private advisory letter to the judge. The complaint is dismissed pursuant to Rules 16(b) and 23(a).

Dated: December 20, 2011.

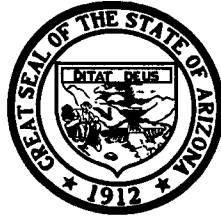
FOR THE COMMISSION

/s/ Louis Dominguez

Louis Frank Dominguez
Commission Chair

Copies of this order were mailed to the complainant and the judge on December 20, 2011.

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



SEP 19 2011

SUPERIOR COURT OF ARIZONA

IN MARICOPA COUNTY
Central Court Building, Courtroom 501
201 West Jefferson Street
Phoenix, Arizona 85003-2243

September 14, 2011

George A. Riemer, Executive Director
Commission on Judicial Conduct
1501 West Washington Street, Suite 229
Phoenix, AZ 85007

Re: FN2009-

Dear Director Riemer:

This letter is to inform the Commission that I failed to issue a ruling in the above referenced dissolution case in the required sixty days. Ariz. Const. art. VI, § 21.

A trial was held on October 26, 2010. Subsequent to trial, the parties filed post-trial memoranda. Petitioner filed November 9, 2010, and Respondent filed a response on November 16, 2010. These filings raised additional issues not addressed at the trial. The Court issued a Minute Entry dated December 27, 2010 seeking clarification and additional information. The parties submitted additional pleadings. Petitioner filed on January 14, 2011; Respondent filed on February 17, 2011.

For reasons unknown to me, this matter was not set on the Under Advisement calendar. No further communication occurred between the parties and the court. This matter remained undecided.

Recently, the parties contacted the court telephonically and advised that the case remained undecided. A written 60 day notice dated September 2, 2011 followed. Local Rule 2.10(c). I requested that staff re-create the working file – the original Division file could not be located – and staff searched for my handwritten notes from the trial. Additionally, I requested that a copy of the FTR recording be obtained. Within days, I reviewed the pleadings of record, my trial notes, and the FTR recording of the three hour trial. I also requested the exhibits admitted at trial. The exhibits were archived and had to be brought over to the courthouse. I received the exhibits on September 6, 2011. I reviewed all of the material and prepared the draft decree. That decree was issued on September 7, 2011, and filed on September 9, 2011.

I am unable to explain why this case was left undecided past the required sixty days. Nevertheless it is ultimately my responsibility to insure that cases are decided in the time required. This case was not, and I did not meet my responsibility.

Further, during the pendency of this undecided case, I signed four certifications to the Supreme Court for the months of May 2011, June 2011, July 2011, and August 2011, stating that there were no matters pending more than sixty days old. At the time I signed these certifications, I was unaware that this matter was pending.

I rendered a decision in this matter within one day of receiving all of the material needed for a final determination.

Additional Issues Impacting the Administrative Process

My Division, newly formed in June 2010, has experienced turnover in the courtroom deputy clerk's position and with court staff. Starting in October 2010, we began experiencing difficulty in managing the courtroom calendar and tracking cases.

In January 2011, I requested that staff receive additional training. Staff did receive five sessions of additional training by the Judicial Assistant Trainer. Despite the additional training, the administration of the court's calendar continued to falter. The difficulties related to administration either exposed or heightened personnel issues within the judicial staff. As a result, my bailiff resigned to take a job in the private sector. I requested assistance and was provided a temporary Judicial Assistant trained bailiff to help remediate the administrative difficulties.

Working with the Judicial Assistant Trainer, it was discovered that few of the corrective actions required had been accomplished. As a result, I decided that further personnel action was required and offered my then Judicial Assistant the option to resign or be terminated.

Additionally, there has been significant turnover in the position of courtroom deputy clerk.¹ During my tenure, this Division has experienced a high number of temporarily assigned courtroom deputy clerks. The turnover and temporary assignments made tracking cases more difficult than usual. I believe that turnover in the position of courtroom deputy clerk, coupled with the staff personnel issues, contributed to a loss of oversight of the pending cases.

¹ The first deputy clerk assigned went on medical leave as a result of heart surgery shortly after the Division started. The second deputy clerk was relieved by the Clerk of the Court's Office because of misconduct. The third deputy left because of the personality clashes occurring with my previous staff. The current deputy, while relatively new to the Clerk of the Court's Office, is considered one of best family court clerks. Further, the current deputy clerk joined this Division at about the same time as the new Judicial Assistant and Bailiff.

Corrective Action

Since the new staff has been in place, we have established appropriate protocols to follow cases taken under advisement and other open court action items. The deputy courtroom clerk notes the action items in the Minute Entry and in her notes. The deputy clerk reviews the action items with the Division's Judicial Assistant. The deputy courtroom clerk provides me with a weekly calendar update of under advisement matters.

Independent of the deputy courtroom clerk, Division staff monitors the calendar by coordinating with the courtroom deputy clerk daily upon completion of the daily calendar. The Judicial Assistant tracks the under advisement cases and open items. Further, the Judicial Assistant and the bailiff use a note system in iCIS as well as a tickler system to follow-up on open items such as court ordered submissions, requests for additional information such as Affidavits of Financial Information, proposed Findings of Fact and Conclusions of Law, Closing Arguments, and similar requests that would prompt subsequent court review and impact the issuance of court decisions. Under advisement cases are placed in folders maintained in my office in a dedicated cabinet and are reviewed weekly by staff and me. Judicial staff also monitors iCIS for any open items at least once per week.

It is anticipated that this corrective process will avoid a repeat of the problems that resulted in the above referenced case languishing without review for more than sixty days.

Sincerely,