

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 17-185

Judge:

Complainant:

ORDER

A superior court judge self-reported a delayed ruling.

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 found no evidence of ethical misconduct and concluded that the judge did not violate the Code in this case. The commission approved sending the judge an advisory letter advising him to review Formal Advisory Ethics Opinion 06-02 and to implement procedures to avoid similar delays in the future so as not to violate Rule 2.5(A) of the Code. The Commission's file in the matter was closed, pursuant to Rules 16(b) and 23(a).

Commission member Louis Frank Dominguez did not participate in the consideration of this matter.

Dated: September 21, 2017

FOR THE COMMISSION

/s/ Peter J. Eckerstrom
Hon. Peter J. Eckerstrom
Commission Vice-chair

Copies of this order were distributed to all appropriate persons on September 21, 2017.

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

Commission on Judicial Conduct
1501 West Washington Street, Suite 229
Phoenix, AZ 85007

2017-185

Re: Self-Reporting of Ruling beyond 60 Day Period

Commissioners:

I write to report that I inadvertently failed to rule on a [redacted] within sixty days as required by A.R.S. § 12-128.01. Consequently, I filed two certifications that incorrectly stated that "no cause has been submitted to me for decision which remains pending and undetermined for sixty days or more since the date of submission for decision." One certification was filed electronically [redacted] on [redacted]. The other was submitted to [redacted] on [redacted]. At the time I filed both certifications, I incorrectly believed them to be true.

At a [redacted] I stated that I would take the matter under advisement upon receipt of written closing argument briefs. See attached exhibit for specific details regarding this case including the names of the parties. The final closing argument brief was filed [redacted]. Consequently, I should have ruled on the matter before [redacted]. Unfortunately, the matter was incorrectly calendared for decision by [redacted]. This was due to a misunderstanding by staff and by my failure to adequately train and supervise staff to ensure the prompt disposition of the matter. See Rule 2.12, Arizona Code of Judicial Conduct. In particular, had I looked more closely at my list of matters taken under advisement, I would have noticed that the deadline for decision was calendared incorrectly.

I discovered the error on [redacted] when I reviewed the file to prepare an order that I mistakenly thought was due by [redacted]. I was able to issue the order on the matter on the following day, [redacted].

As a result of this error, I have reviewed the requirements of A.R.S. § 12-128.01 with staff to ensure that there is no longer any misunderstanding. I have modified court procedures in my division for tracking under advisement matters to provide that my under advisement list is provided to me for review with all proposed A.R.S. § 12-128.01 certification forms so that I review the list and check for errors each time I sign the certification form. I have also sent statements electronically to the [redacted] and to [redacted] explaining that I filed certifications on [redacted] and [redacted] that were incorrect. I have attached this letter to those statements. Finally, I am providing a copy of this letter to the Presiding Judge in my county.

Sincerely,