

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 17-249

Judge:

Complainant:

ORDER

A superior court judge self-reported a delayed ruling in a criminal case.

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 Rule 2.5(A) of the Code, as well as Formal Advisory Ethics Opinion 06-02, and to implement procedures to avoid similar delays in the future. The Commission's file in the matter was closed, pursuant to Rules 16(b) and 23(a).

Commission members Roger D. Barton, Peter J. Eckerstrom, Art Hinshaw and Diane M. Johnsen did not participate in the consideration of this matter.

Dated: November 13, 2017

FOR THE COMMISSION

/s/ Louis Frank Dominguez
Hon. Louis Frank Dominguez
Commission Chair

Copies of this order were distributed to all appropriate persons on November 13, 2017.

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

Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
Phoenix, Arizona 85007

Dear Sir or Madam:

This letter serves as my self-reporting disclosure that I inadvertently failed to issue a ruling within the 60 day time limit in a _____ I am

The following circumstances relate to this delay:

- On _____ the defendant filed a *Motion to Modify Probation Terms and Request to Waive Defendant's Appearance At Any Hearing Set*.
- On _____ the State's filed its *Response to Motion to Modify Probation Terms*, dated _____
- No Reply was filed.
- On _____ my _____ discovered that these motions inadvertently had been paper clipped to the files for another case in the file drawer.
- On _____ a hearing was scheduled on the Motion within _____ (the earliest date that the attorneys could appear in court). A copy of the minute entry is attached.

I would offer three additional considerations about this delay:

1. Since I began serving as _____, this is the first time I have missed the 60 day deadline.

2. I have determined that the Defendant was not incarcerated any longer than she would have been had she prevailed on her Motion and had this ruling occurred within the 60-day window. The Defendant was serving a _____ sentence in the _____. She was released on _____. The Defendant had requested that this hearing not occur while she was in the _____ because she feared losing her job. The sentencing judge (_____) ordered that her term of probation, and _____ would begin once Defendant's period of _____ concludes. That will occur _____ from now. Thus, the hearing on Defendant's Motion will occur well before _____.

3. I have directed my _____ to go through the "tickle file" of pending cases and motions to do two things: (a) to double check that papers from one case have not been attached, inadvertently, to the papers from other cases; and (b) to replace all regular paper clips with binder clips that better protect papers from one case being inadvertently attached to the papers from another case.

If you have any questions or desire follow-up concerning this disclosure, please do not hesitate to contact me.

Best regards,