

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 22-144 and 22-179

Judge:

Complainant:

ORDER

A superior court judge self-reported two instances of delayed rulings.

The role of the Commission on Judicial Conduct is to impartially determine whether a judicial officer has engaged in conduct that violates the Arizona Code of Judicial Conduct or Article 6.1 of the Arizona Constitution. There must be clear and convincing evidence of such a violation in order for the Commission to take disciplinary action against a judicial officer.

After review, the Commission found that in two separate guardianship matters the judge issued substantially delayed rulings. The judge's conduct violated Rules 1.1 and 2.5(A) of the Code of Judicial Conduct, along with Art. 2, §11, and Art. 6, § 21 of the Arizona Constitution. Respondent's conduct also violated §12-128.01, A.R.S., relating to payroll and certifications of compliance. The Scope Section of the Code provides that not every transgression will result in the imposition of discipline. The Commission decided, after considering all the facts and circumstances, to dismiss the Complaints pursuant to Commission Rules 16(b) and 23(a), but to issue a warning letter to the judicial officer reminding of the obligation to issue timely rulings.

Commission members Denise K. Aguilar, Roger D. Barton, Colleen E. Concannon, and Delia R. Neal did not participate in the consideration of this matter.

Dated: September 19, 2022

FOR THE COMMISSION

/s/ Louis Frank Dominguez

Hon. Louis Frank Dominguez
Commission Chair

Copies of this order were distributed to all appropriate persons on September 19, 2022.

From:

Sent:

To:

Subject: Self-Report Delay in Ruling

My name is . I am a Judge in County. I am writing to self-report my delay in addressing an in a case and related instances of signing payroll certifications required pursuant to *A.R.S. § 12-128.01* inaccurately stating there was no matter pending before me that was undetermined sixty days after it had been submitted for decision. The delay and the signing of the payroll certifications was not done with the knowledge that this matter was pending over 60 days, but it is nonetheless regrettable and very concerning to me.

The involved case is County Court case the
The specific circumstances are as follows:

1. I held a hearing in this case on , to address a pending . At the hearing, I declined to approve the and ordered the to resubmit an that specifically addressed the issues and concerns discussed at the hearing. I further ordered the or counsel for the to show why there was good cause to continue the in place. I also ordered that the was to be filed by , unless good cause was shown for an extension.
2. The subsequent was held on . Neither counsel for the nor the had filed a petition to before the hearing. The was not formally filed before the hearing; however, based on the discussions during the hearing, it appears I had received a copy of the I . The circumstances indicate it is likely that the was sent directly to my Judicial Assistant and that I received it before the hearing. I noted at the hearing that I had only done a preliminary review of the . The Hearing was fairly lengthy (). The , counsel for the and I engaged in extended discussions about issues related to the , possible termination of the , and notice requirements if a was filed. I advised that I would conduct further review of the and another related case before deciding how to proceed. Both the and counsel for the indicated during the hearing that they were contemplating filing a . After an extended and fairly intense discussion about whether the former should receive notice of any , the hearing concluded, and I turned the hard copy of the file over to the courtroom clerk.
3. Due to my inadvertent oversight, I did not state during the hearing that I was taking the under advisement or set any future event in the case such as a hearing or an internal review of the file by the Court to trigger my review of the pending . In the absence of any specific directive from me to do so, neither the courtroom clerk nor any other Clerk's Office staff made provision for review of the file by the Court either. I also did not hold onto the hard copy of the file. Instead, I followed the standard practice of turning it over to the courtroom clerk. I could have insisted on holding onto it to address the pending issue, but apparently it just did not occur to me to do that.

4. Other circumstances contributed to the oversight not being noticed sooner. When the _____ was formally filed on _____, the file for some unknown reason was not referred to the Court for review as would normally occur. Neither counsel for the _____ nor the _____ filed the contemplated _____ or anything else after the hearing.
5. As a consequence of the events and circumstances explained above, I failed to timely address the _____, and the file remained essentially dormant in the Clerk's Office until it was discovered by _____ in _____ files. during a routine administrative review of _____
6. During the time after the _____ hearing, I signed monthly payroll certifications that there was no matter pending before me that was undetermined sixty days after it had been submitted for decision. I did so without recalling that the _____ in this case had not been ruled on or otherwise addressed. It was not done intentionally or knowingly. I genuinely believed I had no matters that had been pending more than 60 days when I signed the certifications. Based on my _____ as I judge, I generally have great faith that I have taken measures to assure that I am aware of any pending matters requiring a decision. In this instance, I failed to do that adequately. As a consequence, the _____ was left unaddressed for far too long, and I signed payroll certifications that were unknowingly inaccurate.

I am disappointed in myself for failing to take any of the standard measures I routinely do to assure that a pending matter is addressed in a timely manner. It has served as a powerful and painful reminder of the need to do so. I would note that I do not recall any other instance like this in my time on the bench.

I have spoken to the courtroom clerks I routinely work with and my Judicial Assistant about this issue to encourage them to let me know if they believe I may not have made adequate provision to review a pending matter that requires further action by me. Based on the lessons learned from this oversight, I am confident I will be more mindful about remembering to take the standard measures I have always taken during my judicial career to make sure pending matters are timely addressed. Those measures have always worked well until my lapse in taking them in this instance.

If you have any questions or require any further information, please let me know and I will do my best to cooperate with your requests.