

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 Re: Unreasonable Delay Due to Misplaced File

My name is . I am a Judge in County. I recently self-reported my unreasonable delay in addressing an in a case that had been submitted to me for review. I am embarrassed to say that I have now identified second instance of what I believe amounts to unreasonable delay in addressing issues related to another . As explained below, the delay is due to the file being misplaced in my office.

The case at issue is County Case # . It involves a of an . The case dates back to and therefore has a lengthy history. The is the . The and the moved out of state circa , and the Court lost contact with them after the move for a few years. Since locating them, the Court has been attempting to gain compliance with requirements and to otherwise appropriately manage the case.

At a hearing on , I ordered the to file for prior for which she had failed to do so. *A.R.S. § 14-5419* specifically requires that an adjudication allowing can occur only after petition, notice and a hearing. I therefore specifically directed her to file a petition for approval of with the . I also ordered her to file proof that the amended order I had issued on , imposing restrictions on the had been recorded in the office of the County where the . I set an internal review of the file for , to confirm compliance with those orders.

On , the filed an for just one of the missing years. She did not file the of that as required by A.R.S. §14-5419. On , the attorney for the filed a response to the filed, noting he had no objection to it. The did not file the for the other year or the required . She has also did not file proof that the had been recorded in the County where the .

Our Court's internal file tracker system indicates the file was brought to my office on . Case files requiring internal review of the file, like this case, are routinely placed in a location in my office, and the file is labeled with a note on top identifying it as requiring an internal review of the file by the judge.

On the same , I hold stacks of key documents, notepads

and exhibits from certain cases when I expect that I will need those materials for review at a later date for an upcoming hearing or other event in the case. The documents and case materials are just essentially stored there until a contested hearing occurs or until the file comes back to me with an issue to be addressed. I was holding a large stack of documents from this case in that location in anticipation of possibly needing them for reference in the future.

Somehow, the file from this case ended up being placed in a different location than it should have been. Instead of being placed with the files requiring internal review by the judge, it was placed under the large stack of documents that I had been keeping for this case. The file was not readily visible because it was under the pile of documents, and there were other stacks of documents from other cases adjacent to it that effectively obscured my view of the file. The file therefore sat there until I discovered it on or about _____, when reviewing the pile of documents to see if I still needed to keep holding them.

When I reviewed the file, it quickly became apparent that I had not conducted the internal review and had therefore not addressed the _____ failure to comply with my orders or with applicable statutory and procedural requirements. The issue was not difficult or complex to address. It just required issuance of a form minute entry I have developed for similar situations with a few additions to it. I issued the minute entry on _____, that again explained the need for filing a _____ of the pending _____. I again ordered the _____ to file the _____ and the _____ of the accounts, and I set the case for a hearing to address the anticipated _____ and to review compliance with my order to provide proof that the _____ had been properly recorded.

I don't recall ever seeing the file, the _____ or the response to it before I stumbled on the file on _____. I don't know how or when the file came to be misplaced under the stack of documents from the case that I had kept for future reference. Although I have no recollection of placing it there and I have no idea why I would place it there, I consider myself to clearly be the prime suspect for being responsible for it. No matter how it got there, I feel I should have reviewed the stack of documents and the electronic version of the file sooner to check on the status of the case and to see if I still needed to be holding on to the pile of case documents.

This incident coupled with the other recent self-report I made, have spurred me to conduct a review and assessment of how my office manages case files sent to my office, including matters under advisement, cases set for internal review of the file and cases referred by our _____ staff for judicial review. As part of that process, I have already had meetings with my Judicial Assistant, the Clerk of the Court (who is also a former Judicial Assistant) and a manager with the Clerk of the Court to talk about case file management and improvements we can make to avoid these types of issues from occurring.

The Clerk's Office has agreed to provide periodic reports from our case management system (_____) that will identify cases set for internal review by me, the date set for the internal review and whether the internal review has been completed. In addition, the Clerk's Office is also working on using our internal file tracker system to provide a regular report of all physical files that are currently in my office, listed by the date they were placed in my office. These reports should be very helpful in assuring that case files sent to my office are not left unaddressed in a timely manner.

In addition, My Judicial Assistant and I have also changed how files requiring my attention are managed when they come to my office. We now use separate file racks for different categories of matters and will arrange the files on the racks in the chronological order in which they were submitted to me for action or review. This should make it readily apparent what matters have been pending the longest. Matters requiring urgent attention will be placed in one location and prominently labeled to assure expedited consideration. I have also changed how I handle case documents and other materials that I am essentially holding onto in expectation of needing them for reference in future proceedings in the case. They will now be kept in a separate location away from the case files in my office that require action. As an additional measure, I had all files in my office and in my Judicial Assistant's Office reviewed to determine how long they have been there and to assure that there are no other files left unattended in a timely manner. My Judicial Assistant and I will now meet monthly to review the above referenced reports regarding pending matters and address any case management issues.

I am confident that the measures I have taken will substantially reduce the likelihood of anything like this happening again. The prior practices I employed to manage my case files during my on the bench had served me adequately in my other assignments. In retrospect, however, those practices were less than optimal to effectively manage the high volume of case files that flow in and out of my office in my current assignment to the bench. This assignment requires me to now handle all matters filed in County. It is a somewhat unique assignment in that it involves a substantial number of cases that stay open for many years and require and monitoring by the court. Some cases can go on for decades. I needed to change how I managed this caseload to meet the demands it presents.

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It can be difficult to change when you have done something one way for a long time. The sting of this incident, however, has caused me to make needed changes in how I manage this assignment. I believe those changes have resulted in substantial improvements to the process I use to better handle the large flow of cases that come in and out of my office. I am confident that they will greatly reduce the risk of similar issues occurring in the future.

If you have any questions or require any further information, please let me know. I'm more than willing to comply with any such request.