

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 22-307

Judge:

Complainant:

ORDER

November 17, 2022

A superior court commissioner self-reported a delayed ruling.

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.

The Commission reviewed all relevant available information and concluded there was not clear and convincing evidence of ethical misconduct in this matter. The complaint is therefore dismissed pursuant to Commission Rules 16(a) and 23(a).

Commission member Barbara Brown did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on November 17, 2022.

From:
Sent:
To:
Subject: Self-Reported Rule 60 Violation

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I am a full-time Commissioner/Judge Pro Tempore with the _____ Court in and for _____ County. I wish to self-report a situation where I did not comply with the 60 day rule even though I recently certified that I have complied with the 60 day rule. The facts are as follows:

On _____, I received an email notifying me of a petition for post-conviction relief from the _____ unit of my court. I did not rule on the petition until today, _____. The 60 days expired on _____. Just yesterday, I filed a 60 day rule certification stating that to my knowledge no matter has been pending for more than 60 days.

Today I received an email from the _____ unit asking whether I had ruled on this _____. I had not, and quickly discovered the email from _____. I reviewed the matter and send my ruling back to the _____ unit today. I just approved the final minute entry and the matter is now resolved.

Although I definitely received the email on _____, I honestly do not recall seeing it. I know this, because it is my custom and practice to rule on all pending motions within 24 hours of the time they are put into my in box. I take the 60-day rule very seriously.

Unlike my other motions, this petition came to me via email. The email was not only sent to me, but also to my judicial assistant. My judicial assistant does receive other motions for me to consider, and many of them are sent by email. When those come in, her practice is to print them for me and put them into my paper in box. Unfortunately, my judicial assistant does not remember seeing this particular _____ email either. She also was unable to find any record that she received the email or the contents (including the minute entry sending the petition to me to review and rule). Finally, my assistant tells me that she has no record of putting a copy of it into my paper in box.

This sentencing took place in _____. I rotated away from that _____ assignment into another _____ assignment after this sentencing, then last _____ I rotated to my current assignment on _____. My judicial assistant is a _____ JA who just joined my division in _____ of this year. Of course, I trained my JA to promptly put all pending motions, proposed forms of judgment, mandates, etc. into my paper in box. She is very diligent and always meets my expectations in this regard. However, when I looked for any indication that I trained my JA on the importance of criminal _____, I don't see that I gave her any training in that area.

I told my JA that this was my failure and mine alone because I had not trained her on the handling of _____ and that they are just as important – if not more important - than my current _____ work. We agreed that she will put a paper copy of at least the first page of any email into my paper in box, then she must follow up with me if she does not result the _____ out within _____ of the time the email comes in. I will also asked my JA to consult with her supervisor to make sure that she has all the information and training needed in the maintenance of time sensitive matters, including but not limited to sixty-day matters, and to report the results of that inquiry to me.

I was honestly not aware that I had not yet ruled on this when I signed the 60-day certification yesterday. The certification before that one was true because the 60 days in this case had not yet expired and did not expire until . But that mitigating fact does not obscure the fact that I signed a 60-day certification that was not true when I signed it.

For these reasons, I take full responsibility for my errors and omissions and will of course submit to any discipline the Commission believes to be appropriate in my case.

Commissioner/Judge Pro Tempore
County

Division Phone No.

Direct Dial: