

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 23-284

Judge:

Complainant:

ORDER

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

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 the judge issued a delayed ruling. 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. The judge's conduct also violated A.R.S. §12-128.01, 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 Complaint 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, and Michael J. Brown did not participate in the consideration of this matter.

Dated: August 30, 2023

FOR THE COMMISSION

/s/ Christopher P. Staring

Hon. Christopher P. Staring
Commission Chair

Copies of this order were distributed to all appropriate persons on August 30, 2023.

From:

Sent:

To: Commission on Judicial Conduct <CommissionJudicialCo@courts.az.gov>

Subject: Self-reporting a 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.

To Whom it May Concern:

I am writing to self-report a violation of the judicial code – specifically by signing the judicial certification pursuant to A.R.S. §12-128.01 that no cause had been submitted to me for decision which remained pending undetermined for sixty days or more since the date of submission for decision.

The defendant in _____ was proceeding *pro-se* on a Petition for Post-Conviction Relief after appointed counsel found no meritorious claims. On _____, he filed a motion to appoint counsel. My division received the request on _____. I recall discussing the motion with my law clerk. I provided her the legal reasons why his motion should be denied and requested she prepare an order denying his request for my signature.

On _____, I was reviewing the Defendant’s on-line court file for an unrelated motion that required a procedural history of the case. During that review, I saw the defendant’s motion to appoint counsel. However, I was not able to find the ruling on that motion in the _____ on-line calendar. This prompted me to talk to my law clerk about the ruling. She indicated that she remembered the motion and looked through her saved documents to find it. My law clerk found no record that it had ever been prepared or submitted for my review and signature. This is the violation that I am reporting as more than 60 days has passed to issue my ruling on the motion for counsel.

Since discovering this error, I issued an order _____, ruling on the motion for counsel. I have also had lengthy discussion with my law clerk attempting to understand how this occurred. Clearly an oversight occurred on both our parts. I fully understand it is entirely my responsibility to ensure that orders are prepared and timely submitted by me. I have also counseled my law clerk on the importance of ensuring that orders are prepared and timely submitted to me.

To prevent this from happening again, my law clerk and I have implemented a new “tickler” system that will address the issue that she forgot and neglected to prepare the order and I forgot that the order needed to be prepared.

I can assure you that at the time I signed each of the judicial certifications indicating nothing was submitted to me for decision was pending for over 60 days, I honestly believed it to be true. I am truly sorry for my error. I have done what I can to address the error as it relates to the aggrieved defendant and to ensure that it will not happen again. If there is any other information you may need to assist you in this matter, I am more than happy to help in that regard.

Respectfully,

Judge

County Superior Court