

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 21-046

Judge:

Complainant:

ORDER

A superior court judge 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.

After review, the Commission found the judge had failed to timely rule on a motion to dismiss. While this was improper under Rules 1.1 and 2.5(A) of the Code of Judicial Conduct, A.R.S. §12-128.01, Article 2, Section 11 of the Arizona Constitution, and Article 6, Section 21 of the Arizona Constitution, 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 him of his obligations to issue rulings in a timely manner.

Commission members Denise K. Aguilar and Joseph C. Kreamer did not participate in the consideration of this matter.

Dated: June 11, 2021

FOR THE COMMISSION

/s/ Louis Frank Dominguez

Hon. Louis Frank Dominguez
Commission Chair

Copies of this order were distributed to all appropriate persons on June 11, 2021.

Comp (Self-Report)

2021-046

SUPERIOR COURT OF ARIZONA
IN COUNTY

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 recent civil case I am managing. The following circumstances relate to this delay:

- On _____ the defendants filed a *Motion to Dismiss*.
- On _____ the plaintiffs filed their *Response to Motion to Dismiss*.
- On _____ the defendants filed their *Reply in Support of Motion to Dismiss*.
- In early _____, my Judicial Assistant received a call from counsel inquiring about the status of the *Motion*. She discovered that the *Motion* had not been decided within the 60-day window. The *Motion* was printed and given to me for decision.
- I immediately prioritized the *Motion* and, on _____, I issued a ruling denying the *Motion*.

Ruling beyond the 60-day window troubles me, and I regret that it occurred. However, I wanted to figure out what had happened to ensure that nothing else has slipped through the proverbial cracks. Based on my investigation into this matter, this is what occurred:

- The *Motion* was received by my Judicial Assistant in our electronic filing queue. The length of the exhibits were massive - one exhibit had over 1,700 pages. I have a standing protocol in my office where, if a motion exceeds 100 pages, I want the motion to be printed out so that I can effectively review it.
- My Judicial Assistant was working remotely when the motion came in. She forwarded the *Motion* to my Courtroom Assistant to be printed out because he was the person who was scheduled to be physically in the office next. (We all are working remotely to the greatest extent possible as part of the Covid-19 mitigation procedures implemented by the County Superior Court). Because of the length of the *Motion*, it could not be printed out in its entirety while working remotely – the printer needed to be refilled with paper three times in order to print out all of the exhibits.
- My Courtroom Assistant mistakenly deleted the email with the *Motion* from his printing queue, and he did not recall that he needed to print out the *Motion* when he returned to the office.

I make no excuses – the “buck stops here” with me. However, in response to this situation, I have implemented two internal procedures:

- A. I have directed my Judicial Assistant and Courtroom Assistant to check all cases assigned to my division to ensure that no other lengthy motions have erroneously been overlooked. I am informed that, following this review of all cases assigned to my division, all other pending motions have been identified and no ruling is overdue.
- B. I have implemented a procedure in my division to further mitigate against the risk of this occurring in the future. We have created a

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My Judicial Assistant (who receives all of my rulings before issuance) therefore can log the motions I have decided, and will know if there is a motion which remains pending for 45 days. I believe this protocol will abate any risk of a motion being undetected in the future.

In closing, I am embarrassed by having to make this disclosure. I pride myself on working hard to rule on motions in a very timely manner – almost always within 30 days, not 60 days, of a motion becoming ripe for decision. Ruling later than 60 days never has occurred during my assignment to the and I regret that it occurred in this instance.

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

Best regards.