

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 11-133

Complainant: No. 0308100555A

Judge: No. 0308100555B

ORDER

A superior court judge voluntarily reported that he inadvertently delayed ruling on a matter beyond the 60-day deadline because an assistant had not noted the status of the matter in the tracking system. The commission decided to dismiss the complaint with a private comment reminding the judge of his obligation to comply with statutory and constitutional time limits on resolving pending matters. The complaint is dismissed pursuant to Rules 16(b) and 23(a).

Dated: July 26, 2011.

FOR THE COMMISSION

/s/ Louis Dominguez

Louis Frank Dominguez
Commission Chair

Copies of this order were mailed to the complainant and the judge on July 26, 2011.

This order may not be used as a basis for disqualification of a judge.

Arizona Superior Court

Pima County

110 West Congress Street

Tucson, Arizona 85701

MAY 17 2011

Commission on Judicial Conduct
Attn: E. Keith Stott, Executive Director
1501 W. Washington Street, Suite 229
Phoenix, AZ 85007

Dear Mr. Stott:

Re: Self-Report of Under Advisement Error – SP2008

Attached for your reference is a copy of the Minute Entry, dated May 12, 2011. I took the case under advisement on November 9, 2010. The ruling should have been completed on January 8, 2011. Instead, my judicial assistant failed to note the status in our tracking system in November and lost track of the UA status. My assistant received a call from counsel on May 11, 2011 inquiring about the ruling. She informed me and I promptly completed the under advisement. Thereafter, I reviewed how she made the error and took corrective action.

The procedure in my division for tracking under advisements begins when the courtroom clerk places UA language in bold in the Minute Entry and also notes the same on the daily calendar sheet returned to my assistant. Additionally, the courtroom clerk sends a copy to the Under Advisement Clerk desk. The courtroom clerk is helpful however the clerk is not required to track the pending expiration of time.

It is the responsibility of my judicial assistant to read the daily calendar sheet and mark the UA on either a manual or electronic tickle-system to alert me. We have handled hundreds of cases over ten years in this manner without a glitch. However, in this case, my assistant made a mistake and did not make the initial entry. In light of this, I verbally counseled my assistant about the highest importance I place on tracking UA matters. I reviewed with her a similar mistake in October 2008, your case 08-256. I reiterated that this tickle system must be maintained and reviewed regularly. Moreover, I instructed her to make a search of our daily calendar sheets and an inquiry to the Courtroom Clerk supervisor to make sure no other matters have been missed since May 2010 to date. In addition a report was generated by Case Management to show any matters taken under advisement in the past year. I instructed her to review this report to make sure that all under advisement rulings were completed. She

completed these tasks on May 12, 2011 and discovered no other errors. In addition to keeping an up-to-date under advisement tracking log she will enter an event in our case management system to trigger a review at the 30 day mark as well.

I have also resolved to make an addition to our division procedure. I have only one staff person, my assistant. The importance of this function requires a backup person or second set of eyes. I will now also make a task reminder in the Outlook program of my own E-mail on the day any matter goes UA as a secondary reminder to review the UA file status at 30 days.

While we work as a team in my Division to cross check for many types of errors, the ultimate responsibility for the failure to timely issue the under advisement is mine and mine alone.

Thank you for your professional review of this matter. If you or the Commission have any further questions, please let me know.

Sincerely yours.

cc: Hon. Jan Kearny, Presiding Judge