

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 21-010

Judge:

Complainant:

ORDER

The Complainant alleged a superior court judge failed to issue timely rulings in a special action matter.

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 the judge failed to make two rulings in a timely fashion. 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 her to issue rulings in a timely manner.

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.

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Arizona Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
Phoenix, Arizona 85007

FOR OFFICE USE ONLY

2021-010

COMPLAINT AGAINST A JUDGE

Name: _____ Judge's Name: _____

Instructions: Use this form or plain paper of the same size to file a complaint. Describe in your own words what you believe the judge did that constitutes judicial misconduct. Be specific and list all of the names, dates, times, and places that will help the commission understand your concerns. Additional pages may be attached along with copies (not originals) of relevant court documents. Please complete one side of the paper only, and keep a copy of the complaint for your records.

In a Special Action case, I filed two motions: a Motion to Compel Production of Record and a Motion to Allow Discovery. Both motions were filed on _____ The motions were fully briefed as of _____
The Court did not set a hearing or rule on the Motions within 60 days.

Around the 90th day after briefing was completed, I spoke with the other attorneys. We agreed to submit a 'Notice of Pending Motions'. The Notice was submitted on _____ As of _____ we still had not received an argument date. I took it upon myself to file a 'Request for Scheduling Conference'. On _____ I received a phone message from _____ who identified himself as a _____ County Superior Court. The message stated that the practice in _____ County is for attorneys to submit a draft Order together with any request and that as I had not done so, the Request would not be forwarded to the Judge. To be fair, in his message _____ said he would hold the Request for 24 hours for me to submit a draft Order. Upon receipt of the message, I called _____ and told him that I did not intend to file an Order, that I filed the Request so that the Judge would "pick up the file" and so counsel would not have to seek to have her wage suspended. _____ hesitantly agreed to submit the Request to the Judge. That same day, the Judge ruled, denying the Motions in peremptory fashion with no explanation.

There are a number of concerns that I have:

- 1) It took over _____ to get a judicial response to two motions. That is way too long and it is my understanding that a Judge is required to certify that she does not have any motion pending over 60 days.
- 2) I lost the Motions (that happens), but the Motions were well considered and deserved either a hearing or an explanation;
- 3) The proximity in time between my directing _____ to forward my request to the Judge and her response to the Motions leads me to doubt that her response to the Motions had anything to do with their substance, but was instead an arrogant application of authority assuming the Judge even saw the Motions; and
- 4) the Orders from the Court are Dated _____ That would mean that the Judge serendipitously entered an Order the last business day before I called _____ entered the Orders after _____ on the afternoon of _____ the same day I spoke with _____

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