

PUBLIC ADMONISHMENT OF JUDGE DALE A. REINHOLTSEN

The Commission on Judicial Performance ordered Judge Dale A. ReinholtSEN publicly admonished, pursuant to article VI, section 18(d) of the California Constitution and commission rule 115, as set forth in the following statement of facts and reasons found by the commission:

STATEMENT OF FACTS AND REASONS

Judge ReinholtSEN has been a judge of the Humboldt County Superior Court since 1997. His current term began in 2013. Judge ReinholtSEN was a judge of the Humboldt County Municipal Court in 1996 and 1997.

As set forth below, the commission found that Judge ReinholtSEN engaged in improper conduct when he signed and submitted false salary affidavits on seven occasions, received his salary for judicial office in violation of law on 13 occasions, failed to act timely on over 20 matters that had been assigned to him, and failed to prepare a case progression plan in a case he exempted from meeting certain disposition time goals.

1. On or about December 27, 2011; February 27 and June 23, 2012; January 30, April 8, and August 13, 2013; and July 14, 2014, Judge ReinholtSEN signed and submitted salary affidavits pursuant to Government Code section 68210 in which the judge falsely declared that no cause remained pending and undetermined that had been submitted to him for decision for the period of 90 days prior to the effective date of each affidavit. The commission found that the judge's conduct violated his duties under canon 2A to respect and comply with the law and to act at all times in a manner that promotes public confidence in the integrity of the judiciary.

2. On or about December 30, 2011; February 29, June 29, August 20, September 5, November 28, and December 19, 2012; January 31, February 27, and April 9, 2013; and February 25, July 15, and September 9, 2014, Judge ReinholtSEN received his salary for judicial office in violation of law, while at least one cause before him was pending and undetermined for 90 days or more after it had been submitted for decision.

The California Constitution provides that “[a] judge of a court of record may not receive the salary for the judicial office held by the judge while *any cause* before the judge remains pending and undetermined for 90 days after it has been submitted for decision.” (Cal. Const., art. VI, § 19, italics added.) The Legislature followed this command with an implementing statute, Government Code section 68210, which provides that “[n]o judge of a court of record shall receive his salary unless he shall make and subscribe before an officer entitled to administer oaths, an affidavit stating that *no cause before him remains pending and undetermined for 90 days after it has been submitted for decision.*” (Italics added.) The withheld salary is not forfeited; once all overdue matters are completed, the judge is again entitled to receive his or her salary, including those amounts that were not paid during the period of delay. (See *Inquiry Concerning Freedman* (2007) 49 Cal.4th CJP Supp. 223, 230, citing *Hassanally v. Firestone* (1996) 51 Cal.App.4th 1241, 1244-1245.)

The commission found that the judge's conduct violated his duties under canon 2A to respect and comply with the law and to act at all times in a manner that promotes public confidence in the integrity of the judiciary.

3. When he was presiding judge of the Humboldt County Superior Court in 2013 and 2014, Judge Reinholtsen failed to decide each of the following matters within 90 days of the date that he took each matter under submission:

- (a) A motion for an order determining good faith settlement in *Nicholson, et al. v. Ghilarducci, et al.*, No. DR110125, decided on or about May 1, 2013, at least 93 days after the judge took it under submission;
- (b) The case of *Pec, et al. v. Brackenbury, et al.*, No. DR080769, decided on or about May 23, 2013, at least 111 days after the judge took it under submission;
- (c) The case of *County of Humboldt v. McKee, et al.*, No. DR020825, decided on June 7, 2013, 98 days after the judge took it under submission;
- (d) A motion for summary judgment in *Carr v. Kohl's Department Stores, Inc., et al.*, No. DR120088, decided on or about July 5, 2013, at least 151 days after the judge took it under submission;
- (e) A motion for stay of writ of execution pending appeal in *Frank, et al. v. Keating*, No. CV120559, decided on or about July 16, 2013, at least 116 days after the judge took it under submission;
- (f) The objections to the trustee's account and report in *Matter of Bruce Eldon Fraser Trust*, No. PR100259, decided on or about August 15, 2013, approximately 209 days after the judge took the matter under submission;
- (g) A motion to quash a subpoena duces tecum in *People v. Young*, No. CR1301738, decided on or about October 31, 2013, at least 113 days after the judge took it under submission;
- (h) The plaintiffs' motion for attorney's fees in *Pec, et al. v. Brackenbury, et al.*, No. DR080769, decided on November 8, 2013, 123 days after the judge took it under submission;
- (i) A motion for summary judgment or summary adjudication in *Tsurai Ancestral Society v. Pennisi, et al.*, No. DR100981, decided on or about December 17, 2013, at least 120 days after the judge took it under submission;
- (j) A motion to compel and a motion to strike in *Nicholson, et al. v. Ghilarducci, et al.*, No. DR110125, decided on or about December 31, 2013, at least 99 days after the judge took the motions under submission;
- (k) A motion for leave to re-file expunged lis pendens in *City of Eureka, et al. v. Squires, et al.*, No. DR110040, decided on January 3, 2014, 102 days after the judge took it under submission;

- (l) Two motions to compel responses to discovery requests in *Viadro v. Ghilarducci, et al.*, No. DR091101, decided on March 25, 2014, 127 days after the judge took the motions under submission;
- (m) A motion to tax costs in *County of Humboldt v. McKee, et al.*, No. DR020825, decided on or about March 26, 2014, at least 128 days after the judge took it under submission;
- (n) A matter in a family law case (No. FL110603), decided on or about July 16, 2014, at least 194 days after the judge took it under submission;
- (o) A joint motion to compel discovery in *People v. Pratts, et al.*, Nos. CR1205594 and CR1303269, decided on July 29, 2014, 133 days after the judge took it under submission;
- (p) A motion for reconsideration of an order approving the payment of a portion of the fees and costs sought by the receiver in *City of Eureka, et al. v. Squires, et al.*, No. DR110040, decided on or about September 8, 2014, at least 189 days after the judge took it under submission;
- (q) A motion to quash a subpoena duces tecum in *People v. Warren*, No. CR1301240, decided on or about September 15, 2014, at least 159 days after the judge took it under submission; and
- (r) A motion to terminate probation in *People v. Leahy*, No. 92CR0062CS, decided on or about September 15, 2014, at least 154 days after the judge took it under submission.

As presiding judge, Judge Reinholtsen had the duty to “ensure that no cause under submission remains undecided and pending for longer than 90 days.” (Cal. Rules of Court, rule 10.603(c)(3).) The commission found that the judge’s failure to ensure that the above matters were decided within 90 days violated the judge’s duty under canon 2A to respect and comply with the law, which includes court rules.

The commission also found that Judge Reinholtsen violated canon 3B(8), which requires judges to dispose of all judicial matters promptly and efficiently. In *Mardikian v. Commission on Judicial Performance* (1985) 40 Cal.3d 473, the California Supreme Court stated that Government Code 68210 and article VI, section 19 of the California Constitution, quoted above, “reflect the judgment of the Legislature and the electorate that this period [90 days] affords a reasonable time within which to expect a trial judge to carry out the basic responsibility of a judge to decide cases.” (*Id.* at p. 477, fn. 4.)

The commission recognizes that a judge’s workload may make prompt decision of all matters submitted to the judge impossible. This is particularly true in counties in which the average workload exceeds the statewide average, which appears to be the case in Humboldt County. However, at the time each of the above matters was submitted for decision, Judge Reinholtsen was the court’s presiding judge. As presiding judge, Judge Reinholtsen had the authority to “[a]pportion the business of the court, including assigning and reassigning cases to departments...” (Cal. Rules of Court, rule 10.603(b)(1)(B).) He also had the duty to “[s]upervise the court’s calendar, apportion

the business of the court among the several departments of the court as equally as possible,” and “[r]eassign cases between departments as convenience or necessity requires....” (*Id.*, rule 10.603(c)(1)(C)-(D).) The commission found that since Judge Reinholtsen had the ability to assign and reassign cases and to arrange assistance to ensure that matters were timely decided in 2013 and 2014, he cannot be excused from the duty to decide matters within 90 days during that period.

4. The commission also found that Judge Reinholtsen violated his duty under canon 3B(8) to dispose of the following judicial matters promptly and efficiently, even though they were no longer “pending and undetermined” for purposes of California Constitution, article VI, section 19 and Government Code section 68210:

(a) On August 24, 2012, in *DeMars v. Hillman*, No. CP120167, Judge Reinholtsen found that the respondent had committed financial abuse of an elder and imposed conduct orders on the respondent. On September 10, 2012, petitioner’s counsel submitted to the court a proposed “Judgment for Financial Elder Abuse Restraining Order; Damages; Costs of Court; Costs of Agent; and For Attorney’s Fees.” On July 1, 2013, petitioner’s counsel wrote a letter to the court, stating that he had submitted a judgment in September 2012 but had heard nothing to date. Counsel enclosed the previously submitted judgment and cover letter to the court. Judge Reinholtsen did not sign a judgment until on or about October 3, 2014, over two years after the proposed judgment was initially submitted, and shortly after the commission notified the judge of the delay.

(b) On August 16, 2013, the court filed Judge Reinholtsen’s tentative decision in *Matter of Bruce Eldon Fraser Trust*, No. PR100259. The tentative decision stated that any objections to it needed to be filed by September 20, 2013. The trustee filed his objections on September 16, 2013, and the petitioner filed a reply on September 20, 2013. On March 3, 2014, petitioner’s counsel wrote to Judge Reinholtsen “RE: Request for Final Decision.” Counsel enclosed the tentative decision, noted that objections to it had been filed and responded to, and inquired as to whether anything further was needed to “help facilitate a final decision in this matter.” The judge did not issue a statement of decision until April 4, 2014, approximately 6½ months after briefing was completed.

(c) On November 8, 2013, in *Pec, et al. v. Brackenbury, et al.*, No. DR080769, Judge Reinholtsen issued an order asking the plaintiffs to submit a proposed judgment. On November 13, 2013, plaintiffs’ counsel submitted a proposed “Judgment (Amended After Hearing)” and a cover letter addressed to the judge. The proposed judgment was the same as one that had been submitted by counsel on June 6, 2013, with the amount of attorney’s fees filled in pursuant to the judge’s November 8 order. The cover letter referenced and attached the proposed judgment submitted on June 6, 2013. On March 6, 2014, plaintiffs’ counsel wrote to Judge Reinholtsen to “seek guidance on the status of the proposed judgment....” On March 18, 2014, the plaintiffs filed a “Motion re: Issuance of Judgment,” asking the court to execute the judgment submitted on June 6, 2013, and resubmitted on November 13, 2013. Judge Reinholtsen did not sign a judgment until April 4, 2014, nearly five months after the proposed amended judgment was submitted.

5. On November 18, 2011, Judge Reinholtsen ordered that the consolidated cases of *Stewart v. Parris, et al.*, No. DR081020, *In re Estate of Lean*, No. PR090073, and *In re Estate of Stewart*, No. PR090102, involved circumstances that may prevent the court and parties from meeting the goals and deadlines imposed by the Trial Court Delay Reduction Act, and that the

management goals for the cases shall be defined by California Rules of Court, rule 3.714(c). However, Judge Reinholtsen failed to establish a case progression plan as is required by rule 3.714(c)(2).

California Rules of Court, rule 3.713(b) provides that the goal of the court is to “manage general civil cases from filing to disposition as provided under standard 2.2 of the California Standards of Judicial Administration.” Standard 2.2(f) provides that the goal of each trial court should be to manage general civil cases, except those exempt, so that they are disposed of within 24 months. If the court exempts a case from the case disposition time goals, as Judge Reinholtsen did here on November 18, 2011, “the court must establish a case progression plan and monitor the case to ensure timely disposition consistent with the exceptional circumstances, with the goal of disposing of the case within three years.” (Cal. Rules of Court, rule 3.714(c)(2).) On December 19, 2011, counsel for intervenor James Lewis Taylor wrote to Judge Reinholtsen requesting that her office be provided with the case progression plan. By failing to issue the required case progression plan, the judge violated his duties under canons 3B(1) and 3B(8) to dispose of all judicial matters promptly and efficiently and to hear and decide all matters assigned to him, except those in which he is disqualified.

The commission concluded that the judge’s conduct, as described herein, constituted at a minimum improper action.

In aggravation, Judge Reinholtsen received an advisory letter in 2002 for conduct that included a nearly one-year delay in processing a complaint about a court commissioner.

In determining to issue a public admonishment, the commission took into account the fact that on many occasions, Judge Reinholtsen delayed signing salary affidavits while he had matters under submission for more than 90 days. The judge also appears to have made efforts to avoid similar misconduct in the future.

Commission members Hon. Erica R. Yew; Anthony P. Capozzi, Esq.; Ms. Mary Lou Aranguren; Ms. Pattyl A. Kasparian; Hon. Thomas M. Maddock; Hon. Ignazio J. Ruvolo; Mr. Lawrence J. Simi; Mr. Richard Simpson; Ms. Sandra Talcott; and Mr. Adam N. Torres voted to impose a public admonishment. Commission member Nanci E. Nishimura, Esq. did not participate.

Dated: September 3, 2015