

PUBLIC ADMONISHMENT OF JUDGE CHRISTOPHER G. WILSON

The Commission on Judicial Performance ordered Judge Christopher G. Wilson 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 Wilson has been a judge of the Humboldt County Superior Court since 1999. His current term began in 2011.

As set forth below, the commission found that Judge Wilson engaged in improper conduct when he signed and submitted false salary affidavits on eight occasions and received his salary for judicial office in violation of law on six occasions.

1. On April 29, 2011, in *Certain Underwriters at Lloyd's of London, et al. v. Simpson Timber Company, et al.*, No. DR100160, Judge Wilson heard argument on the defendant's motion to stay or dismiss and took the motion under submission. The judge did not decide the motion until he denied it in a ruling that was filed on August 5, 2011, 98 days after the motion was submitted.

On August 3, 2011, Judge Wilson signed a salary affidavit in which he 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 August 1, 2011, even though the motion to stay or dismiss in this case was pending and undetermined for 94 days on August 1, 2011.

2. On April 12, 2013, Judge Wilson took the case of *Cynthia Harcharik v. James Harcharik*, No. FL120079, under submission when each side filed post-trial briefs. The judge's list of submitted matters dated August 1, 2013, reflects that this case was submitted on April 12, 2013, and remained undecided on August 1, 2013. The judge did not decide the case until the statement of decision was filed on August 13, 2013, 123 days after the case was taken under submission.

On August 2, 2013, Judge Wilson signed a salary affidavit in which he 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 August 1, 2013, even though this case was pending and undetermined for 111 days on August 1, 2013. On or before August 9, 2013, Judge Wilson received his salary for judicial office in violation of law, while this matter was pending and undetermined for 90 days or more after it had been submitted for decision.

3. On June 7, 2013, in *Jack Crlenjack v. Humboldt Land Title Company*, No. DR110599, Judge Wilson heard argument on the plaintiff's Motion to Add Back Causes of Action to the Third Amended Complaint and took the motion under submission. The judge sent his completed ruling to his judicial assistant on October 7, 2013. The ruling was processed and filed on October 10, 2013, 125 days after the judge took the motion under submission.

On October 4, 2013, Judge Wilson signed and submitted a salary affidavit in which he 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 October 1, 2013, even though this case was pending and undetermined for 116 days on October 1, 2013. On or before October 7, 2013, Judge Wilson received his salary for judicial office in violation of law, while this matter was pending and undetermined for 90 days or more after it had been submitted for decision.

4. On August 30, 2013, in *Certain Underwriters at Lloyd's of London, et al. v. Simpson Timber Company, et al.*, No. DR100160, Judge Wilson presided over a hearing on a motion for summary judgment and/or adjudication and took the motion under submission. The judge did not decide the motion until his ruling was filed on December 6, 2013, 98 days after he took the motion under submission.

On November 26, 2013, Judge Wilson signed a salary affidavit in which he 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 December 1, 2013, even though the motion for summary judgment and/or adjudication in this case was pending and undetermined for 93 days on December 1, 2013.

5. On April 15, 2014, in *Janet Battaglieri v. Donald A. Battaglieri*, No. FL050322, Judge Wilson presided over a hearing on a request for an order to determine support arrearages and took the matter under submission. The judge did not issue his ruling until August 4, 2014, 111 days after the matter was submitted.

On July 30, 2014, Judge Wilson signed a salary affidavit in which he 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 August 1, 2014, even though the above matter was pending and undetermined for 108 days on August 1, 2014. As a result, on August 1, 2014, Judge Wilson received his salary for judicial office in violation of law.

6. On May 23, 2014, in *Laura Lewis v. Jeffrey Lewis*, No. FL130332, Judge Wilson presided over a hearing on a motion, a demurrer, and multiple requests for orders, and took the matters under submission. The judge's lists of submitted matters dated August 7 and September 4, 2014, reflect that at least three matters in this case were submitted on May 23, 2014, and remained undecided on August 7 and September 4, 2014. The judge did not issue his rulings until September 5, 2014, 105 days after the matters were submitted.

On May 27, 2014, in *Kara Clower v. Justin Natividad*, No. FL130224, Judge Wilson presided over a hearing on a request for an order regarding child support and took the matter under submission. The judge's list of submitted matters dated August 7, 2014, reflects that this matter was submitted on May 27, 2014, and remained undecided on August 7, 2014. The judge did not issue a decision until September 2, 2014, 98 days after the matter was submitted.

On August 28, 2014, Judge Wilson signed a salary affidavit in which he 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 September 1, 2014, even though the above matters were pending and undetermined for over 90 days on September 1, 2014. As a result, on August 29, 2014, Judge Wilson received his salary for judicial office in violation of law.

7. On July 1, 2014, in *County of Humboldt v. Frederick Breckenridge*, No. FS100378, Judge Wilson presided over a hearing on an order to show cause and three requests for orders, and took the matters under submission. One of the requests for orders concerned child custody and visitation. The judge's lists of submitted matters dated August 7, September 4, and October 3, 2014, reflect that at least one matter in this case was submitted on July 1, 2014, and remained undecided on August 7, September 4, and October 3, 2014. The judge did not decide the matters until his ruling was filed on November 3, 2014, 125 days after the matters were submitted.

On October 6, 2014, Judge Wilson signed a salary affidavit in which he 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 October 1, 2014, even though the above matters in this case were pending and undetermined for 92 days on October 1, 2014. As a result, on October 7, 2014, Judge Wilson received his salary for judicial office in violation of law.

In addition, on October 29, 2014, Judge Wilson signed a salary affidavit in which he 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 November 1, 2014, even though the above matters in this case were pending and undetermined for 123 days on November 1, 2014. As a result, on October 30, 2014, Judge Wilson received his salary for judicial office in violation of law.

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.) 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.” 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.)

In *Mardikian v. Commission on Judicial Performance* (1985) 40 Cal.3d 473, the California Supreme Court stated that the Government Code section and constitutional provision “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, citation omitted.) “When, with ‘proper application,’ a judge would be able to decide matters pending before him within 90 days of their submission for decision, but does not do so, the failure to perform is a basis for” discipline. (*Id.* at p. 482.) A judge’s workload may make prompt decision of all matters submitted to the judge impossible, particularly in counties like Humboldt where the average workload appears to exceed the statewide average. However, that does not justify the execution of false salary affidavits or the unlawful receipt of salary for judicial office.

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.

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

In aggravation, Judge Wilson received a private admonishment in 2007 for deciding matters in seven cases between 168 and 277 days after they were taken under submission, signing three false salary affidavits, and failing to disclose in criminal cases his dispute and ongoing negotiations with the district attorney over disclosure of his salary affidavits and pay records.

Commission members Hon. Erica R. Yew; Ms. Mary Lou Aranguren; Ms. Patti A. Kasparian; Hon. Thomas M. Maddock; Dr. Michael A. Moodian; Nanci E. Nishimura, Esq.; Hon. Ignazio J. Ruvolo; Mr. Richard Simpson; Ms. Sandra Talcott; and Mr. Adam N. Torres voted for the Notice of Intended Public Admonishment. Commission member Anthony P. Capozzi, Esq., would have instituted formal proceedings.

Dated: January 22, 2016