

**FILE NO. J2012-30**

**JUDICIAL REVIEW COUNCIL**

**IN RE HONORABLE**

**HARTFORD, CONNECTICUT**

**WILLIAM HOLDEN**

**SEPTEMBER 20, 2012**

**MEMORANDUM OF DECISION**

On March 28, 2012, the Judicial Review Council received a complaint from Christopher Shaw. This complaint alleged that Judge William Holden had taken two years to answer a Motion for Articulation, thereby unfairly delaying the appeal of Mr. Shaw's criminal conviction. The Council thereafter commenced an investigation of the conduct alleged in this complaint.

Pursuant to Connecticut General Statutes Section 51-511, a confidential probable cause hearing was held on May 16, 2012. Notice of the probable cause hearing was provided to Judge Holden as required by law. The respondent appeared at the probable cause hearing and testified. 13 documents were entered into evidence by the Executive Director, without objection. Following the hearing, the Council filed the following charges against Judge Holden:

**CHARGES**

**1 Violation of C.G.S. 51-51(a)(4)**

On diverse dates between July 8, 2009 and July 12, 2011, the Honorable William Holden did violate Connecticut General Statutes Section 51-51i(a)(4) by failing to answer in a timely manner a Motion for Articulation, filed in the case of State v. Christopher Shaw, thereby neglectfully performing the duties of a judge.

**2 Violation of Canon 3(a)(5) of the Code of Judicial Conduct (eff. until December 31, 2010)**

On diverse dates between July 8, 2009 and December 31, 2010, the Honorable William Holden did violate Connecticut General Statutes Section 51-51i(a)(2) and

Canon 3(a)(5) of the Code of Judicial Conduct by failing to answer in a timely manner a Motion for Articulation, filed in the case of State v. Christopher Shaw, thereby failing to dispose promptly of the business of the court.

3 **Violation of Rule 2.5 of the Code of Judicial Conduct (eff. January 1, 2011)**

On diverse dates between January 1, 2011 and July 12, 2011, the Honorable William Holden did violate Connecticut General Statutes Section 51-51i(a)(2) and Rule 2.5 of the Code of Judicial Conduct by failing to answer in a timely manner a Motion for Articulation, filed in the case of State v. Christopher Shaw, thereby failing to perform his judicial duties competently and diligently.

Pursuant to Connecticut General Statutes Section 51-511(c), the Council thereafter conducted a public hearing on the above-listed charges on July 18, 2012 and September 5, 2012. Judge Holden appeared, with counsel, Attorney William F. Dow, III. At the hearing Judge Holden admitted that he had violated each of the three counts alleged in the charging document. After being canvassed by the Chairman, the Council accepted his admissions. The Executive Director filed a Sentencing Memorandum setting forth certain facts discovered during the course of the investigation and counsel for Judge Holden stipulated to the accuracy of those facts. Counsel for Judge Holden filed a Submission and 23 letters on behalf of Judge Holden. The Council did not exclude any witnesses or exhibits proffered by either party. In addition to final arguments by the Executive Director and Attorney Dow, the Council heard from three individuals, who spoke in support of Judge Holden.

After deliberating in executive session, to which the respondent did not object, the Council reached the following Facts and Conclusions:

**FINDINGS OF FACT**

The Council finds the following facts are established by clear and convincing evidence:

1. At all times material to the charges, the respondent was a judge of the Superior Court of the State of Connecticut.
2. Christopher Shaw was convicted after trial of two sex-related felonies at New Haven Superior Court. The trial judge was Judge William Holden. On June 6, 2008, Mr. Shaw was sentenced to 15 years incarceration by Judge Holden. Mr. Shaw has been incarcerated since that time.

3. That on August 7, 2008, an appeal to the Connecticut Supreme Court was filed by Mr. Shaw, through the Connecticut Public Defenders Legal Services Unit.
4. That on July 7, 2009, a Motion for Articulation was filed with the Connecticut Supreme Court by Attorney Alice Osedach of the Connecticut Public Defenders Legal Services Unit. This motion was addressed to the trial judge, Judge Holden. It requested that Judge Holden articulate his reasons for denying the defendant's motion for a hearing concerning the admissibility of certain DNA evidence.
5. That on July 8, 2009, a copy of the Motion for Articulation was sent to Judge Holden by the Assistant Clerk of the Supreme Court. Judge Holden was asked to return his ruling to the Supreme Court Clerk's Office.
6. That on July 16, 2009, an extension of time for the filing of her brief in the Shaw appeal was granted to the defendant's lawyer, Attorney Alice Osedach. The time to file her brief was extended to 30 days from the date of notice on the decision by Judge Holden on the pending motion for articulation.
7. That on December 1, 2009, a reminder notice was sent to Judge Holden by the Assistant Clerk of the Supreme Court. Judge Holden was informed that the Clerk's Office had not received his answer to the Motion for Articulation in the Shaw case. Included with this notice was another copy of the motion for articulation. Judge Holden was asked to return his ruling to the Clerk's Office.
8. That on February 11, 2010, a Motion for Order filed by Attorney Osedach in the Shaw matter. The motion requested that the Supreme Court issue an order directing the filing of the articulation by Judge Holden by March 4, 2010.
9. It is the business custom of the Supreme Court Clerk's Office to send to the trial judge a copy of a Motion for Order. In this case, that would have been to Judge Holden.
10. That on March 1, 2011, a letter from Attorney Osedach was sent to Attorney Michele Angers, Chief Clerk of the Supreme Court Clerk's Office, concerning the delay in the filing of an answer to the Motion for Articulation. Attorney Osedach told Attorney Angers that the delay was prejudicial to her client's constitutional right to due process and again requested that the Supreme Court enter an order directing Judge Holden to articulate as requested.
11. That on May 24, 2011, Attorney Angers sent to Judge Holden a letter concerning the delay in the filing of the articulation. That in this letter Attorney Angers stated that a second reminder notice had been sent to Judge Holden on January 5, 2010 concerning the outstanding motion for articulation. Attorney Angers also stated in the letter that it was her understanding that Judge Holden had promised Chief Court Administer Barbara Quinn that he would take action on the articulation motion by April 2010. Attorney Angers asked Judge Holden to address this matter expeditiously. Enclosed with this letter was another copy of the Motion for Articulation.
12. On June 10, 2011, Attorney Osedach filed a second Motion for Order with the Connecticut Supreme Court seeking an order to compel Judge Holden to file the articulation.

13. Also on June 10, 2011, Attorney Angers received a letter from Attorney Osedach and her supervisor, Attorney Martin Zeldes. In this letter the authors refer to many discussions had with Attorney Angers concerning the delay of Judge Holden in filing the motion for articulation.
14. That on July 12, 2011, Judge Holden filed with the Connecticut Supreme Court his Memorandum of Articulation in the case of State v. Shaw. His decision was 5 pages long.
15. That on July 27, 2011, Chief Justice Chase Rogers sent a letter to Judge Holden. On behalf of the Supreme Court the Chief Justice stated that the two year response time to the motion for articulation caused unnecessary delay in the resolution of this appeal. The Court further considered this delay to have been unreasonable and expected that this lack of attention would not recur in the future.
16. That the two year interval between the filing of a motion for articulation and the filing of the memorandum of articulation was unreasonably long and unnecessarily delayed the resolution of the Shaw appeal.
17. That on August 3, 2011, Attorney Osedach filed her brief with the Connecticut Supreme Court.
18. At the present time, the appeal of Christopher Shaw remains pending before the Connecticut Supreme Court.
19. John Jackson was convicted after trial of murder at New Haven Superior Court. The trial judge was Judge William Holden. On March 7, 2008, Mr. Jackson was sentenced to 55 years incarceration by Judge Holden. Mr. Jackson has been incarcerated since that time.
20. That on July 18, 2008, an appeal to the Connecticut Supreme Court was filed by Mr. Shaw, through the Connecticut Public Defenders Legal Services Unit.
21. That on May 20, 2009, a Motion for Articulation was filed with the Connecticut Supreme Court by Attorney Alice Osedach, who was representing Mr. Jackson. This motion was addressed to the trial judge, Judge Holden. It requested that Judge Holden articulate his reasons for denying the defendant's motion to suppress evidence.
22. That on June 1, 2009, a copy of the Motion for Articulation was sent to Judge Holden by the Assistant Clerk of the Supreme Court. Judge Holden was asked to return his ruling to the Supreme Court Clerk's Office.
23. That on April 23, 2010, Judge Holden filed the Articulation in the Jackson matter. His articulation was 13 pages long.
24. That the Supreme Court, in an opinion dated April 17, 2012, denied the appeal of Mr. Jackson.
25. That the time period between the filing of the Motion for Articulation in the Jackson case and the filing of the articulation by Judge Holden was approximately 11 months.
26. Richard Santos, Jr. was convicted after trial of assault in the first degree at New Haven Superior Court. The trial judge was Judge William Holden. On March 12, 2009, Mr. Santos was sentenced to 12 years incarceration by Judge Holden. Mr. Santos has been incarcerated since that time.

27. That on May 14, 2009, an appeal to the Connecticut Appellate Court was filed by Mr. Santos, through the Connecticut Public Defenders Legal Services Unit.
28. That on June 28, 2010, a “Motion for Articulation and/or Rectification” was filed with the Appellate Court by the lawyer for Mr. Santos, Attorney Heather Wood. This motion was addressed to the trial judge, Judge Holden. This motion requested Judge Holden to hold a hearing to determine whether the trial court record could be rectified and/or to articulate the reasoning and ruling on the defendant’s motion for remedies for the State’s failure to preserve evidence.
29. That also on June 28, 2010, a second motion, entitled: “Motion for Rectification of the Record to Include Off-the record Discussions Concerning Court Exhibit 2” was filed with the Appellate Court by Attorney Wood. This motion was addressed to the trial judge, Judge Holden. This motion requested Judge Holden to order a hearing to ascertain whether the court record could be rectified to include certain off-the-record discussions regarding the scope of disclosure of a certain exhibit.
30. That on July 20, 2010, a copy of the two preceding motions was sent to Judge Holden by Assistant Clerk Cynthia Gworek of the Appellate Court. Judge Holden was asked to return his ruling to the Appellate Court Clerk’s Office.
31. That on September 8, 2010, a third motion was filed in the Appellate Court by Attorney Wood. This motion was entitled “Motion to Rectify the Record Regarding the Trial Court’s Order to Unseal Sealed Documents”, and was addressed to the trial judge, Judge Holden. This motion requested Judge Holden to hold a hearing to ascertain whether the trial court record could be rectified regarding certain evidence disclosed to trial counsel.
32. That on September 21, 2010, a copy of the motion described in paragraph 31 was sent to Judge Holden by Assistant Clerk Cynthia Gworek of the Appellate Court. Judge Holden was asked to return his ruling to the Appellate Court Clerk’s Office.
33. That on September 2, 2011, Judge Holden filed a Memorandum of Decision. This memorandum concluded that any off-the-record discussions were later memorialized on the record by both counsel. It also concluded that all documents were either admitted into evidence or sealed and preserved for appellate review. Therefore, he concluded, the motion was not warranted.
34. That on September 19, 2011, Attorney Wood filed a Motion for Review with the Appellate Court, requesting that court to examine the memorandum of decision of Judge Holden to determine whether the memorandum adequately responded to all three outstanding motions.
35. That on October 18, 2011, the Appellate Court ordered Judge Holden to act on the June 28, 2010 motion for articulation (described in paragraph 28) and the September 8, 2010 motion (described in paragraph 31) on or before November 2, 2011.
36. That on October 20, 2011, Cynthia Gworek sent a letter to Judge Brian Fischer, who was the New Haven Administrative Judge. In this letter Ms. Gworek stated that the Appellate Court had directed her to send Judge Fischer a copy of the order described in paragraph 35. Judge

Fischer was requested by the Appellate Court to ensure that Judge Holden received a copy of this order.

37. That on October 27, 2011, Judge Holden filed a one page Order in which he denied the June 28, 2010 motion (described in paragraph 28). He also responded to the September 8, 2010 motion (described in paragraph 31) by ordering four pages of medical records unsealed to appellate counsel.
38. At the present time, the appeal of State v. Santos remains pending before the Connecticut Appellate Court.
39. That the time period for Judge Holden to fully answer the motions for articulation and/or rectification was approximately 15 months.
40. Tyquan Avant Brodia was convicted after trial of narcotics related charges at New Haven Superior Court. The trial judge was Judge William Holden. On March 13, 2009, Mr. Brodia was sentenced to 12 years incarceration by Judge Holden. Mr. Brodia has been incarcerated since that time.
41. That on June 3, 2009, an appeal to the Connecticut Appellate Court was filed on behalf of Mr. Brodia. The Connecticut Public Defenders Legal Services Unit represented Mr. Brodia in this appeal.
42. That on July 1, 2009, the appellant filed with the Appellate Court a document entitled "Notice re: Memorandum of Decision which has not been Filed (II)". This motion was addressed to the trial judge, Judge Holden. It advised Judge Holden that he had not yet filed his memorandum of decision on an amended motion to suppress which Judge Holden had denied prior to trial. The notice further advised Judge Holden that filing a copy of the transcript of the oral memorandum of decision, signed by the trial judge, may be sufficient to comply with the practice book.
43. That on July 8, 2009, a copy of the notice document described in the preceding paragraph was sent to Judge Holden by the Assistant Clerk of the Appellate Court. Judge Holden was asked to return his ruling to the trial court clerk.
44. That on August 23, 2010, Judge Holden filed a written transcript of a court hearing held on November 18, 2008, signed by him, in which he articulated his reasons for denying the motion to suppress. The transcript was 9 pages long.
45. That the Appellate Court issued an opinion, dated June 14, 2011, denying the appeal of Mr. Brodia.
46. That the time period taken by Judge Holden to sign the written transcript was approximately 13 months.
47. That the actions of Judge Holden in the Jackson, Santos and Brodia appeals establish that the unreasonable delay in responding to the Motion for Articulation in the Shaw appeal was not an isolated event, but was part of a pattern of failing to responding to post-trial motions in a timely manner.

## **CONCLUSIONS**

Based on the foregoing findings of fact, the Council, upon unanimous vote, finds by clear and convincing evidence that:

1. The Honorable William Holden's failure to answer in a timely manner a Motion for Articulation, filed in the case of State v. Christopher Shaw constituted neglectful performance of the duties of a judge, in violation of Connecticut General Statutes 51-51i(a)(4) of the General Statutes, as charged in count one.
2. The Honorable William Holden's failure to answer in a timely manner a Motion for Articulation, filed in the case of State v. Christopher Shaw constituted a failure to dispose promptly of the business of the Court, in violation of Code 3(a)(5) of the Code of Judicial Conduct and Connecticut General Statutes Section 51-51i(a)(2), as charged in count two.
3. The Honorable William Holden's failure to answer in a timely manner a Motion for Articulation, filed in the case of State v. Christopher Shaw constituted a failure to perform his judicial duties competently and diligently, in violation of Rule 2.5 of the Code of Judicial Conduct and Connecticut General Statutes Section 51-51i(a)(2), as charged in count three.

## **ORDER**

Based on the foregoing and pursuant to its authority set forth in Connecticut General Statutes Section 51-51n(a)(2) , the Council hereby suspends the Honorable William Holden for a period of 20 days, during which time he may not exercise any of the duties, powers or privileges of a judge. During the period of suspension, the Honorable William Holden's judicial salary, including any benefits relating thereto shall also be suspended and time shall not be accrued for any rights in any pension plan. See Connecticut General Statutes Section 51-51p. This suspension shall occur on dates to be determined by the Judicial Branch of the State of Connecticut, at the earliest occasion consistent with the orderly administration of court business but not before the expiration of the appeal period set forth in Practice Book Section 74-1. The Council's vote with regard to this sanction was unanimous.

JUDICIAL REVIEW COUNCIL

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WAYNE KEENEY

CHAIRPERSON