

IN THE SUPREME COURT
OF THE STATE OF OREGON

In re:)
)
Complaint as to the Conduct of) Case No. 21-56
)
VICKI R. VERNON,)
)
Respondent.)

Counsel for the Bar: Eric J. Collins

Counsel for the Respondent: None

Disciplinary Board: None

Disposition: Violation of RPC 1.3. Stipulation for Discipline. 180-day suspension.

Effective Date of Order: December 31, 2021

ORDER APPROVING STIPULATION FOR DISCIPLINE

This matter having been heard upon the Stipulation for Discipline entered into by Vicki R. Vernon and the Oregon State Bar, and good cause appearing,

IT IS HEREBY ORDERED that the stipulation between the parties is approved and Vernon is suspended for 180 days, effective December 31, 2021, for violation of RPC 1.3.

DATED this 2nd day of September 2021.

/s/ Mark A. Turner

Mark A. Turner

Adjudicator, Disciplinary Board

STIPULATION FOR DISCIPLINE

Vicki R. Vernon, attorney at law (Respondent), and the Oregon State Bar (Bar) hereby stipulate to the following matters pursuant to Bar Rule of Procedure 3.6(c).

1.

The Bar was created and exists by virtue of the laws of the State of Oregon and is, and at all times mentioned herein was, authorized to carry out the provisions of ORS Chapter 9, relating to the discipline of attorneys.

2.

Respondent was admitted by the Oregon Supreme Court to the practice of law in Oregon on April 14, 1989, and has been a member of the Bar continuously since that time, having her office and place of business in Washington County, Oregon.

3.

Respondent enters into this Stipulation for Discipline freely, voluntarily, and with the opportunity to seek advice from counsel. This Stipulation for Discipline is made under the restrictions of Bar Rule of Procedure 3.6(h).

4.

On June 5, 2021, the State Professional Responsibility Board (SPRB) authorized formal disciplinary proceedings against Respondent for alleged violations of Oregon Rule of Professional Conduct (RPC) 1.3 (neglect of a legal matter). The parties intend that this stipulation set forth all relevant facts, violations and the agreed-upon sanction as a final disposition of this proceeding.

Facts

5.

On May 23, 2019, Respondent represented a client (mother) at a *prima facie* hearing on the client's motion to modify parenting time and child support in a Stipulated General Judgment of Dissolution of Marriage. The three children of Respondent's client were represented by Theresa Wright (Wright). The father failed to appear for the hearing, and no counsel appeared on his behalf. At the hearing's conclusion, the court issued oral rulings from the bench regarding a variety of issues, including further restrictions on father's parenting time and granting mother's request to move the children out of a particular school district without father's consent. Respondent agreed to draft a supplemental judgment. Thereafter, Respondent failed to finalize and submit the supplemental judgment until approximately March 5, 2020, despite repeated inquiries from Wright during the course of multiple months.

Violations

6.

Respondent admits that the roughly nine months it took her to finalize and submit the supplemental judgment to the court was unreasonable and that she neglected a legal matter entrusted to her in violation of RPC 1.3.

Sanction

7.

Respondent and the Bar agree that in fashioning an appropriate sanction in this case, the Disciplinary Board should consider the *ABA Standards for Imposing Lawyer Sanctions* (ABA Standards). The ABA Standards require that Respondent's conduct be analyzed by considering the following factors: (1) the ethical duty violated; (2) the attorney's mental state; (3) the actual or potential injury; and (4) the existence of aggravating and mitigating circumstances.

- a. **Duty Violated.** The most important ethical duties a lawyer owes are to a client. ABA Standards at 5. Respondent violated her duty of diligence and promptness in representing her client. ABA Standard 4.4.
- b. **Mental State.** "Intent" is the conscious objective or purpose to accomplish a particular result. ABA Standards at 9. "Knowledge" is the conscious awareness of the nature or attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result. *Id.* "Negligence" is the failure to be aware of a substantial risk that circumstances exist or that a result will follow and which deviates from the standard of care that a reasonable lawyer would exercise in the situation. *Id.* Respondent's conduct was knowing. She was consciously aware of the delay in submitting the supplemental judgment to the court, but she failed to prioritize completing the task.
- c. **Injury.** Injury can be either actual or potential under the ABA Standards. *In re Williams*, 314 Or 530, 547, 840 P2d 1280 (1992). Based on the available evidence, Respondent's inaction caused her client potential injury in the form of anxiety and frustration when Respondent failed to finalize and submit the supplemental judgment in a timely manner. Respondent's delay also caused potential injury to the father and the children, whose rights were affected by the court's orders.
- d. **Aggravating Circumstances.** Aggravating circumstances include:
 1. Prior disciplinary offenses. ABA Standard 9.22(a). Respondent has a prior admonition from 2006 for neglect of a legal matter. A letter of admonition constitutes prior discipline if it was for similar misconduct and received by the lawyer before the misconduct at issue. *See In re Bertoni*, 363 Or 614,

644, 426 P3d 64 (2018) (citing *In re Cohen*, 330 Or 489, 498-99, 8 P3d 953 (2000); *In re Jones*, 326 Or 195, 200, 951 P2d 149 (1997)). The 2006 admonition involved circumstances very similar to those at issue here, where Respondent failed to prepare and submit an order in a timely manner.

Respondent has been sanctioned in two prior disciplinary proceedings involving violations of RPC 1.3. Each constitutes a prior disciplinary offense because each sanction preceded Respondent's acts that led to this proceeding and involved similar violations. *In re Bertoni*, 363 Or at 644. In 2013, Respondent received a 90-day suspension by a trial panel for violations of RPC 1.3 and RPC 1.4(a) in connection with two client matters. *In re Vernon*, 27 DB Rptr 184 (2013). Then in 2015, Respondent stipulated to violations of RPC 1.3 and RPC 1.4(a) and a sanction involving a 60-day suspension stayed in lieu of two years of probation. *In re Vernon*, 29 DB Rptr 12 (2015).

2. Pattern of misconduct. ABA Standard 9.22(c). Respondent's aforementioned prior discipline establishes a pattern of misconduct.
3. Substantial experience in the practice of law. ABA Standard 9.22(i). Respondent was licensed to practice in Oregon in 1989.

e. **Mitigating Circumstances.** Mitigating circumstances include:

1. Absence of dishonest motive. ABA Standard 9.32(b).
2. Full and free disclosure to disciplinary board or cooperative attitude toward proceedings. ABA Standard 9.32(e).

8.

Under the ABA Standards, suspension is generally appropriate when a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client or engages in a pattern of neglect causing injury or potential injury to a client. ABA Standard 4.42(a).

9.

Oregon cases support a suspension when a lawyer knowingly neglects a legal matter. *In re Redden*, 342 Or 393, 401, 153 P3d 113 (2007) (court so concluded after reviewing similar cases); *see also, In re Lebahn*, 335 Or 357, 367, 67 P3d 381 (2003) (attorney suspended for knowing neglect of a client matter and failure to communicate). The Supreme Court places significant weight in aggravation on prior disciplinary offenses when the lawyer continues to engage in the same misconduct over time. *Bertoni*, 363 Or at 644-45, citing *In re Knappenberger*, 340 Or 573, 586, 135 P3d 297 (2006) (internal citation and quotation marks omitted).

10.

Consistent with the ABA Standards and Oregon case law, the parties agree that Respondent shall be suspended for 180 days for the violation of RPC 1.3, the sanction to be effective December 31, 2021. Though the postponement of sanction is much longer than usual, the parties agree to the delay due to the COVID pandemic and Respondent's high-volume caseload.

11.

Respondent acknowledges that she has certain duties and responsibilities under the Rules of Professional Conduct and BR 6.3 to immediately take all reasonable steps to avoid foreseeable prejudice to her clients during the term of her suspension. In this regard, Respondent has arranged for Colette Cameron, an active member of the Bar with a business address of 10211 SW Barbur Blvd., Ste 207A, Portland, OR 97219, to either take possession of or have ongoing access to Respondent's client files and serve as the contact person for clients in need of the files during the term of her suspension. Respondent represents that Colette Cameron has agreed to accept this responsibility.

12.

Respondent acknowledges that reinstatement is not automatic on expiration of the period of suspension. She is required to comply with the applicable provisions of Title 8 of the Bar Rules of Procedure. Respondent also acknowledges that she cannot hold herself out as an active member of the Bar or provide legal services or advice until she is notified that her license to practice has been reinstated.

13.

Respondent acknowledges that she is subject to the Ethics School requirement set forth in BR 6.4 and that a failure to complete the requirement timely under that rule may result in her suspension or the denial of her reinstatement. This requirement is in addition to any other provision of this agreement that requires Respondent to attend continuing legal education (CLE) courses.

14.

Respondent represents that, in addition to Oregon, she also is admitted to practice law in the jurisdictions listed in this paragraph, whether her current status is active, inactive, or suspended, and she acknowledges that the Bar will be informing these jurisdictions of the final disposition of this proceeding. Other jurisdictions in which Respondent is admitted: none.

15.

Approval of this Stipulation for Discipline as to substance was given by the SPRB on June 5, 2021. Approval as to form by Disciplinary Counsel is evidenced below. The parties agree the stipulation is to be submitted to the Adjudicator on behalf of the Disciplinary Board for consideration pursuant to the terms of BR 3.6.

EXECUTED this 30th day of August 2021.

/s/ Vicki R. Vernon
Vicki R. Vernon, OSB No. 891338

EXECUTED this 31st day of August 2021.

OREGON STATE BAR

By: /s/ Eric J. Collins
Eric J. Collins, OSB No. 122997
Assistant Disciplinary Counsel