

FILED

01/25/2022

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: PR 21-0353

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF MONTANA

PR 21-0353

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Bowen Greenwood
Clerk of Supreme Court
State of Montana

IN THE MATTER OF TODD STUBBS,

An Attorney at Law,

ORDER

Respondent.

On July 21, 2021, a formal disciplinary complaint was filed against Montana attorney Todd Stubbs. The Complaint may be reviewed by any interested person in the office of the Clerk of this Court.

This Complaint arose after the Office of Disciplinary Counsel (ODC) received two grievances alleging that Stubbs engaged in unethical conduct while representing clients and Stubbs failed to respond to ODC's requests that he respond.

The Complaint alleges that Stubbs violated M. R. Pro. Cond. 8.1(b) by failing to respond to ODC, and that the Commission should impose discipline under Rule 8(A)(6) of the Montana Rules for Lawyer Disciplinary Enforcement (MRLDE). ODC served the Complaint upon Stubbs, along with a citation to appear and file an answer to the Complaint within 21 days, by mailing a copy of the Complaint to both Stubbs's address on file with the Bar on July 22, 2021, and an alternate address on July 23, 2021. By mailing the letter by certified mail to the address Stubbs had on file with the Bar, ODC met the service requirements of MRLDE 12(B)(1).

Stubbs did not file an answer within 21 days, thereby subjecting him to default under MRLDE 12(A)(4) and (C)(2). Pursuant to MRLDE 12(C)(2), after Stubbs failed to answer the Complaint, an Adjudicatory Panel of the Commission on Practice (Commission) conducted a hearing on October 27, 2021, to make findings of fact, conclusions of law, and either impose discipline or recommend that this Court impose discipline.

At the disciplinary hearing, ODC, via counsel, presented argument, questioned the

witness, and offered exhibits. Stubbs did not appear and the Commission deemed the allegations in the Complaint admitted pursuant to MRLDE 12(2).

ODC Investigator Sheena Broadwater testified that ODC's involvement began after ODC received a report from an attorney who alleged that Stubbs had abandoned a client and failed to protect the client's interests. According to the report, the client was unaware of the status of her case and attempts to contact Stubbs by various means had been unsuccessful.

On November 16, 2020, Broadwater sent a letter to Stubbs, via regular and certified mail, at the address on file with the Bar, which was for his office in Manhattan, Montana. She advised Stubbs of the attorney's report and requested that Stubbs respond to ODC by December 8, 2020. Stubbs failed to respond and on December 9, 2020, Pamela D. Bucy, ODC's Chief Disciplinary Counsel, sent a follow-up letter, also via both regular and certified mail, advising Stubbs that if he did not respond by December 21, 2020, ODC might take disciplinary action. Ultimately, these letters were all returned to ODC as undeliverable.

Broadwater testified that in January 2021, ODC received another grievance about Stubbs, concerning a different client. That grievant alleged that Stubbs had accepted a \$7,000 fee but failed to pursue the case, canceled or failed to show for numerous appointments, and failed to return the client's messages. On January 26, 2021, Broadwater sent Stubbs a letter to his Manhattan address, via both regular and certified mail, requesting a response by February 16, 2021, but those letters were also returned as undeliverable.

Broadwater sought alternate ways to contact Stubbs. She attempted to reach him via the e-mail address on file with the Bar, but the e-mail message was also returned as undeliverable. Broadwater learned of a possible mailing address for Stubbs in Great Falls. On March 11, 2021, she sent a letter to the Great Falls address, both by regular and certified mail, again advising Stubbs of the grievance and requesting a response by March 22, 2021. Those letters were also returned as undeliverable. Broadwater also testified that Stubbs had not paid his most recent Bar dues and he was thus on inactive status. She also understood that the Bar's efforts to contact Stubbs had likewise been unsuccessful.

After Broadwater's testimony, ODC argued that the Commission should recommend

that this Court suspend Stubbs from the practice of law indefinitely and further require Stubbs to appear before the Commission and demonstrate fitness to practice before any suspension is lifted.

On November 8, 2021, the Commission submitted to this Court its Findings of Fact, Conclusions of Law, and Recommendation. Based upon the record, the pleadings, and the testimony and exhibits admitted at hearing, the Commission concluded that Stubbs was in default for failing to respond and that he had violated M. R. Pro. Cond. 8.1(b): For this violation, the Commission recommends that this Court impose discipline of suspension from the practice of law for a period of not less than seven months and imposition of the costs and expenses of ODC's investigation and the Commission's proceedings. The Commission reasoned that Stubbs's actions indicate that he could cause significant harm to his clients, opposing parties and counsel, and the justice system until he is able to demonstrate that he is willing and capable of competently practicing law.

Stubbs did not file an objection to the Commission's filing. To date, the record indicates that Stubbs has never responded in any manner to ODC, the Commission, or this Court regarding this disciplinary matter.

This Court reviews *de novo* the Commission's findings of fact, conclusions of law, and recommendations. *In re Neuhardt*, 2014 MT 88, ¶ 16, 374 Mont. 379, 321 P.3d 833 (citation omitted). We have thoroughly reviewed the record in this matter and we find no material errors in the Commission's findings. We further determine its conclusions of law are correct.

We therefore adopt the Commission's Findings of Fact and Conclusions of Law made by the Commission and hold that Stubbs violated M. R. Pro. Cond. 8.1(b) by failing to respond to a lawful demand for information from a disciplinary authority. We agree with the Commission that MRLDE 8(A)(6) provides additional grounds for discipline as Stubbs has failed to promptly and fully respond to inquiries from disciplinary counsel, from ODC's investigator, and from the Commission.

As to the recommended discipline, we agree with the Commission's recommendation

that Stubbs's conduct warrants suspension. We share the Commission's concerns regarding Stubbs's conduct, both for his failure to respond in this matter and for the seriousness of the accusations made against him by the grievants. Stubbs's conduct is inconsistent with the competent and effective practice of law.

Based upon the foregoing,

IT IS HEREBY ORDERED:

1. The Commission's Findings of Fact, Conclusions of Law and Recommendation are ACCEPTED and ADOPTED.

2. Todd Stubbs is hereby suspended from the practice of law in Montana for an indefinite period of not less than seven months, effective thirty days from the date of this Order. Stubbs is directed to give notice of his suspension to all clients he represents in pending matters, any co-counsel in pending matters, all opposing counsel and self-represented opposing parties in pending matters, and all courts in which he appears as counsel of record in pending matters, as required by Rule 30 of the Montana Rules for Lawyer Disciplinary Enforcement.

3. Todd Stubbs shall pay the costs of these proceedings, subject to the provisions of Rule 9(C)(4)(a) of the Montana Rules for Lawyer Disciplinary Enforcement allowing him to file objections to the statement of costs.

The Clerk of this Court is directed to serve a copy of this Order of Discipline upon Todd Stubbs, and to provide copies to Disciplinary Counsel; the Office Administrator for the Commission on Practice; the Clerks of all the District Courts of the State of Montana; each District Judge in the State of Montana; the Clerk of the Federal District Court for the District of Montana; the Clerk of the Circuit Court of Appeals of the Ninth Circuit; and the Executive Director of the State Bar of Montana.

DATED this 25 day of January, 2022.



Chief Justice

Jan Rice

Beth Johnson

Laurie McFerrin

Angela Hardin

Janice K. Johnson
Justices

Justice Dirk Sandefur did not participate in this matter.