

In the  
Indiana Supreme Court



In the Matter of: ) Supreme Court Cause No.  
Kimberly DeVANE, ) 49S00-1308-DI-511  
Respondent. )

PUBLISHED ORDER APPROVING STATEMENT OF CIRCUMSTANCES  
AND CONDITIONAL AGREEMENT FOR DISCIPLINE

Pursuant to Indiana Admission and Discipline Rule 23(11), the Indiana Supreme Court Disciplinary Commission and Respondent have submitted for approval a "Statement of Circumstances and Conditional Agreement for Discipline" stipulating agreed facts and proposed discipline as summarized below:

**Stipulated Facts:** Respondent represented a client who was under an order to have no contact with a victim or either of her two sons. After the client allegedly approached one of the sons in a park near the victim's house, a bond revocation hearing was set. At the hearing, the judge entered a separation of witnesses order, admonishing the witnesses not to speak about potential testimony and not to discuss what happened in the courtroom after testifying. Both of the victim's sons testified that the client was in the park in violation of the no contact order. At the end of the hearing, but while the separation of witnesses order was still in effect, one of the prosecutors heard Respondent give details of the State's witnesses' testimony to the defense witnesses.

The parties cite Respondent's prior discipline a fact in aggravation. See Matter of Devane, 874 N.E.2d 987 (Ind. 2007) (agreed public reprimand). The parties cite the following facts in mitigation: (1) Respondent has been cooperative and has accepted responsibility for misconduct; and (2) at the time Respondent discussed the case with witnesses, she believed that no further evidence would be required and that the witnesses to whom she spoke would not be called to testify.

**Violation:** The parties agree that Respondent violated Indiana Professional Conduct Rule 8.4(a), which prohibits attempting to violate the Rules of Professional Conduct, by attempting to communicate court testimony to witnesses in violation of a separation of witnesses order.

**Discipline:** The parties propose the appropriate discipline is a public reprimand. The Court, having considered the submissions of the parties, now approves the agreed discipline and imposes a **public reprimand** for Respondent's misconduct. The Court would likely have concluded this discipline to be inadequate had Respondent's violation of the separation of witnesses order been intentional.

The costs of this proceeding are assessed against Respondent. With the acceptance of this agreement, the hearing officer appointed in this case is discharged.

The Clerk is directed to forward a copy of this Order to the hearing officer, to the parties or their respective attorneys, and to all other entities entitled to notice under Admission and Discipline Rule 23(3)(d). The Clerk is further directed to post this order to the Court's website, and Thomson Reuters is directed to publish a copy of this order in the bound volumes of this Court's decisions.

Done at Indianapolis, Indiana, on March 20, 2014.

/s/ Brent E. Dickson  
Chief Justice of Indiana

All Justices concur.