

In the Indiana Supreme Court



In the Matter of: Hilary Bowe Ricks,
Respondent

Supreme Court Case No.
49S00-1612-DI-682

Published Order Finding Misconduct and Imposing Discipline

Upon review of the report of the hearing officer, the Honorable Matthew C. Kincaid, who was appointed by this Court to hear evidence on the Indiana Supreme Court Disciplinary Commission's "Verified Complaint for Disciplinary Action," and the briefs of the parties, the Court finds that Respondent engaged in professional misconduct and imposes discipline on Respondent.

Facts: In two separate client matters, Respondent accepted retainers from clients wishing to pursue post-conviction relief. In the first case, Respondent never completed the review of the record for which she had been paid, and never even requested the record from the Court of Appeals. Respondent also did not respond to inquiries from the client or the client's mother regarding the status of the case and, later, their requests for a refund of the unearned portion of the retainer and a return of case materials they had provided to Respondent. In the second case, after about one year of apparent inaction, the client and a prison volunteer acting on her behalf requested on multiple occasions that Respondent forward the client's funds held in trust to another legal service provider, but Respondent did not respond to those requests.

After both clients filed grievances, Respondent failed to comply with the Commission's investigations, resulting in the initiation of two separate noncooperation proceedings. Respondent eventually cooperated after this Court issued show cause orders, acknowledging in both of her responses that she had no excuse or justification for having failed to timely comply.

In 2017, Respondent was diagnosed with panic and depressive disorders. Respondent suffered from these conditions at the time of the events described above, but they had not yet been diagnosed. Since her diagnosis, Respondent has been involved with the Indiana Judges and Lawyers Assistance Program (JLAP) and has been undergoing treatment and working toward recovery.

Respondent has prior discipline for similar misconduct. Matter of Ricks, 835 N.E.2d 208 (Ind. 2005).

Violations: The Court finds that Respondent violated these Indiana Professional Conduct Rules prohibiting the following misconduct:

- 1.3: Failing to act with reasonable diligence and promptness.

- 1.4(a)(4): Failing to comply promptly with a client's reasonable requests for information.
- 1.16(d): After the termination of representation, failing to refund an unearned fee and to promptly return to a client case file materials to which the client is entitled.
- 8.1(b): Knowingly failing to respond to a lawful demand for information from a disciplinary authority.

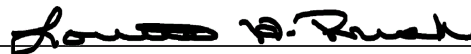
Discipline: For Respondent's professional misconduct, the Court **suspends Respondent from the practice of law for a period of 180 days, beginning September 6, 2018, with 90 days actively served and the remainder stayed subject to completion of at least two years of probation** on the following terms and conditions:

- (1) Respondent shall enter into a long-term monitoring agreement with JLAP within 30 days of the date of this order, if not already subject to such an agreement.
- (2) Respondent shall fulfill all the requirements of the JLAP monitoring agreement, including but not limited to complying fully with mental health treatment as determined and monitored by JLAP.
- (3) JLAP shall report the Respondent's compliance status to the Commission on a quarterly basis.
- (4) Within 90 days of the date of this order, Respondent shall submit to JLAP and to the Commission a written plan that designates another competent lawyer to review client files and take immediate protective action in the event of Respondent's death, disability, or comparable inability to protect clients' interests.
- (5) Respondent shall commit no new violations of the Rules of Professional Conduct.
- (6) Respondent shall cooperate timely and fully with the Commission in the Commission's investigation of any and all matters.
- (7) Respondent shall immediately report any violation of her probation to JLAP and to the Commission, and JLAP shall promptly report any violation of the terms of Respondent's monitoring agreement to the Commission.
- (8) If Respondent violates her probation, the Commission may petition to revoke her probation and/or seek any other appropriate relief. If Respondent's probation is revoked, the balance of Respondent's suspension shall be actively served without automatic reinstatement, and Respondent will be reinstated only through the procedures of Admission and Discipline Rule 23(18)(b).

Respondent shall not undertake any new legal matters between service of this order and the effective date of the suspension, and Respondent shall fulfill all the duties of a suspended attorney under Admission and Discipline Rule 23(26). Notwithstanding the expiration of the minimum term of probation set forth above, Respondent's probation shall remain in effect until it is terminated pursuant to a petition to terminate probation filed under Admission and Discipline Rule 23(16).

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

Done at Indianapolis, Indiana, on 8/9/2018.

A handwritten signature in black ink, appearing to read "Loretta H. Rush", is written over a horizontal line.

Loretta H. Rush
Chief Justice of Indiana

All Justices concur.