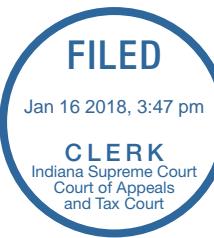


In the
Indiana Supreme Court

In the Matter of: Brian J. Lutz,
Respondent

Supreme Court Case No.
49S00-1705-DI-281



Published Order Approving Statement of Circumstances and
Conditional Agreement for Discipline

Pursuant to Indiana Admission and Discipline Rule 23(12.1)(b), 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: In six different criminal or family law cases, Respondent generally failed to adequately communicate with his clients, missed several court hearings and conferences, and failed to appropriately advance his clients’ cases or otherwise represent their interests. In two of these cases, Respondent’s shortcomings prompted the initiation of show cause proceedings against him. In a third case, Respondent was found in contempt and jailed for five days as a sanction.

Respondent has admitted that he had severe medical issues during some or all of these representations that impaired his ability to represent his clients. Respondent currently is under an indefinite disability suspension imposed in separate proceedings. Matter of Lutz, 84 N.E.3d 623 (Ind. 2017).

Violations: The parties agree that Respondent violated these Indiana Professional Conduct Rules prohibiting the following misconduct:

- 1.3: Failure to act with reasonable diligence and promptness.
- 1.4(a)(2): Failure to reasonably consult with a client about the means by which the client’s objectives are to be accomplished.
- 1.4(a)(3): Failure to keep a client reasonably informed about the status of a matter.
- 1.4(a)(4): Failure to comply promptly with a client’s reasonable requests for information.
- 1.4(b): Failure to explain a matter to the extent reasonably necessary to permit a client to make informed decisions.
- 1.16(a)(2): Failure to withdraw from representation when the lawyer’s physical or mental condition materially impairs the lawyer’s ability to represent the client.
- 8.4(d): Engaging in conduct prejudicial to the administration of justice.

Discipline: The parties propose the appropriate discipline is a 90-day suspension without automatic reinstatement, to run concurrently with Respondent’s indefinite disability suspension.

It appears that Respondent's misconduct may have been caused in part by the conditions that prompted his disability suspension. However, “[c]lients are entitled to protection regardless of a lawyer's personal condition. An attorney compounds his neglect by failing to take steps to insure that his client's interests are protected after it becomes apparent that he is no longer able to function effectively as an attorney.” Matter of Stanko, 849 N.E.2d 1143, 1144 (Ind. 2006).

The Court, having considered the submissions of the parties, now approves the agreed discipline. For Respondent's professional misconduct, the Court **suspends Respondent from the practice of law in this state for a period of not less than 90 days, without automatic reinstatement, effective immediately.** At the conclusion of the minimum period of suspension, Respondent may petition this Court for reinstatement in this matter, provided Respondent pays the costs of this proceeding, fulfills the duties of a suspended attorney, and satisfies the requirements for reinstatement of Admission and Discipline Rule 23(18). Reinstatement is discretionary and requires clear and convincing evidence of the attorney's remorse, rehabilitation, and fitness to practice law. *See* Admis. Disc. R. 23(18)(b). The parties further agree that, in order to be fully reinstated to the practice of law in this state, Respondent will be required to complete the reinstatement process both in this matter as well as in the disability matter.

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

Done at Indianapolis, Indiana, on 1/16/2018.



Loretta H. Rush
Chief Justice of Indiana

All Justices concur.