

In the Indiana Supreme Court

State of Indiana *ex rel.* Theodore E. Rokita,
Relator,

v.

Eric Smith,
Respondent.

Supreme Court Case No.
22S-MS-83



Published Order

Before us is the “Verified Petition to Enjoin the Unauthorized Practice of Law” (“Petition”), filed March 4, 2022, by the Indiana Attorney General pursuant to Indiana Admission and Discipline Rule 24. Respondent, Eric Smith, filed a verified return (“Return”) on March 14, 2022.

Rule 24 provides in part that the “verified petition and return shall constitute the evidence upon which the issues are decided, unless the court shall deem it necessary to . . . appoint[] a commissioner” for further factfinding. For reasons explained below, we find the evidence sufficient to decide the issues before us without the assistance of a commissioner.

The Petition alleges Smith, who is not a licensed attorney, has engaged in the unauthorized practice of law in Indiana by offering and providing legal assistance without attorney supervision to Indiana residents through a company Smith owns and operates called “Self Help Legal Aid Company, LLC.” Among other things, the Petition alleges that Smith was hired to assist an incarcerated individual (“Fisher”) and thereafter drafted a petition for post-conviction relief (PCR) and a sentence modification motion for Fisher. The PCR petition Smith drafted included legal argument, and the sentence modification motion indicated that Smith had attempted to communicate with the prosecutor regarding a modification. Smith indicated in a separate email that he would appear as Fisher’s “legal assistant” at any hearing on the sentence modification motion. Ultimately, Fisher did not file either the PCR petition or modification motion drafted by Smith. The Petition asks that Smith be permanently enjoined from such conduct pursuant to Rule 24.

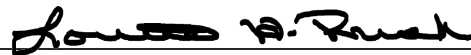
Smith’s Return does not “specifically deny or admit each allegation of fact” in the Petition, as required by Rule 24. In particular, although Smith admits being contacted and paid by Fisher’s acquaintance, Smith neither admits nor denies the remainder of alleged facts involving Fisher. Smith’s failure to do so prompts us to accept those verified allegations as true. *See State ex rel. Indiana Supreme Court Disciplinary Commission v. Lara*, 100 N.E.3d 257, 258 (Ind. 2018).

Smith argues more broadly that his conduct is permissible under our rules governing the use of paralegals. *See generally* Indiana Professional Conduct Rule 5.3 & Guideline 9 for the Use of Non-Lawyer Assistants. But Guideline 9.1 requires a non-lawyer assistant to perform services “only under the direct supervision of a lawyer[.]” Smith does not claim to have been acting under the supervision of a lawyer; rather, he appears to argue that his actions were authorized because *pro se* litigants “act[] as their own attorney.” (Return at 2). Self-representation enables an individual to speak on his or her own legal behalf, but it does not make that individual a lawyer, and certainly not a lawyer authorized to directly supervise Smith’s conduct.

Smith also argues that his conduct occurred in 2019, outside of any statute of limitations. But Rule 24 contains no limitations period; and in any event, Smith’s Return admits the Petition’s averment that “as of the date of filing, Smith continues to offer legal services to individuals in exchange for payment.” Smith also summarily asserts that *pro se* litigants have a constitutional right to be assisted by a paralegal, but he offers no cogent argument in support.

Being duly advised, the Court GRANTS the Attorney General’s Petition. Respondent Eric Smith is hereby PERMANENTLY ENJOINED from offering or providing legal advice or legal services to others unless and until he obtains a license to practice law in Indiana. This restriction shall not preclude Respondent from being employed by, or independently contracting with, a lawyer or law firm as a non-lawyer assistant, so long as, while doing so, he abides by the terms of this permanent injunction and does not contravene the Indiana Rules of Professional Conduct or Guideline 9 for the Use of Non-Lawyer Assistants.

Done at Indianapolis, Indiana, on 5/5/2022.



Loretta H. Rush
Chief Justice of Indiana

All Justices concur.