

STATE OF WISCONSIN
SUPREME COURT

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APPEAL NO. 2011AP001767 D

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST BRIDGET E.
BOYLE, ATTORNEY AT LAW

OFFICE OF LAWYER REGULATION,

Complainant-Respondent,

vs.

BRIDGET E. BOYLE,

Respondent-Appellant,

APPEAL FROM REFEREE JAMES J. WINIARSKI'S
FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDATION FOR DISCIPLINE
DATED OCTOBER 16, 2012

BRIEF AND APPENDIX OF RESPONDENT-APPELLANT

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STATEMENT OF THE ISSUES

- I. THE SANCTION RECOMMENDED BY THE REFEREE EXCEEDS WHAT IS NECESSARY AND APPROPRIATE.

REFEREE'S RECOMMENDATION: FOUR (4) MONTH
 SUSPENSION OF LICENSE

STATEMENT ON ORAL ARGUMENT AND PUBLICATION

Respondent-Appellant submits that the legal issues are clearly set forth in the Briefs, and the factual situation is properly reflected in the Statements of Fact and Briefs, however oral argument may be necessary.

STATEMENT OF THE CASE

The Office of Lawyer Regulation (hereinafter referred to as "OLR") filed a complaint alleging nine (9) counts of misconduct against Respondent-Appellant, Bridget E. Boyle. (R:1). Boyle timely filed her answer to the complaint. (R:5). An amended complaint was filed adding four (4) additional counts and during the June 26, 2012 hearing the parties stipulated that the original answer would serve as the answer to the amended complaint, and all unanswered allegations were being denied. (R:12) (47:267-269). Hearings were held on June 13, 2012, June 26, 2012 and July 9, 2012 before Referee James J. Winiarski (hereinafter referred to as "Referee"). (R:50, 51, 52). During the June 13, 2012 hearing, OLR moved and the Referee dismissed Counts 1, 2 and 3 of the disciplinary complaint dealing with competency of representation, dealing with failure to consult regarding objective representation, and dealing with reasonable diligence issues. (47:113). It should be noted that the original recommendation that OLR requested stayed the same at the conclusion of the hearing even though these counts were dismissed. (R:1)(R:36). On October 16, 2012 the Referee's Report and Recommendation

was filed. (R:44) (Appendix pages 1-25). A timely Notice of Appeal was filed on November 7, 2012. (R:53).

STATEMENT OF THE FACTS

Boyle has been licensed to practice law in the State of Wisconsin since May of 1995, during which time she has practiced primarily in the area of criminal defense. (47:9) (48:394). Boyle has been the subject of a prior discipline in *Private Reprimand of Bridget Boyle*, 08-09, and *Disciplinary Proceedings Against Bridget E. Boyle*, 2010AP2566-D, wherein Boyle received a 60-day license suspension, the imposition of costs, and restitution to the Wisconsin Lawyers' Fund for Client Protection.

The amended complaint filed herein alleged misconduct relating to two (2) clients of Boyle's firm, Boyle, Boyle & Boyle, S.C. (herein referred to as the "Boyle firm"); Christopher Moses and Carnell Pearson. (R:1).

In order to simplify the matter for this Honorable Court's consideration the allegations have been delineated below as related to Boyle's representation of each of the two clients.

Christopher Moses (Counts 4-9)

With respect to her representation of Moses, Boyle is alleged to have committed Rule violations involving SCR 20:1.4(a), Communication (effective prior to July 1, 2007); SCR 20:1.4(a)(3), Communication; SCR 20:1.4(a)(4) Communication; SCR 20:1.5(b), Fees; SCR 20:1.5(b)(3), Fees; SCR 20:1.16(d), Declining or terminating representation. In summary form the Referee made the following findings of fact concerning Boyle's representation of Christopher Moses. The specific facts relevant to this matter will be cited below:

7. Boyle agreed to represent Moses for a total of \$20,0000.
8. There was no written fee agreement between Boyle and Moses. Boyle did not communicate to Moses the basis or rate for her fee or the precise legal service covered by the fee. Moses believed the fee covered a direct appeal to the United State Court of Appeals for the 7th Circuit, including a motion for rehearing en banc, a Petition for Writ of Certiorari to the Supreme Court, a petition pursuant to 28 U.S.C. 2255 . . . a motion for bail pending appeal and various filings with the department to Probation. Boyle maintains she

did not promise any particular legal services other than the appeal to the 7th Circuit and possible 2255. Boyle asserts that the precise nature of legal services . . . were dependent upon her review of the file. However, even after review of the file, Boyle never stated the precise nature of the legal services to be rendered by her to Moses.

11. Moses was scheduled to surrender to [prison]. . . and the date was stayed . . . Moses requested that Boyle seek bail pending appeal. However, Boyle never filed such a motion with the trial court, and Moses remained incarcerated during the appellate process.
12. Moses wrote Boyle on April 4, 2007 and again on April 20, 2007 requesting information concerning the appeal and proposed motion for bond. Additionally, Moses called Boyle on multiple occasions during this time period. Boyle did not respond to Moses' letters or calls.
14. On June 18, 2007, Moses wrote Boyle after reading her brief and commented that she had not raised claims. . . Boyle did not respond to such communications from Moses.

15. On June 27, 2007, Moses again wrote Boyle asking for a response to the prior letter. Moses reiterated he had attempted to reach Boyle by telephone without success. Boyle did not respond to the letter from Moses.
16. On July 2, 2007, Moses again wrote Boyle and requested a response to his prior letters. He also requested a copy of the motion for bail pending appeal. Boyle did not respond to the letter from Moses.
17. On July 12, 2007, Moses wrote Boyle again, noting that he had reviewed the draft motion for bail pending appeal. He requested a telephone conference with Boyle.
19. Moses wrote Boyle on September 27, 2007 and specifically asked her when issues regarding the defectiveness of the search warrant would be addressed. Boyle did not respond.
21. From October 21, 2007 through December 31, 2007, Moses called Boyle 84 times . . . Boyle was consistently unavailable to speak with Moses and answer his questions concerning the appeal. In addition, Moses' friend Christine Stoffel (it should be noted that Stoffel was not a witness at the hearing) called and emailed Boyle . . . but was unable to reach Boyle.

23. Boyle did not advise Moses that his appeal had been denied.
24. From January 1, 2008 through April 1, 2008 Moses called Boyle multiple times and was unable to communicate with her regarding his appeal.
27. On December 30, 2008 Boyle filed a motion for 2255 ...
29. On January 9, 2009, the trial court denied the 2255 ...
30. Boyle did not advise Moses of the Court's . . . decision . . . Boyle maintains she must have missed the Court's decision on the motion, given that it was sent to her only by email, and that she must have accidentally deleted the decision from her computer.
31. On January 29, 2009, Boyle sent Moses a copy of her ... 2255.
32. On February 5, 2009, Moses wrote Boyle . . . he also asked for a copy of his retainer agreement . . . and a full accounting. Boyle did not respond.
33. On May 13, 2009, Moses wrote Boyle . . .
34. Moses wrote Boyle on August 8, 2009 . . .
35. From June 2009 through September 2009, Moses made many unsuccessful attempts to reach Boyle by telephone.

37. On September 3, 2009, Moses wrote Boyle again and asked about the status of the 2255 motion to vacate.
40. On February 12, 2010, Moses wrote Boyle and requested a copy of his file and a refund of fees.
41. On February 24, 2010, Moses again wrote Boyle . . .
46. Boyle . . . provided OLR a complete copy of Moses' file . . .
47. Boyle did not furnish any accounting for her fees and did not return any portion of the \$20,000.00 paid by Moses. However the legal services Boyle did render to Moses, while lacking in communications with Moses, justify the \$20,000.00 fee and are not unreasonable.

Carnell Pearson and Barbara Terry Matter (Counts 10-13)

With respect to her representation of Pearson, Boyle is alleged to have committed Rule violations involving SCR 20:1.5(a), Fees; SCR 20:1.15(b)(4), Safekeeping property; trust accounts and fiduciary accounts; SCR 20:1.16(d), Declining or terminating representation. In summary form the Referee made the following findings of fact concerning Boyle's representation of Carnell Pearson.

- 1) That Pearson was convicted on October 2, 2008 and on November 26, 2008 the Court sentenced him to 5-years

imprisonment and 5-years extended supervision on each count, with the sentences to run consecutively to each other and to any other sentence Pearson might be serving. (R:44, ¶¶ 48,49).

2) That on August 10, 2010 Pearson filed multiple *pro se* post-conviction motions with the trial court and on August 25, 2010 the trial court denied Pearson's post-conviction motions without prejudice. (R:44, ¶¶ 50,51).

3) That mistakenly believing he had only twenty days to file an appeal following denial of his post-conviction motions, on September 7, 2010 Pearson's fiancé' Barbara Terry (hereinafter "Terry") contacted Boyle asking her to file an appeal on Pearson's behalf. Terry paid Boyle \$2,500 on September 7, 2010 and Boyle agreed to file a motion with the Court of Appeals prior to September 14, 2010, seeking to reinstate the appeal. (R:44, ¶¶ 52,53). 114).

4) That Boyle deposited the \$2,500 in the firm's business account and not the firm's trust account. Boyle sent a "Retainer/Fee Agreement" to Terry, but Terry never signed or returned the agreement to Boyle. The fee agreement referred to the fee as "non-refundable", however did not state: the basis or rate of the lawyer's fee; the

ability of the client to file a claim with the Wisconsin lawyers' fund for client protection if the lawyer fails to provide a refund of unearned advanced fees; and that upon termination of the representation, the lawyer shall deliver to the client, in writing, a final accounting, regarding the client's advanced fee payment with a refund of any unearned advanced fees. (R:44, ¶ 54).

5) That from September 7, 2010 through September 14, 2010, Boyle did not file a notice of appearance with the trial court or the Court of Appeals and she did not file a motion seeking to reinstate the appeal. Boyle did determine that Pearson had already lost his appellate rights and that there was no September 14, 2010 deadline, but she did not inform Pearson or Terry of the same. (R:44, ¶ 55).

6) That between September 15, 2010 and September 27, 2010 Terry called Boyle multiple times and informed her she wished to terminate the representation and recover the \$2,500 advanced fee. Terry terminated Boyle's representation on or about September 27, 2010 and following the termination Boyle returned Pearson's file to Terry. Boyle did not account for or refund any advanced fees. Pearson hired new counsel and the Court of Appeals granted

Pearson additional time to either file a notice of appeal or a new post-conviction motion. (R:44, ¶¶ 56, 57, 58).

ARGUMENT

The law in this matter has been clearly established. This Court will affirm the referee's findings of fact unless those findings are clearly erroneous. In re Disciplinary Proceedings Against Eisenberg, 2004 WI 14, 5, 269 Wis.2d 43, 675 N.W.2d 747. Furthermore this Court has indicated that the referee's conclusion of law is reviewed de novo. Id. As it relates to the discipline in each case, this Court has indicated that it will determine the appropriate level of discipline given the particular facts in each case. This Court will however review the discipline independent of the referee's recommendation but will benefit from it. In re Disciplinary Proceedings Against Widule, 2003 WI 34, 44, 261 Wis.2d 45, 660 N.W.2d 686.

The first matter to be discussed is the six counts as it relates to Moses. The Referee in this matter found that OLR had met their burden as it relates to all of these Counts. Specifically, Counts Four through Nine.

Boyle would submit that Counts Four, Five and Six are all interrelated. All of these counts stand for the proposition that Boyle did not respond to Moses' requests, failed to keep him informed about the status of his appellate matters and failed to comply promptly with his repeated requests for information. The Referee concluded that OLR met their burden on these Counts, however, the Referee does not specifically identify any facts to support this conclusion other than to discuss general information and facts.

Boyle agrees that there were letters that she received from Moses that she did not respond to. However some of these letters were discussed with Moses on the telephone. (275, 280). As to other letters that were introduced at the hearing, Boyle indicated that she never received. (285, 287, 301, 307). Even at the hearing there became a question as to whether or not Moses even had sent out some of the claimed letters based upon the fact that he indicated that he always signs his letters when they are sent out and three of the claimed letters were not signed. (97). Moses also testified that there were visits with him at the prison. (124, 133). Moses also testified that he personally spoke with Boyle on 15 occasions. Boyle however

claims that number to be 25 to 35 times. (384). Furthermore, Boyle provided proof of three conference calls (384). Boyle indicated that she met with Moses 5 times prior to him entering the prison system. (379). Boyle also indicated that she met with Christine Stoffel 3 or 4 times and one time with Moses' father in Fond du Lac (383). Finally, Mr. Gerald Boyle indicated that he met with Moses and with Moses' father. (150-151).

One point that was discussed at great length during the hearing was the 84 phone calls that Moses made to Boyle's phone shortly after the oral arguments in this matter. (106). Boyle does not dispute that, but would note for the record there was absolutely nothing going on with Moses' case at that point in time. This was right after the oral arguments. Moses was talked with about the oral arguments and there was no activity on his case at that point in time other than to wait for a decision. Furthermore, it should be noted that there is nothing in the record to suggest that Moses sent a letter to Boyle with any sort of request or question about his appeal during this timeframe. There is nothing in the record nor does Moses indicate that he needed anything during this timeframe.

It should also be noted that Boyle had no idea that Moses was calling. Specifically, phone calls would come in as "private". As indicated in the record if he called, the calls were at inopportune times. He called while Boyle was in court, he called while Boyle was on the other line, he called when Boyle did not have the opportunity to answer his call and spend the time with him. (48:424-428). This was not a situation where Boyle could return the phone calls, even if she knew that the call was specifically from Moses and if there was something of great significance, Moses had the ability to contact family members and friend to relay any messages. Having stated that, the record supports only one conclusion that the 84 phone calls were not in regards to anything specific just that Moses attempted to call.

As to Count Seven, the Referee found that the initial difficulty with the Moses matter was due to the fact that there was no written fee agreement. The Referee indicated that since there was no written fee agreement there was not a clear understanding as to what services would be performed for Moses. The Referee indicates that since Moses had a belief that he was entitled to have certain things done in his matter that his perception was correct.

For instance, Moses testified that he wanted a bail motion pending appeal. This Court is well aware of the fact that there must be a certain threshold met in order to obtain bail pending appeal. Furthermore a motion for bail pending appeal is rarely granted and rarely filed. Moses also claimed that he thought his matter would include a possible Petition for Writ of Certiorari to the Supreme Court.

The Referee fails to assess the credibility of Moses. In the hearing, Moses' credibility was challenged greatly and it became clear that Moses believed that it was proper for submissions of false affidavits to Courts. (47:102). Therefore, when Moses indicates that he believed that his retention of Boyle included a Petition for Writ of Certiorari to the Supreme Court, when Boyle was not admitted to such court, the Referee in this matter accepts his word.

The Referee correctly notes that Moses was a high maintenance client who was attempting to do everything to avoid going to prison. As a result, he wanted bail pending appeal. Having stated that, just because a client wants bail pending appeal, that does not mean that they get bail pending appeal. Nor does that mean that they are entitled to even file for a request for bail pending appeal. Yet it

should be noted that even though there was not a motion for bail pending appeal filed in his matter, there was a motion for a furlough due to the floods that occurred in his home town. Boyle also filed a stay of his report-in date to prison. (47:79).

Boyle stated in the hearing that it is impossible to determine precisely what legal services will be appropriate until after the file is completely reviewed. The Referee indicates that there is some truth to that proposition. However, the Referee indicated that except for the communications with Moses in relation to the direct appeal, he was satisfied that there was no meaningful communications between Moses and Boyle as to the services that she would perform. (44:18). The problem with that conclusion is that the evidence at the hearing was contrary to that conclusion. Moses testified that prior to his report-in to prison that there were meetings with Boyle to discuss the appeal and the strategy. (47:81). Moses also testified that were visits with him at the prison. (48:124, 133). Moses also testified that he personally spoke with Boyle on 15 occasions.

The Referee also indicates that Boyle failed to communicate the basis for her fee and therefore violated

former SCR 20:1.5(b). There is no indication that Boyle failed to communicate the fee. Boyle charged a flat fee to attempt to get Moses a new trial. This fee was for his appeal after his conviction in the District Court. That was communicated to Moses. However what was not communicated to Moses was the other issues in his case that came up after the agreement to represent him. Boyle did not know there were going to be floods in Fond du Lac. Boyle did not know there were going to be issues with his classification in the prison. These issues came up well after the fact and were handled appropriately. Consequently, the fee arrangement was properly communicated to Moses insomuch that he was able to understand the goals of his representation which was to try to get him some relief from his conviction and relief from his prison term.

Boyle does not dispute Count Eight which indicates that she did not provided an accounting of legal fees and expenses contrary to SCR 20:15(b)(3). Furthermore, Boyle does not dispute Count Nine which indicates that she failed to surrender Moses' file in a timely fashion after multiple attempts in violation of SCR 20:1.16(d). However, as it relates this count, Boyle produced evidence at the hearing

that the federal prison would not accept the banker boxes and they needed to be delivered in person. (48:377).

In the Pearson matter, the Referee concluded as it relates to Count Ten that OLR did not meet their burden of proof that Boyle did not take any meaningful action on behalf of Pearson during the period of time Boyle represented Pearson. However, the Referee found that OLR did meet their burden as it relates to Counts Eleven, Twelve and Thirteen; by keeping the \$2,500 fee for representation that Boyle did not complete. Furthermore the Referee found that by failing to deposit the \$2,500 advanced fee into her trust account and instead depositing the money into her law firm operating account with no evidence of utilizing the alternative fee placement, Boyle violated SCR 20:1.15(b)(4). Finally, the Referee found that Boyle failed to refund any unearned fees to Terry and therefore Boyle violated SCR 20:1.16(d).

Boyle disagrees with the Referee's reasoning regarding keeping a \$2,500 fee for representation that she did not complete. The Referee indicated that she did not perform any meaningful legal services for Pearson. (44:22). Boyle disagrees with that statement. The Referee indicates that he did not believe that Boyle read the transcripts in this

matter. As indicated in his decision he states that "a staff member . . . testified that she saw Boyle reading Pearson's transcripts after Boyle was retained by Terry, however, Boyle testified that she reviewed the transcripts over the weekend at home. In any case Boyle's claim that she immediately reviewed the transcripts, thus justifying the \$2,500 legal fee charged, is not supported by the evidence." (44:22).

There was additional work performed on the Pearson matter that the Referee has not cited or recognized. First off, there was a meeting and phone calls with Barbara Terry and Pearson. (48:334, 337, 340, 346). Also as indicated at the hearing, there was a draft motion created to attempt to reinstate his appeal rights. (48:330).

The Referee indicates that he did not believe that Boyle read the transcripts before a trial that was substantial in nature. The trial in question was State v. James Howard, 09CF1245. (48:415). As indicated at the hearing, the Howard matter had been scheduled a number of times before and even though there was preparation that needed to be done over that weekend, it had been prepared the other times it was scheduled for trial. (48:416).

The Referee indicates that the work that was performed in this matter was minimal and therefore the fee of \$2,500 was unreasonable. Furthermore the Referee indicated that Boyle failed to account for or refund the unearned fees. The fee that was paid was a minimal portion of the agreed upon fee. As indicated at the hearing, Barbara Terry testified that the total fee was \$7,500. This fee however would be reduced if Boyle could not get Pearson's appellate rights reinstated. (47:203). This is confirmed with the retainer letter that was sent to her that she acknowledged receiving but refused to sign. (47:203).

Finally as it relates to the matter, the Referee found that Boyle placed the \$2,500 of unearned advanced fee into her business account. (44:23). Boyle agrees that the money was not deposited in the trust account. Boyle would submit that this will be discussed in greater detail in the disciplinary portion of this brief.

Boyle contends that she did not refund any fees to Terry because it was earned. Boyle contends that work was performed and she was entitled to payment for said work. Certainly Boyle would agree that if Terry paid the entire fee, Terry would absolutely be entitled to a refund. However in this matter, the entire fee was not paid and

Boyle performed work on the matter. The Referee found that Boyle should return the \$2,500 fee in this matter. Boyle again submits that work was performed and if there was an issue about whether or not that work justified a fee of \$2,500, that is an issue for arbitration not for suspension from the practice of law.

DISCIPLINE TO BE IMPOSED

As stated above, the Court has a responsibility to review the appropriate discipline independently from the Referee's decision in this matter. In re Disciplinary Proceedings Against Reitz, 2005 WI 39, 74, 279 Wisc.2d 550, 694 N.W.2d 894. This Court had indicated that there are a number of factors that must be considered in deciding the appropriate discipline. First off, the Court must consider the seriousness of the misconduct. The Court also must consider the need to protect the public, courts, and legal system from the repetition of misconduct. Finally the Court has indicated the need to impress upon the attorney the seriousness of the misconduct and the need to deter other attorneys from engaging in similar misconduct. In re Disciplinary Proceedings Against Arthur, 2005 WI 40, 78, 279 Wis.2d 583, 694 N.W.2d 910.

This was a matter that involved significant testimony. Furthermore, the hearing which occurred over three days had a substantial amount of exhibits. The totality of the hearing in this matter involves the representation of two clients. It should be noted that at the hearing matters were addressed that were not alleged as allegations. (48:361- 364).

As it relates to the Moses matter, Boyle has indicated that there were letters received and not responded to. However, Boyle would indicate that some of said letters were discussed via the phone. Boyle has also indicated and the Referee indicates that the only reason that she did not become aware of the denial of the 2255 based upon the unique nature of the ECF filing system. It should be noted that a letter was sent to Moses regarding the denial of the 7th Circuit Court of Appeals but he did not receive said letter due to an error by her office staff. (47:243).

As it relates to Pearson, there is no evidence to suggest that Pearson was at all harmed. The harm that occurred to Pearson occurred well before Boyle had ever become involved in his matter. Boyle is in no way responsible for the loss of his appellate rights because the record is clear that another attorney was the person

responsible for losing Pearson's appellate rights. The only issue before the Court as it relates to the Pearson matter is whether or not Boyle earned the fee and whether or not the failure of depositing the \$2,500 in the trust account amounts to a significant discipline of the loss of the ability to work as a lawyer.

It appears on the face of this issue that this is an issue that should have been resolved with arbitration. Boyle submits that the reason that the arbitration provision was put into place was exactly for this reason, to wit: to decide whether or not the attorney had earned the money for work performed. If a person sees a doctor and does not like the doctor after the appointment or decides that they want a second opinion, the doctor will still bill for the services rendered. For some reason Terry and Pearson decided that they wanted to go in a different direction. They have that right. However, Boyle submits that she has the ability to get paid for the time and effort that she put into the matter. It seems unjust to suggest that she does not have that right. Having stated that, if this Court believes that Terry has a right to a refund in this matter, Boyle submits that the proper

venue for that decision would be through arbitration and not through a suspension of her license.

As it relates to the \$2,500 fee not being deposited in the trust account, Boyle submits that she did not believe that it was required to be placed into the trust account. It also should be noted that Boyle does not have any control over the money in her office. (47:247). She is not a signor on the checking accounts, she has no control over the money and she is paid on salary. (47:247). Therefore, she does not dictate where the money goes because she is an employee without any monetary control.

Having stated the above, coupled with the fact that Boyle believes that the money was earned, Boyle would submit that this should not result in any suspension of her license.

There have been many matters before this Honorable Court that deal with lawyers who have issues regarding notification of matters to the clients. In In re Disciplinary Proceedings Against Ann Bowe, 2011 WI 48, 334 Wis.2d 360, 800 N.W.2d 367 (2011), this Court imposed a private reprimand for four counts of misconduct in relation to Bowe's failure to properly serve a Respondent in a

divorce and indicating to the court that proper service was executed.

In Bowe, the facts are that Ms. Bowe indicated that she properly served the Respondent in a divorce action. However, the Respondent was never served. Based upon the Court believing that the Respondent was in fact served, the divorce trial proceeded and findings of facts and conclusion of law were prepared due to the default of the Respondent. Bowe's client eventually had to hire a different lawyer and the divorce was reopened. The client had to pay additional fees to the subsequent divorce lawyer.

The Court in the Bowe matter found that even though OLR had made a recommendation of a suspension for 60 days, the Referee's decision to impose a public reprimand was appropriate. The Court indicated that based upon the referee's observation that she accepted responsibility for her actions, expressed remorse and recognized the impact on her client, she should receive a public reprimand. In this matter, there is absolutely no claim by anyone that they were harmed by Boyle's representation, such as what is set for in Bowe.

The Referee has discussed the appropriate discipline in this matter. He has indicated that a four month suspension of Boyle's license is appropriate. This is the exact suspension that OLR requested in their complaint. (R:1). Being in mind that OLR dismissed three counts during the hearing, this was still the requested discipline. Having stated that, the Referee found certain mitigating aspects. For instance, the Referee indicated that Boyle has a reputation in the community as a fine criminal defense lawyer. (44:25). The Honorable David Hansher testified as to his positive observations of Boyle and her reputation in the community. (44:25). The Referee properly notes that Boyle's problems have occurred in the recent years.

Boyle would submit that as indicated over and over throughout the hearing in this matter, that there were medical issues that started in 2009. (48:364). Boyle has explained with the corroboration of other office staff that the health issues were a significant issue since 2009. (47:149, 258).

The Referee indicates that Boyle needs to communicate with her clients from the beginning to the end of her representation. (44:24). Boyle does not disagree with that

statement. Having stated that, Boyle would submit that a four month suspension of her license for the failure to communicate with Moses based upon the specific record in this matter does not seem to be appropriate. There have been numerous examples of lawyers not communicating with clients and those lawyers have not received a suspension of four months. See In re Disciplinary Proceedings Against Michael J. Hicks, 2012WI12, 809 N.W.2d 33 (2012), Public Reprimand of Michael J. Masnica, 1999-7 and Private Reprimand 2006-1.

Based upon the above arguments and the facts and circumstances that were presented at the hearing, Boyle would submit that a public reprimand is appropriate in this matter. There is no suggestion or finding that there was any dishonesty or fraud involved in these matters. As a result, Boyle would request that this Honorable Court impose a public reprimand.


CONCLUSION

For all reasons stated herein and the arguments set forth in support thereof, Respondent-Appellant Bridget E. Boyle respectfully asks that this Honorable Court impose a disciplinary sanction short of suspension of her license and submits that a more appropriate sanction would be a public reprimand or other sanctions the Court deems appropriate short of suspension.

Dated this 19th day of January 2013.

Respectfully submitted,

BOYLE, BOYLE & BOYLE, S.C.
Attorneys for Defendant-
Appellant

A handwritten signature in dark ink, appearing to be 'B. Boyle', written over a horizontal line.

Bridget E. Boyle
State Bar I.D. No. 1024879

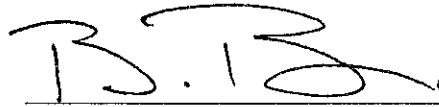
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CERTIFICATION

I certify that this brief conforms to the rules contained in sec. 809.19(8)(b) and (c), Stats., for a brief produced using a monospaced font: 10 characters per inch; double spaced; 1.5 inch margin on left side and 1 inch margins on the other 3 sides. The length of this brief is 27 pages.

Dated: 01-19-13

BOYLE, BOYLE & BOYLE, S.C.

A handwritten signature in black ink, appearing to read 'B.E. Boyle', written over a horizontal line.

Bridget E. Boyle
State Bar No. 1024879

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CERTIFICATE OF COMPLIANCE WITH RULE 809.19(12)

I hereby certify that:

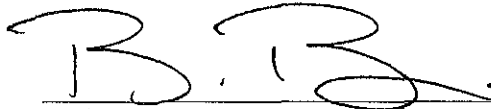
I have submitted an electronic copy of this brief, excluding the appendix, if any, which complies with the requirements of s. 809.19(12). I further certify that:

This electronic brief is identical in content and format to the printed form of the brief filed as of this date.

A copy of this certificate has been served with the paper copies of this brief filed with the court and served on all opposing parties.

Dated: 01-19-13

BOYLE, BOYLE & BOYLE, S.C.


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