

BEFORE THE HEARING BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION

In the Matter of:

JEFFREY ALLEN McINTYRE,

Attorney-Respondent,

No. 6225606.

Commission No. 2021PR00018

COMPLAINT

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, Richard Gleason, pursuant to Supreme Court Rule 753(b), complains of Respondent, Jeffrey Allen McIntyre, who was licensed to practice law in Illinois on November 10, 1994, and alleges that Respondent has engaged in the following conduct which tends to defeat the administration of justice or to bring the courts or the legal profession into disrepute, and which subjects Respondent to discipline pursuant to Supreme Court Rule 770:

COUNT I

Criminal conviction for operating while intoxicated

1. At all times alleged in this complaint, there was in effect a criminal statute in Wisconsin, Wis. Stat. 346.63(1)(a), which made it a state criminal offense to drive or operate a motor vehicle while under the influence of an intoxicant which rendered the driver incapable of safely driving.

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ARDC Clerk

2. At all times alleged in this complaint, there was in effect a criminal statute in Wisconsin, Wis. Stat. 346.65(2)(am)(3). Wis. Stat. 346.65(2)(am)(3) made a conviction of 346.63(1)(a), described in paragraph one, above, punishable by a fine of not less than \$600 and not more than \$2,000, and not less than 45 days nor more than one year in the county jail, if the conviction constituted an offender's third conviction or violation of operating a motor vehicle while intoxicated.

3. At all times alleged in this complaint, there was in effect a criminal statute in Wisconsin, Wis. Stat. 343.307(a)(1). For the purposes of counting the number of an offender's prior convictions under 346.65(2)(am)(3), Wis. Stat. 343.307(a)(1) required that a sentencing court include previous convictions of Wis. Stat. 346.63, described in paragraph one, above, as well as convictions under the law of another jurisdiction that prohibits a person from using a motor vehicle while intoxicated.

4. On or about February 11, 2018 at 5:00pm, Respondent was driving in Springdale, Wisconsin on Hwy 18-151. Wisconsin State Trooper Vacha observed Respondent's vehicle to be traveling at a speed of 91 miles per hour in a 65 mile per hour zone. Trooper Vacha stopped Respondent. After speaking with Respondent, Trooper Vacha asked Respondent to exit the vehicle and perform various field sobriety tests, all of which Respondent failed. Trooper Vacha placed Respondent under arrest and transported Respondent to Meriter Hospital in Madison, Wisconsin. At the hospital, Respondent submitted to a blood test, which revealed Respondent's blood alcohol level to be .143 g/100 ml.

5. Respondent had previously been convicted of operating while intoxicated in Dane County, Wisconsin in March of 2003, and convicted of operating while impaired in Berrien County, Michigan on July 22, 2014.

6. Respondent was charged with operating while intoxicated (3rd), in violation of the Wisconsin statutes described in paragraphs one through three, above. The Clerk of the Court of Dane County, Wisconsin docketed the matter as *State v. McIntyre*, and assigned the matter the case number of 2018CT000198.

7. On or about October 16, 2018, Respondent plead guilty to the criminal offense of operating while intoxicated (3rd), pursuant to Wis. Stat. 346.63(1)(a). The court sentenced Respondent to 60 days in jail, revoked Respondent's license for 26 months, required Respondent to use an ignition interlock device for 26 months, provide a DNA sample, and undergo an alcohol assessment, and imposed fines of \$766 and court costs of \$648.

8. By reason of the conduct and convictions described above, Respondent has engaged in the following misconduct:

- a. Committing a criminal act that reflects adversely on his fitness as a lawyer, by conduct including committing and being convicted of the offense of operating while intoxicated (third violation), in violation of Wis. Stat. 346.63(1)(a) and Wis. Stat. 346.65(2)(am)(3), in violation of Rule 8.4(a)(b).

COUNT II
Battery

9. At all times alleged in this complaint, there was in effect a criminal statute in Wisconsin, Wis. Stat. 940.19 made it a Class A misdemeanor to cause bodily harm to another by an act done with intent to cause bodily harm to that person or another without the consent of the person so harmed.

10. At all times alleged in this complaint, there was in effect a criminal statute in Wisconsin, Wis. Stat. 939.51(3), which provided that the penalties for a Class A misdemeanor were a fine not to exceed \$10,000 or imprisonment not to exceed nine months, or both.

11. On or about December 25, 2017, Respondent was at a tavern in Madison, Wisconsin in the company of two women. Tavern staff informed Respondent and his two female companions that the tavern would soon close for the evening. Respondent and his companions became upset that the tavern was closing. One of the women pulled her pants down and urinated on the floor of the tavern.

12. Respondent and the two women left the tavern. One of the staff members of the tavern followed Respondent and the women out of the tavern, and called the police, intending to press charges against the woman who urinated on the floor. Respondent made an obscene hand gesture to the staff member, and then punched the staff member in the nose with a closed fist. Madison police arrived and placed Respondent under arrest.

13. After his arrest, Respondent was charged with misdemeanor battery and disorderly conduct. The Dane County Clerk of Court docketed the matter as *State v. McIntyre*, and assigned the matter the case number of 2018CM000035.

14. On or about May 29, 2018, Respondent pled guilty to the battery charge. The courtroom prosecutor dismissed the disorderly conduct charge on the prosecutor's own motion. The court withheld adjudication based on a nine-month deferred prosecution agreement.

15. By reason of the conduct described above, Respondent has engaged in the following misconduct:

- a. Committing a criminal act that reflects adversely on his fitness as a lawyer, by conduct including committing and pleading guilty to the offense of battery under Wis. Stat. 940.19, in violation of Rule 8.4(a)(b).

COUNT III

Failure to cooperate with an ARDC investigation

16. On November 19, 2018, the Administrator received from Respondent a letter disclosing Respondent's plea of guilty on October 16, 2018 to the misdemeanor offense of operating while intoxicated, described in paragraph seven, above. Based on the information in Respondent's letter, the Administrator docketed investigation number 2018IN04489.

17. On or about November 21, 2018, Respondent received a letter from the Administrator asking Respondent to provide, within 14 days, a specific, detailed account of the circumstances of the offense Respondent had pled guilty to on October 16, 2018. In the letter, the Administrator additionally asked that Respondent explain in detail the circumstances leading up to any prior or subsequent criminal or driving arrests, a copy of any alcohol or drug assessments Respondent had received since his admission to practice law in Illinois, and to identify any disciplinary action imposed by other jurisdictions in which Respondent was licensed.

18. On November 30, 2018, Respondent's counsel contacted the Administrator to state that counsel would be representing Respondent, and asked that she be provided an extension until January 11, 2019 to respond to the Administrator's request for information, described in paragraph 15, above. The Administrator agreed to the extension requested by Respondent's counsel.

19. As of May 5, 2020, Respondent had yet to respond to the Administrator's November 21, 2018 request for information, described in paragraph 15, above. On May 5, 2020, the Administrator sent Respondent's counsel a letter asking that Respondent provide the requested information within seven days.

20. As of June 2, 2020, Respondent had yet to respond to the Administrator's request for information, described in paragraph 15, above. On June 2, 2020, the Administrator issued a subpoena duces tecum to Respondent seeking the same information requested in the November

21, 2018 letter, and served Respondent with the subpoena the same day by sending a copy via email to Respondent's counsel. The subpoena was returnable June 24, 2020.

21. As of August 3, 2020, Respondent had yet to respond to the Administrator's subpoena or letter requests for information. On August 3, 2020, the Administrator issued a new subpoena duces tecum to Respondent seeking the same information requested in the November 21, 2018 letter and June 2, 2020 subpoena. The Administrator emailed a copy of the subpoena directly to Respondent at his work address, as well as to Respondent's counsel. The subpoena was returnable August 25, 2020.

22. On September 28, 2020, Respondent's counsel emailed the Administrator to state that she had not been able to contact Respondent, and that she would no longer be representing Respondent. Respondent had yet to respond to any of the Administrator's subpoenas or letter requests for information.

23. As of October 6, 2020, Respondent had yet to respond to any of the Administrator's subpoenas or letter requests for information. On October 6, 2020, the Administrator issued a new subpoena duces tecum to Respondent seeking the same information requested in the November 21, 2018 letter, June 2, 2020 subpoena, and August 3, 2020 subpoena. The October 6, 2020 subpoena was returnable October 20, 2020. The Administrator served Respondent with a copy of the subpoena by delivering a copy to Respondent's home address via FedEx on October 7, 2020.

24. At no time did Respondent provide any of the information sought by the Administrator in any of the Administrator's letters to Respondent, or comply with any of the subpoenas issued by the Administrator.

25. By reason of the conduct described above, Respondent has engaged in the following misconduct:

- a. failure to respond to lawful demands for information from a disciplinary authority, by failing to timely respond to letters and subpoenas duces tecum, in violation of Rule 8.1(b) of the Illinois Rules of Professional Conduct (2010); and
- b. conduct that is prejudicial to the administration of justice, by conduct including failing to respond to the Administrator's requests for additional information and failing to comply with the Administrator's subpoena duces tecum, in violation of Rule 8.4(d) of the Illinois Rules of Professional Conduct (2010).

WHEREFORE, the Administrator requests that this matter be assigned to a panel of the Hearing Board, that a hearing be held, and that the panel make findings of fact, conclusions of fact and law, and a recommendation for such discipline as is warranted.

Respectfully submitted,

Jerome Larkin, Administrator
Attorney Registration and
Disciplinary Commission

By: /s/ Richard Gleason
Richard Gleason

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