

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

In the matter of:

INDIA NOELLE WINBUSH,

Attorney-Respondent,

No. 6314281.

Commission No. 2022PR00015

NOTICE OF FILING

TO: Sari Montgomery
Robinson, Stewart, Montgomery & Doppke LLC
33 N. Dearborn St. Suite 1420
Chicago, IL 60602
smontgomery@rsmdlaw.com

PLEASE TAKE NOTICE that on November 17, 2022, I will file the FIRST AMENDED COMPLAINT, a copy of which is attached, by causing the original copy to be delivered to the Clerk of the Attorney Registration and Disciplinary Commission in Chicago, Illinois for filing. On that same date, a copy was served via email on Respondent's counsel at smontgomery@rsmdlaw.com at or before 4:00 p.m.

/s/ Peter L. Rotskoff
Peter L. Rotskoff

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11/17/2022 4:21 PM
ARDC Clerk

PROOF OF SERVICE

The undersigned, an attorney, hereby certifies, pursuant to the Illinois Code of Civil Procedure, 735 ILCS 5/109, that the Administrator served a copy of the Notice of Filing and FIRST AMENDED COMPLAINT, via email on smontgomery@rsmdlaw.com on November 17, 2022 at or before 4:00 p.m.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

/s/ Peter L. Rotskoff
Peter L. Rotskoff

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FIRST AMENDED COMPLAINT

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, Peter L. Rotskoff, pursuant to Illinois Supreme Court Rule 753(b), complains of Respondent, India Noelle Winbush (“Respondent”), who was licensed to practice law in Illinois on October 31, 2013, and alleges that Respondent has engaged in the following conduct which subjects her to discipline pursuant to Supreme Court Rule 770:

COUNT I

(Lack of diligence and *failure to comply with court - Maria Rivas*)

1. Between January 31, 2017, and December 19, 2018, Respondent represented Maria Rivas (“Rivas”) in case number 2010 D 3812, a domestic relations case filed in the Circuit Court of Cook County, captioned *Christopher Brown vs. Maria Rivas*. In or around October 2018, Rivas terminated Respondent as her attorney.

2. In October 2018, Rivas and Kurt Muller (“Muller”), agreed that Muller’s firm (the “Muller Firm”) would represent Rivas in a case number 2010 D 3812.

3. In October 2018, the Muller Firm sent Respondent an executed substitution of attorney form. Respondent did not sign the substitution of attorney form until November 15, 2018.

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4. On December 19, 2018, the court in case number 2010 D 3812, entered an order granting the Muller Firm leave to substitute its appearance on behalf of Rivas and ordered the withdrawal of Respondent's appearance, *instanter*. In addition, the order required Respondent to turn over the client file to Muller no later than December 27, 2018. At no time did Respondent comply with the court's December 19, 2018 order to turn over the client's file within the time prescribed by the order.

5. As of February 13, 2019, Respondent had not turned over Rivas's file to the Muller Firm. At a February 13, 2019 court status hearing in case number 2010 D 3812, Respondent, who was present despite the fact that she was no longer counsel for Rivas, was again directed by the court to turn over the Rivas's file to Muller. The order provided that if Respondent did not turn over the file by February 19, 2019 at 4:00 p.m., Respondent would be subject to sanctions. The order also required Respondent to appear in court on February 21, 2019.

6. As of February 19, 2019, Respondent had not turned over the Rivas's file to Muller. On February 20, 2019, Muller filed a motion to compel and for sanctions, requesting that the court compel Respondent to turn over the Rivas's file and impose sanctions against Respondent.

7. On February 20, 2019, Respondent sent Rivas an email, stating that she had sent her the requested file to Rivas in January 2019. Respondent also sent the Muller Firm an email on the same date claiming to have sent the firm a certificate of delivery of the file to Rivas.

8. Respondent did not appear at the February 21, 2019 status hearing in case number 2010 D 3812. On that date, the court entered an order imposing Supreme Court Rule 137 sanctions against Respondent of \$100 per day for each day, beginning on February 21, 2019 and until Rivas's file was turned over.

9. As of April 2, 2019, Respondent had not turned over Rivas's file, or otherwise complied with the court's February 21, 2019 order. On April 2, 2019, Respondent did not appear

in court. On that date, the court ordered Respondent to pay Rivas \$4,100, in sanctions and he ordered the sanctions to continue to accrue. The court also issued a separate order on the same date ordering Respondent to pay the Muller Firm \$1,537 for delays previously caused by Respondent's failure to appear for court dates.

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

- a. failing to act with reasonable diligence and promptness in representing a client, by conduct including failing to appear at court hearings when ordered to appear in those cases, in violation of Rule 1.3 of the Illinois Rules of Professional Conduct (2010);
- b. knowingly disobeying an obligation under the rules of a tribunal by conduct including not complying with court orders, in violation of Rule 3.4(c) of the Illinois Rules of Professional Conduct (2010); and
- c. engaging in conduct prejudicial to the administration of justice by conduct including not complying with court orders, in violation of Rule 8.4(d) of the Illinois Rules of Professional Conduct (2010).

COUNT II

(Lack of diligence and failure to comply with court orders - Opeyemi Apata)

11. On or before May 28, 2019, Respondent and Opeyemi Apata ("Apata") agreed that Respondent would represent Apata in a dissolution of marriage matter. Respondent advised Apata that she would charge a flat fee of \$1,000 for representing her in the case, which Apata paid to Respondent on or before May 28, 2019. Respondent also told Apata that if the case became complicated, she might have to charge Apata additional fees. Respondent and Apata did not enter into a written representation or fee agreement. On May 28, 2019, Respondent filed a petition for dissolution of marriage on behalf of Apata against Maxwell Odum in the Circuit Court of Cook County. The clerk of the court docketed the case as *Apata v. Odum*, 2019 D 630513.

12. On or shortly after May 28, 2019, Respondent received notice of a September 26, 2019 status hearing to be held in case number 2019 D 630513. Respondent did not appear at the September 26, 2019 status hearing and the matter was continued for a status hearing on October 9, 2019. Respondent received notice of the October 9, 2019 status hearing.

13. Respondent did not appear at the October 9, 2019, status hearing in case number 2019 D 630513. On November 1, 2019, the court issued a rule to show cause against Respondent for her failure to appear. The court ordered Apata to send a copy of the rule to show cause to Respondent by certified mail and set the matter for further status on December 11, 2019. Apata sent a copy of the order to Respondent by certified mail, as ordered by the court.

14. On December 11, 2019, Apata appeared for the status hearing but Respondent did not appear. Apata provided the court proof of service of the November 1, 2019 order on Respondent, as well as e-mails that she had exchanged with Respondent regarding the matter. The court entered an order of contempt against Respondent as a result of her failure to appear and further ordered that in order to purge the contempt order, Respondent would have to appear on January 27, 2020 and reimburse Apata her retainer. Respondent did not appear on January 27, 2020 or any date thereafter.

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

- a. failing to act with reasonable diligence and promptness in representing a client by conduct including failing to appear at hearings when ordered to appear in those cases, in violation of Rule 1.3 of the Illinois Rules of Professional Conduct (2010);
- b. knowingly disobeying an obligation under the rules of a tribunal, by conduct including not complying with court orders and by being held in contempt of court, in violation of Rule 3.4(c) of the Illinois Rules of Professional Conduct (2010); and

- c. engaging in conduct prejudicial to the administration of justice by conduct including not complying with court orders and by being held in contempt of court, 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/ Peter L. Rotskoff
Peter L. Rotskoff

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