

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

In the Matter of:

SARA MCCLUSKY,
Attorney-Respondent,
No. 6336345.

Commission No. 2024PR00067

COMPLAINT

Lea S. Gutierrez, Administrator of the Attorney Registration and Disciplinary Commission, by her attorney, Peter Rotskoff, pursuant to Supreme Court Rule 753(b) and 761(c), complains of Respondent, Sara McClusky, who was licensed to practice law in the State of Illinois on January 14, 2021, and alleges that Respondent has engaged in the following conduct which subjects her to discipline pursuant to Supreme Court Rule 770:

COUNT I

*(Criminal Contempt, Failure to Comply with Court Orders
and Lack of Diligence in an Appeal)*

1. On September 1, 2023, the Circuit Court in Massac County, Illinois, terminated the parental rights of D.J. and E.J., with respect to their minor child, in case number 20JA18.
2. On October 13, 2023, Respondent was appointed by the Circuit Court to represent D.J. and E.J. in separate appeals from the termination order in the Appellate Court, Fifth District, case number 05-23-0762 [D.J.] and 05-23-0668 [E.J.].
3. Due to the nature of the proceeding, the appeals were expedited pursuant to Supreme Court Rule 311(a), and Respondent's brief was due on November 8, 2023.

4. At no time on or before November 8, 2023, did Respondent file a brief or a motion for extension of time to file the brief.

5. On December 5, 2023, the Appellate Court entered an order requiring Respondent to file a brief on or before December 20, 2023.

6. At no time on or before December 20, 2023, did Respondent file a brief or any other pleading in either case.

7. On December 29, 2023, the Appellate Court entered an order granting Respondent an additional seven days to file a brief or seek an extension of time or face possible contempt proceedings.

8. At no time did Respondent file any pleading in response to the Court's December 29, 2023, order.

9. On May 3, 2024, the Appellate Court entered an order requiring Respondent to file a brief in the cases on or before May 16, 2024. The order stated that if no brief was filed, Respondent would be required to personally appear before an Appellate Court panel on Monday, May 20, 2024, to provide an explanation for her failure to respond to the Court's previous orders in cases 05-23-0762 and 05-23-0668. The order further stated that if Respondent did not appear, she would be held in contempt, fines would be issued, and she would be reported to the Illinois Attorney Registration and Disciplinary Commission ("ARDC"). The May 3, 2024, order was served via email and certified mail. Respondent received the order on or about May 3, 2024.

10. At no time did Respondent file a brief or other pleadings in either case 05-23-0762 or case 05-23-0668 on or after May 3, 2024.

11. On May 20, 2024, Respondent did not appear for the scheduled hearing before a panel of the Appellate Court.

12. On May 28, 2024, the Appellate Court issued an order finding Respondent in contempt for failing to appear as ordered on May 20, 2024, and ordered that a sanctions hearing be held on June 4, 2024, in both cases.

13. Respondent was personally served with the court's May 28, 2024 order, by the Massac County Sheriff's office.

14. On June 4, 2024, Respondent did not appear for the sanctions hearing and the court found her to be in direct criminal contempt. She was fined \$100, and the court ordered that the Fifth District Appellate Court Clerk report Respondent's conduct to the ARDC.

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

- a. failure to act with reasonable diligence and promptness in representing a client by failing to comply with numerous orders and deadlines in cases 05-23-0762 and 05-23-0668, in violation of Rule 1.3 of the Illinois Rules of Professional Conduct (2010);
- b. failure to make reasonable efforts to expedite litigation consistent with the interests of the client by her conduct in cases 05-23-0762 and 05-23-0668, in violation of Rule 3.2 of the Illinois Rules of Professional Conduct (2010);
- c. knowingly disobeying an obligation under the rules of a tribunal by failing to comply with numerous orders in cases 05-23-0762 and 05-23-0668 and failing to appear as ordered for the contempt hearing, in violation of Rule 3.4(c) of the Illinois Rules of Professional Conduct (2010); and
- d. committing a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness to as a lawyer in other respects by being held in direct criminal contempt, in violation of Rule 8.4(b) of the Illinois Rules of Professional Conduct (2010).

COUNT II

(Failure to Cooperate with a Disciplinary Investigation - 2024IN02247)

16. The Administrator realleges and incorporates paragraphs 1-14, above.

17. On June 19, 2024, the Administrator received a request for investigation regarding Respondent's conduct from the clerk of the Fifth District Appellate Court, Cortney Kuntze ("Kuntze"), on direction from the Justices of the Fifth District Appellate Court. Kuntz reported that the Appellate Court had found Respondent guilty of criminal contempt in their cases of 5-23-0668 and 5-23-0762. After reviewing the communication, the Administrator docketed an investigation into Respondent's conduct.

18. On June 21, 2024, the Administrator sent Respondent a letter via email to the email address Respondent registered with the ARDC. The letter requested a response to the allegations raised in the communication received from the clerk of the Appellate Court within 14 days.

19. At no time did Respondent submit a written response to the Administrator's June 21, 2024, correspondence.

20. On July 19, 2024, the Administrator sent a second letter via email to the email address Respondent registered with the ARDC. The letter requested a response within seven days. Additionally, the letter referred Respondent to her obligations under Commission Rule 53 and Rule 8.1(b) of the Illinois Rules of Professional Conduct (2010), to respond to the Administrator's request for information. Respondent received the email on or about July 19, 2024.

21. At no time did Respondent submit a written response to Administrator's July 19, 2024, email.

22. On August 13, 2024, the Administrator issued a subpoena that required Respondent to appear for a sworn statement in-person at the ARDC Springfield office on August 27, 2024, at 2:00 p.m.

23. On August 16, 2024, ARDC Investigator Mark Pointer served Respondent personally with the subpoena described in paragraph 22, above, at the law offices of Culley, Feist, Kuppart & Jordan, located in Harrisburg, Illinois.

24. At no time did Respondent respond in any manner to the subpoena, nor did she appear for the sworn statement on August 27, 2024.

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

- a. knowingly failing to respond to lawful demands for information from a disciplinary authority, by conduct including failing to respond to the Administrator's letters dated June 21, 2024, and July 19, 2024; and failing to appear for a sworn statement on August 27, 2024, after being served with a subpoena, in violation of Rule 8.1(b) of the Illinois Rules of Professional Conduct (2010).

WHEREFORE, the Administrator respectfully 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,

Lea S. Gutierrez, Administrator
Attorney Registration and
Disciplinary Commission

By: /s/ Peter L. Rotskoff

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