

STATE OF MICHIGAN

Attorney Discipline Board

GRIEVANCE ADMINISTRATOR,
Attorney Grievance Commission,

Petitioner,

v

Case No. 11-7-GA

WILLIAM J. MAZE, P 56406,

Respondent.

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ORDER AFFIRMING HEARING PANEL ORDER OF SUSPENSION

Issued by the Attorney Discipline Board
211 W. Fort St., Ste. 1410, Detroit, MI

Tri-County Hearing Panel #2 of the Attorney Discipline Board issued an order on August 17, 2011, suspending respondent's license to practice law in Michigan for a period of 30 days. The discipline ordered by the hearing panel was automatically stayed pursuant to MCR 9.115(K) upon the filing of respondent's petition for review. The Attorney Discipline Board has conducted review proceedings in accordance with MCR 9.118, including review of the evidentiary record before the panel and consideration of the briefs and arguments presented by the parties at a review hearing conducted November 9, 2011.

In reviewing a hearing panel's findings and conclusions, the Board must determine whether or not the panel's findings have proper evidentiary support in the whole record. *Grievance Administrator v August*, 438 Mich 296; 304 NW2d 256 (1991); *In re Grimes*, 414 Mich 438; 326 NW2d 380 (1982). Applying that standard to the hearing panel report on misconduct dated May 16, 2011 (attached as Appendix A), the Board concludes that there is more than ample support for the hearing panel's findings and conclusions as to the charges of misconduct. The Board has also considered the rationale expressed by the hearing panel in its report on discipline filed August 17, 2011 (attached as Appendix B). The Board is persuaded that the panel's decision to impose a suspension of 30 days is within the guidelines of the American Bar Association's Standards for Imposing Lawyer Sanctions and is otherwise appropriate under the facts and circumstances presented.

NOW THEREFORE,

IT IS ORDERED that the hearing panel order of suspension issued August 17, 2011 is **AFFIRMED**.

IT IS ORDERED that respondent's license to practice law in Michigan is **SUSPENDED FOR 30 DAYS, EFFECTIVE January 4, 2012**, and until the respondent's filing of an affidavit of compliance with the Supreme Court, the Attorney Discipline Board and the Attorney Grievance Commission in accordance with MCR 9.123(A).

IT IS FURTHER ORDERED that from the effective date of this order and until reinstatement in accordance with the applicable provisions of MCR 9.123, respondent is forbidden from practicing law in any form; appearing as an attorney before any court, judge, justice, board, commission or other public authority; or holding himself out as an attorney by any means.

IT IS FURTHER ORDERED that respondent shall, within seven days after the effective date of this order, notify all of his active clients, in writing, by registered or certified mail, return receipt requested, of the following:

1. the nature and duration of the discipline imposed;
2. the effective date of such discipline;
3. respondent's inability to act as an attorney after the effective date of such discipline;
4. the location and identity of the custodian of the clients' files and records which will be made available to them or to substitute counsel;
5. that the clients may wish to seek legal advice and counsel elsewhere; provided that if respondent is a member of a law firm, the firm may continue to represent each client with the client's express written consent;
6. the address to which all correspondence to respondent may be addressed.

IT IS FURTHER ORDERED that in accordance with MCR 9.119(B), respondent must, on or before the effective date of this order, in every matter in which respondent is representing a client in litigation, file with the tribunal and all parties a notice of respondent's disqualification from the practice of law.

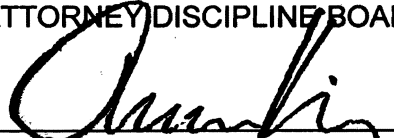
IT IS FURTHER ORDERED that respondent shall, within 14 days after the effective date of this order, file with the Grievance Administrator and the Attorney Discipline Board an affidavit of compliance as required by MCR 9.119(C).

IT IS FURTHER ORDERED that respondent's conduct after the entry of this order but prior to its effective date, shall be subject to the restrictions set forth in MCR 9.119(D); and respondent's compensation for legal services shall be subject to the restrictions described in MCR 9.119(F).

IT IS FURTHER ORDERED that respondent shall, on or before **January 4, 2012**, pay costs in the amount of **\$3,249.67** consisting of costs assessed by the hearing panel in the amount of \$3,164.85 and court reporting costs incurred by the Attorney Discipline Board in the amount of \$84.82 for the review proceedings conducted on November 9, 2011. Check or money order shall be made payable to the State Bar of Michigan, but submitted to the Attorney Discipline Board [211 West Fort St., Ste. 1410, Detroit, MI 48226] for proper crediting. (See attached instruction sheet).

ATTORNEY DISCIPLINE BOARD

By:


Thomas G. Kienbaum, Chairperson

DATED: December 7, 2011

Board members Thomas G. Kienbaum, James M. Cameron, Jr., Rosalind E. Griffin, M.D., Andrea L. Solak, Carl E. Ver Beek, Craig H. Lubben, Sylvia P. Whitmer, Ph.D, Lawrence G. Campbell and Dulce M. Fuller concur in this decision.

STATE OF MICHIGAN

Attorney Discipline Board

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GRIEVANCE ADMINISTRATOR,
Attorney Grievance Commission,
Petitioner

v

Case No. 11-7-GA

WILLIAM J. MAZE, P56406
Respondent

TRI-COUNTY HEARING PANEL #2 REPORT ON MISCONDUCT

PRESENT: James E. Wynne, Chairperson
Teri Jordan, Member
Gail Rodwan, Member

APPEARANCES: Nancy N. Alberts for the Attorney Grievance Commission
Thomas M. Loeb for Respondent

I. EXHIBITS

See Index of Exhibits in the transcript of proceedings held on April 5, 2011.

II. WITNESSES

William J. Maze
Honorable Elizabeth Church
Michael B. Winnick
Elizabeth A. LaCosse

III. PANEL PROCEEDINGS

A Formal Complaint was filed by the Grievance Administrator on January 12, 2011, alleging one count of professional misconduct.

That count alleges that on or about September 11, 2009, Respondent filed an appearance in 91st District Court in Sault Ste. Marie, MI, on behalf of client Andrew Nelson, who was charged in Case No. 09-50920 with the misdemeanor of operating while intoxicated.

Respondent, whose law office is in Dearborn, MI, received permission to appear by telephone at a September 16, 2009, pretrial. When he failed to call the court that morning, the court issued a bench warrant.

APPENDIX A

The matter was resolved, the bench warrant was recalled, and a second pretrial was scheduled for October 8, 2009.

Respondent failed to appear, though his client, Mr. Nelson, appeared and informed the court that Respondent had withdrawn from the case.

The court issued a show cause order on October 8, 2009, and, at the request of Respondent, adjourned the original date of the show cause hearing to October 28, 2009.

When Respondent failed to appear at the October 28, 2009, hearing, the court issued a bench warrant.

Respondent was arrested on the bench warrant in Romulus, MI, posted bond, retained counsel, and settled the matter on December 4, 2010, by pleading guilty to civil contempt, issuing a written apology to the court and paying a \$100 fine.

After the 91st District Court judge filed a Request for Investigation and Respondent filed an Answer, Respondent appeared on August 17, 2010, at the offices of the Attorney Grievance Commission in Detroit and made a sworn statement of explanation in this matter, after which the Grievance Administrator filed the one-count Formal Complaint, which contains eight subparagraphs and charges that Respondent engaged in professional misconduct by violating MCR 9.104(A)(1)(2)(3)(4) and (6) and MRPC 1.1(c), 3.4(c) and 8.4(a) and (c).

IV. FINDINGS AND CONCLUSIONS OF THE PANEL FOLLOWING A HEARING ON THE FORMAL COMPLAINT

A hearing on the complaint was held on April 5, 2011.

The panel reviewed the evidence presented, reviewed the pertinent law and concluded that, by a preponderance of the evidence, the Grievance Administrator proved that Respondent committed the misconduct alleged in subparagraphs (a) and (e)-(h) of Count I of the Formal Complainant, but failed to prove that Respondent committed the misconduct alleged in subparagraphs (b), (c) and (d).

Subparagraphs (a) and (e)

Respondent violated MRPC 1.1(c) by neglecting a legal matter entrusted to him by client Andrew Nelson in a criminal case. Respondent entered an appearance as attorney of record in Mr. Nelson's case and was well aware that he was to appear by telephone at a September 16, 2009, pretrial in Sault Ste. Marie, but he neglected to inquire as to the procedures of the court, and as a result failed to call the court, as he was required to do. Another court date was set for October 8, 2009, and Respondent was ordered to appear in person. (HT 15, 17-19, 47-48.)¹

Respondent violated MRPC 3.4(c) and knowingly disobeyed an obligation under the rules of the tribunal when he failed to appear on October 8, 2009. Although he maintained at the hearing that late in the day on October 7, 2009, he faxed to the court clerk in Sault Ste. Marie a proposed "Order Granting Leave to Withdraw Appearance," and related documents, after his client and he had agreed that he could withdraw from the case, Respondent did not personally contact the court about his fax, and apparently did not know that the fax would arrive after the courthouse had closed for the day. Further, his proposed stipulation and order had not been signed by Mr. Nelson. (HT 20-28, 39-40.)

Respondent testified at the hearing that Mr. Nelson did not want to pay to have Respondent travel all the way from Dearborn to Sault Ste. Marie for the hearing and had decided to enter a guilty plea to the charged offense. Respondent advised his client to go to the October 8 hearing and represent himself. (HT 23-24.)

It is difficult for the members of this panel to believe that an attorney licensed to practice law in the State of Michigan could really believe that on the eve of a court proceeding he and his client could simply agree that he would withdraw as attorney of record or that he could send his client to appear at the scheduled proceeding without counsel, believing, or at least hoping, that the court would just go forward with the matter. Respondent did state at the hearing that he

¹ HT = hearing transcript of April 5, 2011.

SUO = statement under oath of William Maze, taken on August 17, 2011.

PT = district court pretrial transcript of October 8, 2009.

understood that it was not for an attorney and his client to decide that the client would represent himself, and he was aware that the district court judge might well refuse to allow Mr. Nelson to represent himself in court on October 8. Nonetheless, Respondent advised the client to appear without him. (HT 24-25, 113.)

In fact, the court did decline to go forward without the attorney of record present. Respondent learned of this in a telephone call from his client, after which Respondent attempted to hire local counsel. (HT 29-32, 38-39.) Hearing testimony reflects sharp disagreement between Respondent and local counsel Michael Winnick about whether Respondent "hired" Mr. Winnick on October 8 (without knowledge of the client) to take over the case. (HT 68-69, 74, 76, 81-82, 86-87, 108.) Suffice it to say that Respondent's own hearing testimony established that he did not think it was in his economic interest to travel to Sault Ste. Marie in this matter, and, in failing to do so, he disregarded his obligations under the rules of the tribunal, as well as his obligations to his own client. (HT 106, 112-114, 122 SUO 11-13, 25, PT 4.)

Subparagraphs (f)(g)(h)

Respondent violated MCR 9.104(A)(1)(2)(3) and MRPC 8.4(c) when he engaged in conduct prejudicial to the administration of justice, engaged in conduct that exposed the legal profession or the court to obloquy, contempt, censure or reproach and engaged in conduct contrary to justice, ethics, honest or good morals. Respondent violated these rules when he did the following:

1. Failed to inquire as to the local procedures governing a telephonic pretrial, resulting in his failure to appear on September, 16, 2009, and the court's issuance of a bench warrant against him.
2. Failed to appear at the October 8, 2009, pretrial, as required by the court, and failed to communicate with the court in any manner regarding his tardily-faxed "Stipulation and Order Granting Leave to Withdraw Appearance."

3. Advised his client to appear in court without counsel on October 8, 2009, even though he was still attorney of record.
4. Took no steps to determine what occurred in court on October 8, later learning in a telephone call from the client that the court had declined to hear the matter in the absence of counsel.
5. Failed to appear at a show cause hearing, which the court had rescheduled for his convenience to October 28, 2009, instead faxing to the court on October 27, 2009, a written reply to the show cause order in which Respondent stated that he would not appear the next day due to “numerous” other court commitments, and further stated that should the court choose to impose sanctions, “I would be more inclined to simply pay whatever reasonable sum the court feels is appropriate instead of traveling the long distance from my area to the courthouse.” (HT 57-58, paragraphs 21-25 of the written reply reproduced in Petitioner’s Exhibit #3.)
6. Precipitated the issuance of a bench warrant for his arrest, was indeed arrested in a public courtroom in the City of Romulus, spent several hours in the court lockup, settled the matter with a guilty plea to civil contempt, a fine and a written apology to the 91st district court judge, an apology which the judge initially declined to accept because Respondent failed to apologize for his own misconduct. (HT 45, 63.)
7. Through the above-described actions, consistently disregard his obligations to the court, his client and the legal profession.

Subparagraphs (b)(c)(d)

The panel finds that the Petitioner has failed to establish by a preponderance of the evidence that Respondent violated MRPC 3.3(a)(1), MRPC 8.1(a)(1) and MCR 9.104(6) by committing the misconduct alleged in subparagraphs (b)-(d) of Count I of the Formal Complaint. These subparagraphs charge that Respondent knowingly made a false statement of material fact

to a tribunal, knowingly made a false statement of material fact in connection with a disciplinary matter and made a knowing misrepresentation of facts or circumstances surrounding a request for investigation.

In each of these three instances, Petitioner alleges the same false statement or misrepresentation, which is that on learning that the court declined to proceed without him on October 8, 2009, Respondent immediately hired local counsel Michael Winnick to stand in for Respondent in court that day on behalf of client Andrew Nelson. (HT 133-135.)

In his "Written Reply to Motion to Show Cause and Request for Adjournment" Respondent stated, "When the Court expressed dissatisfaction with my failure to appear, despite Mr. Nelson [sic] termination of representation, I immediately hired Michael B. Winnick of Sault Sainte Marie to substitute as counsel in the case." (See Petitioner's Exhibit #3.)

In his "Answer to Request for Investigation" Respondent wrote, "As set forth in my written pleadings to the judge, I immediately hired a local attorney who was present in the court for the sum of \$500.00 to represent my client because the judge was upset about my failure to appear." (As quoted in paragraph #40 of the Formal Complaint.)

In his sworn statement on August 17, 2010, in the offices of the Attorney Grievance Commission, Respondent stated in pertinent part, "I eventually hired Michael Winnick . . . Mr. Winnick was already in the court. He was going to represent Mr. Nelson on my behalf." (SUO 13-14.)

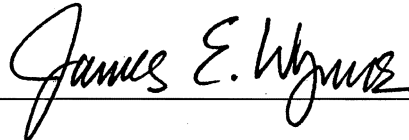
This panel concludes that while Respondent may have made false statements in these three instances, Petitioner has failed to establish that he made them knowingly. A review of the above-cited documents, as well as Respondent's testimony at the April 5, 2011, hearing, reflects that he uses the phrases "stand-in counsel" and "substitution of counsel" imprecisely and interchangeably. (HT 35-36, 108-11, 124, 126-127, SUO 14, 18, 23, 39, paragraphs 14-17 of "Written Reply to Motion to Show Cause and Request for Adjournment," reproduced in Petitioner's Exhibit #3.) Hiring Mr. Winnick as substitute counsel in the case and hiring Mr.

Winnick to stand in for Respondent in court for one appearance on October 8, 2009, are not the same thing. As Mr. Winnick pointed out in his hearing testimony, he did not even speak to the client on October 8 and could not have entered into an agreement to represent him without doing so. (HT 68-69.) Nonetheless, the panel concludes that Respondent believed at the time and continued to believe on the date of the hearing that he secured the services of Mr. Winnick to act as his stand-in on October 8 in the event the court agreed to hear the matter that day following Respondent's own failure to appear. Even if Respondent's understanding of this is incorrect, as it appears to be, we cannot conclude on the basis of this record that Respondent deliberately lied to the district court judge in his reply to the Motion to Show Cause or to the Attorney Grievance Commission in his answer to the Request for Investigation or in his sworn statement of August 17, 2010.

The panel instructs the staff of the Attorney Discipline Board to schedule this matter for a hearing on sanctions.

Tri-County Hearing Panel #2

By: _____



James E. Wynne, Chairperson

STATE OF MICHIGAN

Attorney Discipline Board

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GRIEVANCE ADMINISTRATOR,
Attorney Grievance Commission,

Petitioner,

v

Case No. 11-7-GA

WILLIAM J. MAZE, P 56406,

Respondent.

DISCIPLINE REPORT OF TRI-COUNTY HEARING PANEL #2

PRESENT: James E. Wynne, Chairperson
Gail O. Rodwan, Member
Teri A. Jordan, Member

APPEARANCES: Nancy R. Alberts, Associate Counsel
for the Attorney Grievance Commission

William J. Maze, Respondent
In Pro Per

I. EXHIBITS

Please see the Exhibit Index on page 3 of the July 27, 2011 hearing transcript.

II. WITNESSES

Respondent William J. Maze was sworn as a witness for purposes of making an offer of proof as to the testimony his client Andrew Nelson would have given had Mr. Nelson been called to testify at the misconduct hearing on April 5, 2011.

III. PANEL PROCEEDINGS

The panel conducted a separate hearing on discipline on July 27, 2011.

APPENDIX B

IV. FINDINGS AND CONCLUSIONS REGARDING MISCONDUCT

The panel's findings and conclusions regarding misconduct are contained in the Tri-County Hearing Panel #2 Report on Misconduct, which was filed with the Attorney Discipline Board on May 16, 2011. That separate report on misconduct is incorporated by reference into this report on discipline.

V. REPORT ON DISCIPLINE

The panel imposes a 30 day suspension, following the recommendation in ABA Standards for Imposing Lawyer Sanctions Standard 6.22.

Before making a determination on the appropriate sanction, the panel listened to arguments in aggravation and mitigation.

The Grievance Administrator argued in aggravation that respondent has a prior admonishment and a prior reprimand, that he acted with a selfish motive in this matter in that he did not want to spend the time or money to travel to Sault Ste. Marie even though he was the attorney of record in a matter where a pretrial was pending, that he showed a pattern of disrespect to the court, and that his own comments in these misconduct and discipline proceedings demonstrated that he has learned nothing from the experience that led to the filing of the formal complaint in this matter. (Tr 07/27/11, pp 33-35.)

Respondent countered in mitigation that he did not believe he neglected a client matter, that his client never complained about his representation, and that the small \$100 civil fine imposed by the district court was evidence that the district court considered this a minor matter. Respondent also maintained that he has learned from this experience and has benefitted from attending a State Bar sponsored "Tips and Tools" one-day course in Lansing in the winter of 2010, as well as from a State Bar-sponsored Practice Management consultation at his office in June of 2011. (Tr 07/27/11, pp 35-46.)

In response, the Grievance Administrator stated, and respondent agreed, that he was required to participate in both of these programs "in order to deal with another matter." (Tr 07/27/11, p 46.)

The Grievance Administrator asked the panel to apply Standard 6.22 of the ABA Standards for Imposing Lawyer Sanctions, which states: "Suspension is generally appropriate when a lawyer knows that he or she is violating a court order or rule, and causes injury or potential injury to a client or party, or causes interference or potential interference with a legal proceeding."

The respondent asked the panel to apply Standard 6.23, which states: "Reprimand is generally appropriate when a lawyer negligently fails to comply with a court order or rule, and causes injury or potential injury to a client or other party, or causes interference or potential interference with a legal proceeding."

In concluding that suspension is the appropriate sanction, the panel found the following factors paramount:

- Throughout these proceedings, respondent insisted that the court system accommodate itself to the economics of his law practice. Economics are important, but every lawyer must recognize that economics are secondary to a lawyer's duty as an officer of the court.
- Respondent repeatedly showed a profound disrespect for the district court judge, and then chose, during the misconduct phase of these proceedings, to suggest that it was the judge who had engaged in misconduct by filing a request for investigation with the Attorney Grievance Commission, rather than he, who had engaged in misconduct by willfully failing to appear in a matter in which he was the attorney of record.
- Respondent knowingly injured his client by sending the client to the pretrial without counsel, anticipating that the pretrial would in fact result in a guilty plea. Respondent admitted at the hearing on July 27, 2011, that he understood that by signing an Appearance he was obligating himself to appear in court. (Tr 07/27/11, p 22; see also, Tr 07/27/11, pp 11, 13-14, and 25-26.) He further admitted that he fully understood that the judge had the discretion not to permit him to withdraw from representation on the eve of a scheduled court proceeding, (Tr 07/27/11, pp 13-14), and that he was aware that the court would not permit a last-minute adjournment. (Tr 07/27/11, p 26.) However, respondent repeatedly took the position that he was properly acting in accordance with his client's wishes. (Tr 07/27/11, pp 13, 14, 16-17, and 35-36.) This seems a willful misreading of the Michigan Rules of Professional Conduct. See, in particular, MRPC 1.1, 1.2, 1.3, 3.4(c), and 3.5(c).
- Respondent stated at the disciplinary phase of the proceedings that his failure to appear at the pretrial for Mr. Nelson "unleashed a chain of events that I was no longer able to control." (Tr 07/27/11, p 12.) In fact, respondent was fully in control during his representation of Mr. Nelson, and at several junctures could have rectified his misconduct by appearing in court and functioning as what he in fact was: the attorney of record. He told this panel that he knew "this wasn't the right way to do things and I wouldn't do things this way but for the fact that it was 350 miles away." Respondent further explained that it was not in his "economic best interest" to travel to Sault Ste. Marie. (Tr 07/27/11, p 11.)
- The panel can only agree with the Grievance Administrator that this has not been a learning experience for respondent, and that what respondent himself described as his "rough" manner of practicing law (Tr 07/27/11, pp 13-14) will continue to the detriment of the Bench, the Bar and future clients.

VI. SUMMARY OF PRIOR MISCONDUCT

The Grievance Administrator presented documentation at the discipline hearing establishing that, on February 25, 2005, respondent was admonished for failing to communicate with a client and failing to provide the client with a requested itemization of services. (AGC File No. 1520/04; Exhibit S-2.)

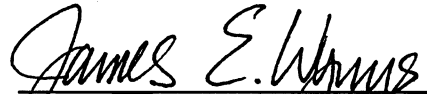
The Grievance Administrator presented documentation at the discipline hearing establishing that, on July 6, 2005, respondent was reprimanded for failing to respond to his client's written request for information regarding the status of his matter. (ADB Case No. 94-157-GA; Exhibit S-1.)

VII. ITEMIZATION OF COSTS

Attorney Grievance Commission:	
(See Itemized Statement filed 08/04/11)	\$ 41.85
Attorney Discipline Board:	
Hearing held 04/05/11 (transcript)	\$ 734.00
Hearing held 04/05/11 (videoconferencing)	\$ 650.00
Hearing held 07/27/11	\$ 239.00
Administrative Fee [MCR 9.128(B)(1)]	<u>\$1,500.00</u>
TOTAL:	\$3,164.85

ATTORNEY DISCIPLINE BOARD
Tri-County Hearing Panel #2

By:


James E. Wynne, Chairperson

Dated: August 17, 2011