

IN THE
SUPREME COURT OF THE STATE OF ARIZONA
BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE
1501 W. WASHINGTON, SUITE 102, PHOENIX, AZ 85007-3231

**IN THE MATTER OF A MEMBER OF
THE STATE BAR OF ARIZONA,**

**THERESA A. SHERIDAN,
Bar No. 025162**

Respondent.

PDJ-2014-9097

FINAL JUDGMENT AND ORDER

State Bar No. 14-2006

FILED DECEMBER 4, 2014

The Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on November 19, 2014, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

IT IS HEREBY ORDERED that Respondent, **Theresa A. Sheridan**, is hereby Reprimanded for her conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective the date of this order.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$ 1,200.00, within thirty (30) days from the date of service of this Order. There are no costs or expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings.

DATED this 4th day of December, 2014.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/emailed
this 4th day of December, 2014.

Theresa A. Sheridan
Post Office Box 18586
Tucson, Arizona 85731-8586
Email: utahlaw2005@yahoo.com
Respondent

Stephen P. Little
Senior Bar Counsel
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Lawyer Regulation Records Manager
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by: JAlbright

IN THE
SUPREME COURT OF THE STATE OF ARIZONA
BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE
1501 W. WASHINGTON, SUITE 102, PHOENIX, AZ 85007-3231

IN THE MATTER OF A MEMBER OF THE STATE
BAR OF ARIZONA,

THERESA A. SHERIDAN,
Bar No. 025162

Respondent.

No. PDJ-2014-9097

**REPORT ACCEPTING CONSENT
FOR DISCIPLINE**

[State Bar File No. 14-2006]

FILED DECEMBER 4, 2014

An Agreement for Discipline by Consent was filed on November 19, 2014, and submitted under Rule 57(a)(3), of the Rules of the Arizona Supreme Court. The agreement was reached before the authorization to file a formal complaint. Upon filing such Agreement, the presiding disciplinary judge, "shall accept, reject or recommend modification of the agreement as appropriate."

Under Rule 53(b)(3), Ariz. R. Sup. Ct., notice of this agreement was provided to the complainants by letters dated October 23, 2014. Complainant was informed of the opportunity to file written objections. No objections have been received.

The Agreement for Discipline by Consent details a factual basis for the admissions to the count in the agreement. Mrs. Sheridan conditionally admits violations of Rule 42 and ERs 3.4(c) and 4.4(a). Restitution is not an issue. The presumptive sanction is reprimand. Mitigating factors were listed in the agreement. There were no aggravating factors.

The agreement states Ms. Sheridan was assigned the prosecution of an aggravated DUI case. As part of those proceedings, the defense submitted the defendant's prescription medical records for an *in camera* inspection by the assigned judge. The Judge ordered certain parts of those records sealed.

Ms. Sheridan came to the chambers of the judge to pick up her redacted copy of those records. She was informed the judge and Judicial Assistant were out. Instead of leaving, she looked through a small stack of documents laying on the counter area of the Judicial Assistant's desk. She took a set of documents without reading them which she thought was the redacted prescription medical records.

When she later returned to her office she found her redacted copy of those records had been delivered to her office. The agreement states, at such time she realized she had mistakenly taken the original, unredacted records from the chambers. Due to the late hour, she believed she could not immediately return the documents to the Court's chamber. She left a voicemail for the law clerk and sent an email to the Judicial Assistant informing them of what occurred.

The following day she returned those documents to the Court's "inbox." Later that day the Judicial Assistant thanked her for returning those documents. The Court held a hearing four days later on her taking of the documents. Two months later, the defense moved for sanctions. The following month the court heard evidence on that motion. The court found Ms. Sheridan had acted intentionally and with indifference of prejudice to the Defendant. The criminal case was dismissed with prejudice.

The parties conditionally agree *A.B.A. Standard 6.23* applies. Although the trial court found Respondent intentionally took the documents, for purposes of

application of the *Standards* to the alleged ethical violations, Ms. Sheridan acted negligently in failing to determine if those documents were the original or redacted version. The parties agree there was actual harm to the legal system by her actions.

IT IS ORDERED incorporating by this reference the Agreement for Discipline by Consent and any supporting documents. The agreed upon sanction is reprimand. Respondent also agrees to pay, within thirty (30) days of the date of this Order, costs of \$1,200 associated with this disciplinary proceeding.

IT IS ORDERED the Agreement for Discipline by Consent is accepted. A Final Judgment and Order was submitted simultaneously with the Agreement. Costs as submitted are approved for \$1,200.00. The proposed final judgment and order having been reviewed are approved. Now therefore, the final judgment and order is signed this date. Ms. Sheridan is reprimanded.

DATED this 4th day of December, 2014.

William J. O'Neil

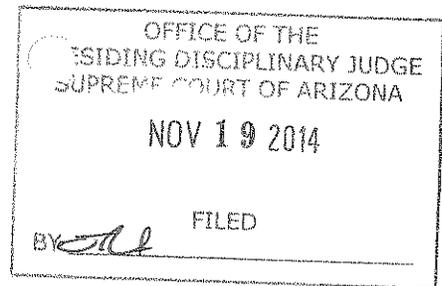
William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/emailed
this 4th day of December, 2014.

Stephen P. Little
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by: JAlbright



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**BEFORE THE PRESIDING DISCIPLINARY JUDGE
OF THE SUPREME COURT OF ARIZONA**

**IN THE MATTER OF A MEMBER OF
THE STATE BAR OF ARIZONA,**

**THERESA A. SHERIDAN,
Bar No. 025162,**

Respondent.

PDJ-2014-9097

**AGREEMENT FOR DISCIPLINE BY
CONSENT**

State Bar No. 14-2006

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, Ms Theresa A Sheridan, who has chosen not to seek the assistance of counsel, hereby submit their Tender of Admissions and Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. This is a pre-file consent, no Probable Cause Order has been entered, and no formal complaint has been filed in this matter. Respondent voluntarily waives the right to an adjudicatory hearing unless otherwise ordered, and waives all motions, defenses, objections or requests which have been made or raised, or could be asserted thereafter, if the conditional admission and proposed form of discipline is approved.

Pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct., notice of this agreement was provided to the complainant by letter on October 23, 2014. Complainant has been notified of the opportunity to file a written objection to the agreement with the State Bar within five (5) business days of Bar Counsel's notice.

Respondent conditionally admits that her conduct, as set forth below, violated Rule 42, ER 3.4(c) and ER 4.4(a). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Reprimand. Respondent also agrees to pay the costs and expenses of the disciplinary proceeding, within thirty (30) days from the date of this order, and if costs are not paid within the thirty (30) days, interest will begin to accrue at the legal rate.¹ The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit "A."

FACTS

GENERAL ALLEGATIONS

1. At all times relevant, Respondent was a lawyer licensed to practice law in the state of Arizona having been first admitted to practice in Arizona on May 21, 2007.

COUNT ONE (File No. 14-2006/ Godoy)

2. In or about May of 2013, the case of State v Marisela Gray (CR2013-1845) was initiated in the Pima County Superior Court. Judge Teresa Godoy was assigned to preside over the Gray case. Respondent, a Deputy County Attorney with

¹ Respondent understands that the costs and expenses of the disciplinary proceeding include the costs and expenses of the State Bar of Arizona, the Disciplinary Clerk, the Probable Cause Committee, the Presiding Disciplinary Judge and the Supreme Court of Arizona.

the Pima County Attorney's Office, was eventually assigned to prosecute the Gray case. The Gray case involved allegations of Aggravated DUI.

3. As the case progressed, issues arose between Respondent and the Defendant regarding the disclosure of medications that the Defendant had been prescribed.

4. On or about February 4, 2014, the defendant's attorney submitted an additional set of the defendant's prescription medical records to the Court for *in camera* inspection by Judge Godoy². Judge Godoy ordered that certain parts of the records would be redacted and disclosed to the parties, and an unredacted copy was to be filed under seal until further order of the Court.

5. On February 19, 2014, Judge Godoy issued an order that Defendant's additional unredacted prescription records would be filed under seal until further order of the Court. Judge Godoy had her Judicial Assistant make redacted copies of the records for the parties and sent the parties a "high-importance" email to pick up the records at the Court's chambers.

6. Respondent sent an email to the Court's Judicial Assistant, saying she would stop by for the records on her way to a jury trial in another courtroom. The Judicial Assistant replied, saying if they were at lunch the records would be in the "outbox."

² There was a first set of prescription medical records that the Defendant's attorney submitted to the Court earlier in February 2014 for an *in camera* review. The first set of records were redacted and disclosed to Respondent without incident.

7. When Respondent arrived to pick up her redacted copy of the records on February 20th, the chambers' door was open. She entered chambers to ask about the records but the Judge and Judicial Assistant were out. The Law Clerk/Bailiff, Lara Sandhu, informed Respondent that the Court was out of session and on vacation, that she could not help her and that Respondent would need to return on Monday, when the Judicial Assistant would be back.

8. Instead of leaving, Respondent looked through a small stack of documents laying on the counter area above the Judicial Assistant's desk. Respondent located Judge Godoy's February 19, 2014 order copied to the parties, with loose documents attached. Without looking at the documents attached to the order, Respondent believed them to be her copy of the redacted prescription medical records.

9. The Law Clerk/Bailiff informed Respondent that she was not comfortable with Respondent taking the documents, but Respondent left with the documents. Respondent indicates that she did not hear what the Law Clerk/Bailiff said, but does not deny that it was said.

10. The documents Respondent took were the Defendant's original, unredacted prescription records that the Court had ordered to be filed under seal.

11. Later that evening on February 20th when when Respondent returned to her office, she found that her redacted copy had been delivered to her office. At that time, Respondent came to the realization that she had mistakenly taken the original, unredacted records from chambers.

12. Respondent placed the original, unredacted loose documents into a brown envelope, and addressed it to the Court's Judicial Assistant. Due to the late hour, Respondent believed she could not immediately return the documents to the Court's chambers.

13. Respondent immediately left a voicemail for the Law Clerk/Bailiff informing her of what had happened and sent an email to the Judicial Assistant informing her of what had happened.

14. On February 21, 2014, Respondent went to the Court's chambers, and found the door closed. Respondent placed the brown envelope containing the original, unredacted records in the Court's "inbox".

15. Later the same day on February 21st, Respondent received an email from the Court's Judicial Assistant, thanking her for returning the documents.

16. As a result of Respondent's actions, the Court held a hearing on February 25, 2014 to address Respondent's taking of the documents. The Court gave the Defendant leave to file any motion she deemed necessary.

17. Subsequently on April 28, 2014, the defense filed a Motion For Sanctions: Prosecutorial Misconduct.

18. On May 29, 2014, the Court heard evidence and argument on the defense Motion for Sanctions: Prosecutorial Misconduct. Respondent testified as a witness by order of the Court.

19. In its ruling on the Motion for Sanctions: Prosecutorial Misconduct, the Court found that Respondent had acted intentionally and with indifference of prejudice to the Defendant. The court dismissed the criminal matter with prejudice for prosecutorial misconduct.

CONDITIONAL ADMISSIONS

Respondent's admissions are being tendered in exchange for the form of discipline stated below and is submitted freely and voluntarily and not as a result of coercion or intimidation.

Respondent conditionally admits that her conduct violated Rule 42, Ariz. R. Sup. Ct., specifically ER 3.4(c) and ER 4.4(a).

CONDITIONAL DISMISSALS

As this is a pre-file consent, there are no counts or ERs to be dismissed. The State Bar has conditionally agreed not to bring additional charges arising out of this incident.

RESTITUTION

Restitution is not an issue in this matter.

SANCTION

Respondent and the State Bar of Arizona agree that based on the facts and circumstances of this matter, as set forth above, the following sanction is appropriate: Reprimand.

LEGAL GROUNDS IN SUPPORT OF SANCTION

In determining an appropriate sanction, the parties consulted the American Bar Association's *Standards for Imposing Lawyer Sanctions (Standards)* pursuant to

Rule 57(a)(2)(E). The *Standards* are designed to promote consistency in the imposition of sanctions by identifying relevant factors that courts should consider and then applying those factors to situations where lawyers have engaged in various types of misconduct. *Standards* 1.3, Commentary. The *Standards* provide guidance with respect to an appropriate sanction in this matter. *In re Peasley*, 208 Ariz. 27, 33, 35, 90 P.3d 764, 770 (2004); *In re Rivkind*, 162 Ariz. 154, 157, 791 P.2d 1037, 1040 (1990).

In determining an appropriate sanction consideration is given to the duty violated, the lawyer's mental state, the actual or potential injury caused by the misconduct and the existence of aggravating and mitigating factors. *Peasley*, 208 Ariz. at 35, 90 P.3d at 772; *Standard* 3.0.

The parties agree that *Standard* 6.23 is the appropriate *Standard* given the facts and circumstances of this matter. *Standard* 6.23 provides that 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. Respondent's conduct fits within this *Standard*, as she intentionally took the documents, but negligently believed them to be the redacted version she was scheduled to pick up. As a result of Respondent's conduct, the proceedings were affected in that the case was dismissed.

The duty violated

As described above, Respondent's conduct violated her duty to the legal system.

The lawyer's mental state

For purposes of this agreement the parties agree that Respondent negligently took original, unredacted privileged materials from judicial chambers that she was not entitled to, and that her conduct was in violation of the Rules of Professional Conduct.

The extent of the actual or potential injury

For purposes of this agreement, the parties agree that there was actual harm to the legal system.

Aggravating and mitigating circumstances

The presumptive sanction in this matter is Reprimand. The parties conditionally agree that the following aggravating and mitigating factors should be considered.

In aggravation:

None

In mitigation:

9.32(a) – Absence of prior disciplinary record

9.32(b) – Absence of dishonest or selfish motive

9.32(e) – Cooperative attitude towards proceedings

9.32(k) – Imposition of other penalties or sanctions

Discussion

The parties have conditionally agreed that a greater or lesser sanction would not be appropriate under the facts and circumstances of this matter. This agreement was based on the following: A Reprimand satisfies the purposes of

lawyer discipline while still permitting Respondent to continue her practice of law. Reprimand is proportionally appropriate for the level of misconduct alleged in this case.

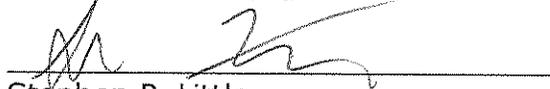
Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

CONCLUSION

The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. *Peasley, supra* at ¶ 64, 90 P.3d at 778. Recognizing that determination of the appropriate sanction is the prerogative of the Presiding Disciplinary Judge, the State Bar and Respondent believe that the objectives of discipline will be met by the imposition of the proposed sanction of Reprimand and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit "B."

DATED this 19 day of November 2014

State Bar of Arizona



Stephen P. Little
Senior Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation.

DATED this 19th day of November, 2014.



Ms Theresa A Sheridan
Respondent

Approved as to form and content



Maret Vessella
Chief Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 19th day of November 2014.

Copies of the foregoing mailed/emailed
this 19th day of November 2014 to:

Ms Theresa A Sheridan

PO Box 18586
Tucson, AZ 85731-8586
utahlaw2005@yahoo.com
Respondent

Copy of the foregoing emailed
this 19th day of November, 2014, to:

William J. O'Neil
Presiding Disciplinary Judge
Supreme Court of Arizona
Email: officepdj@courts.az.gov

Copy of the foregoing hand-delivered
this 19th day of November, 2014, to:

Lawyer Regulation Records Manager

State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266

by: *Rodney T. Buss*
SPL: /

EXHIBIT "A"

Statement of Costs and Expenses

In the Matter of a Current Member of the State Bar of Arizona,
Theresa A Sheridan, Bar No. 025162, Respondent

File No. 14-2006

Administrative Expenses

The Supreme Court of Arizona has adopted a schedule of administrative expenses to be assessed in lawyer discipline. If the number of charges/complainants exceeds five, the assessment for the general administrative expenses shall increase by 20% for each additional charge/complainant where a violation is admitted or proven.

Factors considered in the administrative expense are time expended by staff bar counsel, paralegal, secretaries, typists, file clerks and messenger; and normal postage charges, telephone costs, office supplies and all similar factors generally attributed to office overhead. As a matter of course, administrative costs will increase based on the length of time it takes a matter to proceed through the adjudication process.

General Administrative Expenses for above-numbered proceedings

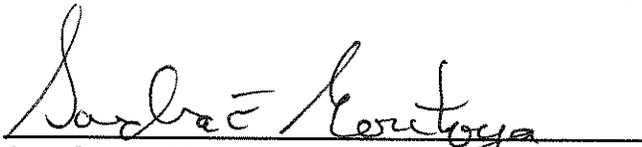
\$1,200.00

Additional costs incurred by the State Bar of Arizona in the processing of this disciplinary matter, and not included in administrative expenses, are itemized below.

Staff Investigator/Miscellaneous Charges

Total for staff investigator charges \$ 0.00

TOTAL COSTS AND EXPENSES INCURRED \$1,200.00


Sandra E. Montoya
Lawyer Regulation Records Manager

10-23-14
Date

EXHIBIT "B"

IN THE
SUPREME COURT OF THE STATE OF ARIZONA
BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE
1501 W. WASHINGTON, SUITE 102, PHOENIX, AZ 85007-3231

**IN THE MATTER OF A MEMBER OF
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Bar No. 025162,**

Respondent.

PDJ-2014-_____

FINAL JUDGMENT AND ORDER

State Bar No. 14-2006

The undersigned Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on November 19, 2014, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement. Accordingly:

IT IS HEREBY ORDERED that Respondent, **Theresa A. Sheridan**, is hereby Reprimanded for her conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective thirty (30) days from the date of this order or _____.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$ _____, within thirty (30) days from the date of service of this Order.

IT IS FURTHER ORDERED that Respondent shall pay the costs and expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings in the amount of _____, within thirty (30) days from the date of service of this Order.

DATED this _____ day of November, 2014

COPY

William J. O'Neil, Presiding Disciplinary Judge

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this _____ day of November, 2014.

Copies of the foregoing mailed/emailed
this _____ day of November, 2014.

Theresa A. Sheridan
Post Office Box 18586
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Email: utahlaw2005@yahoo.com
Respondent

Copy of the foregoing emailed/hand-delivered
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by: _____