

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

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

ANTHONY J. WIGGINS,
Bar No. 010523

Respondent.

PDJ-2014-9088

[State Bar File No. 14-1206]

FINAL JUDGMENT AND ORDER

FILED JANUARY 23, 2015

This matter having come on for an aggravation/mitigation hearing before a Hearing Panel of the Supreme Court of Arizona and a decision in this matter having been duly rendered on December 29, 2014, and no appeal having been filed and the time for appeal having expired, accordingly:

IT IS HEREBY ORDERED Respondent, **ANTHONY J. WIGGINS**, is suspended from the practice of law for a period of two (2) years, effective December 29, 2014, for conduct in violation of his duties and obligations as a lawyer, as disclosed in the Hearing Panel's Report and Order Imposing Sanctions.

IT IS FURTHER ORDERED Respondent shall immediately comply with the requirements relating to notification of clients and others, and provide and/or file all notices and affidavits required by Rule 72, Ariz. R. Sup. Ct.

IT IS FURTHER ORDERED as a condition of reinstatement, Respondent shall obtain a Member Assistance Program evaluation.

IT IS FURTHER ORDERED that Respondent pay those costs and expenses awarded to the State Bar of Arizona in the amount of \$2,008.06, 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 23rd day of January, 2015.

William J. O'Neil

William J. O'Neil
Presiding Disciplinary Judge

Copies of the foregoing mailed/emailed this 23rd day of January, 2015, to:

Anthony J. Wiggins
7400 North Oracle Road, Suite 323
Tucson, Arizona 85704-6341
Email: tony.wigginslaw@hotmail.com
Respondent

David L. Sandweiss
Senior Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Sandra Montoya
Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 200
Phoenix, Arizona 85016-6288

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
SUSPENDED MEMBER OF THE
STATE BAR OF ARIZONA,

ANTHONY J. WIGGINS,
Bar No. 010523

Respondent.

PDJ 2014-9088

**REPORT AND ORDER IMPOSING
SANCTIONS**

State Bar No. 14-1206

FILED DECEMBER 29, 2014

On December 17, 2014, the Hearing Panel ("Panel") composed of Clarence Matherson, Jr., Attorney Member, Michael Snitz, Public Member, and the Presiding Disciplinary Judge William J. O'Neil, held an aggravation/mitigation hearing. David Sandweiss appeared on behalf of the State Bar. Mr. Wiggins did not appear.

PROCEDURAL HISTORY

The State Bar of Arizona ("SBA") filed its complaint on October 2, 2014. On October 6, 2014, the complaint was served on Mr. Wiggins by certified, delivery restricted mail, and by regular first class mail, under Rules 47(c) and 58(a)(2), Ariz. R. Sup. Ct.¹ The Presiding Disciplinary Judge ("PDJ") was assigned to the matter. A notice of default was properly issued on November 10, 2014, given Mr. Wiggins's failure to file an answer or otherwise defend. Mr. Wiggins filed no answer or otherwise defend against the complainant's allegations and default was effective on November

¹ All references to rules are to the Arizona Rules of the Supreme Court unless otherwise specifically stated.

26, 2014, at which time a notice of aggravation and mitigation hearing was sent to all parties notifying them the aggravation mitigating hearing was scheduled for December 17, 2014, at 9:00 a.m., at the State Courts Building, 1501 West Washington, Phoenix, Arizona 85007-3231. On December 17, 2014, the Hearing Panel, composed of Clarence Matherson, Jr., Attorney Member, Michael Snitz, Public Member, and the Presiding Disciplinary Judge William J. O'Neil heard argument.

Bar Counsel informed the hearing panel of several attempts made to contact Mr. Wiggins at his address of record with the SBA. These included emails and phone calls. Bar Counsel reached an individual who identified himself as a paralegal for Mr. Wiggins, but Bar Counsel received no return calls.

The purpose of the aggravation/mitigation hearing is not only to weigh mitigating and aggravating factors, but also to assure there is a nexus between a respondent's conduct deemed admitted and the merits of the SBA's case. A respondent against whom a default has been entered and become effective may no longer litigate the merits of the factual allegations. However, the respondent retains the right to appear and participate concerning that nexus and the sanctions sought. Included with that right to appear is the right to dispute the allegations relating to aggravation and to offer evidence in mitigation. Mr. Wiggins was afforded these rights.

Due process requires a hearing panel to independently determine whether, under the facts deemed admitted, ethical violations have been proven by clear and convincing evidence. The Panel finds the facts deemed admitted constitute ethical violations. The hearing panel must also exercise discretion in deciding whether sanctions should issue for the respondent's misconduct. We find the actions of Mr.

Wiggins warrant sanctions. If the hearing panel finds that sanctions are warranted, then it independently determines which sanctions should be imposed. It is not the function of the panel to endorse or "rubber stamp" any request for sanctions. The State Bar requests disbarment. Under Rule 58(k), disciplinary sanctions are determined under the American Bar Association *Standards for Imposing Lawyer Sanctions*. While disbarment is the presumptive sanction, we find a two year suspension satisfies the purpose of lawyer discipline. As a condition of reinstatement, Mr. Wiggins shall be required to have a MAP evaluation.

FINDINGS OF FACT

The facts listed below are those set forth in the SBA's complaint and were deemed admitted by Mr. Wiggins' default.

COUNT ONE of ONE (Marnel Camp, Complainant)

1. Mr. Wiggins was a lawyer licensed to practice law in Arizona having been first admitted to practice in Arizona on November 9, 1985.
2. While in Illinois, on March 28, 2012, Ms. Camp was attacked and injured by a dog.
3. The dog owner knew of the animal's vicious propensity but took no precautions to safeguard Ms. Camp against an attack.
4. On July 27, 2012, Ms. Camp, an Oro Valley resident, hired Mr. Wiggins to represent her.
5. The written fee agreement between Ms. Camp and Mr. Wiggins called for Ms. Camp to pay Mr. Wiggins a contingent fee of one-third of a settlement prior to arbitration or trial, and 40% of the amount received after the start of an arbitration or trial.

6. The agreement authorized Mr. Wiggins to associate outside counsel and provided that he would obtain Ms. Camp's consent if the association increased costs or fees.

7. Thereafter, Mr. Wiggins took no action on Ms. Camp's behalf.

8. The applicable statutory limitations period is two years which has expired.

9. Mr. Wiggins failed to communicate to Ms. Camp the status of her matter and the reasons for his inaction.

10. In February 2014, in State Bar matter no. 13-0306, Mr. Wiggins was suspended from the practice of law in Arizona for 90 days.

11. Mr. Wiggins failed to inform Ms. Camp of his suspension.

12. Mr. Wiggins failed to respond to the bar's screening and reminder letters dated May 12 and June 12, 2014, respectively, including a request he furnish a copy of his file in Ms. Camp's matter.

13. By taking no action on Ms. Camp's behalf during the representation or prior to expiration of the statutory limitations period, Mr. Wiggins failed to provide competent representation to Ms. Camp in violation of Rule 42, ER 1.1.

14. By taking no action on Ms. Camp's behalf during the representation or prior to expiration of the statutory limitations period, Mr. Wiggins failed to act with reasonable diligence and promptness in representing Ms. Camp in violation of Rule 42, ER 1.3.

15. By failing to respond to Ms. Camp's requests for a status of her legal matter and to explain his reasons for inaction, Mr. Wiggins failed to communicate reasonably with Ms. Camp in violation of Rule 42, ER 1.4.

16. By knowingly failing to respond to the SBA's screening efforts or produce his client file, Mr. Wiggins failed to respond to a lawful demand for information from the SBA in connection with a disciplinary matter in violation of Rule 42, ER 8.1, and Rule 54.

17. By failing to inform Ms. Camp of his suspension from the practice of law, Mr. Wiggins failed to provide notice of his suspension to his client in violation of Rule 72.

CONCLUSIONS OF LAW

Mr. Wiggins failed to file an answer or otherwise defend against the allegations in the SBA's complaint. Default was entered and effective. The allegations are deemed admitted under Rule 58(d). Based upon the facts deemed admitted, the Hearing Panel finds by clear and convincing evidence that Mr. Wiggins violated Rule 42, specifically, ERs 1.1, 1.3, 1.4, 8.1(b), and Rules 54 and 72.

ABA STANDARDS ANALYSIS

Sanctions are imposed under the American Bar Association *Standards for Imposing Lawyer Sanctions* ("Standards"). Rule 58(k). In imposing a sanction, the hearing panel considers the following factors: (1) the duty violated; (2) the lawyer's mental state; (3) the actual or potential injury caused by the lawyer's misconduct; and (4) the existence of aggravating or mitigating factors. *Standard 3.0*.

Duties violated:

Mr. Wiggins violated his duties to his client (ERs 1.1, 1.3, and 1.4) and to the legal profession (ER 8.1, and Rules 54 and 72). The *Standards* assume that the most important ethical duties are those obligations which a lawyer owes to clients. *Standards, II. Theoretical Framework*.

Mental State:

Mr. Wiggins knowingly committed the above-described violations.

Injury:

Mr. Wiggins caused actual and potentially serious injury to Complainant.

The following *Standards* are implicated:

Standard 4.41-Disbarment is generally appropriate when:

(a) a lawyer abandons the practice and causes serious or potentially serious injury to a client; [or]

(b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client

Standard 4.51- Disbarment is generally appropriate when a lawyer's course of conduct demonstrates that the lawyer does not understand the most fundamental legal doctrines or procedures, and the lawyer's conduct causes injury or potential injury to a client.

Standard 7.2- Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional, and causes injury or potential injury to a client, the public, or the legal system.

Mr. Wiggins abandoned his practice, ignored his client, and knowingly, if not intentionally, ignored the State Bar's request for information during its investigation.

Mr. Wiggins had already been suspended when the State Bar asked him for information. He knew from experience he owed the bar a duty of cooperation.

AGGRAVATING AND MITIGATING FACTORS

The Hearing Panel finds the following aggravating factors are applicable:

Standard 9.22--

(a) prior disciplinary offenses—

March 24, 2010, SBA no. 09-1801, Informal Reprimand (Admonition) and Probation (fee arbitration, LOMAP, and Continuing Legal Education- "Ten Deadly Sins of Conflict"), ERs 1.1, 1.2, 1.4, 1.7, 1.15(d), and 8.4(d);

March 21, 2014, SBA no. 13-0306, PDJ-2013-9117, Suspension for 90 days, order to distribute \$3,372.55, fee arbitration if requested by the former client, ERs 1.3, 1.4, 1.5(a), 1.15(d), 8.1(b), and Rule 54;

(c) a pattern of misconduct—Mr. Wiggins violated the same ERs and rules he violated in the past;

(d) multiple offenses;

(e) bad faith obstruction of the disciplinary proceeding by intentionally failing to comply with the rules or orders of the disciplinary agency;

(g) refusal to acknowledge wrongful nature of conduct;

(h) vulnerability of victim; and

(i) substantial experience in the practice of law;

Mr. Wiggins failed to participate in these proceedings or otherwise offer any evidence in mitigation. The Hearing Panel finds there are no applicable mitigating factors.

CONCLUSION

The objective of lawyer discipline is not to punish a lawyer but, rather, to protect the public, the profession, and the administration of justice; deter similar conduct among other lawyers; preserve public confidence in the integrity of the bar; foster confidence in the legal profession and the self-regulatory process; and assist, if possible, in the rehabilitation of an errant lawyer. *In re Peasley*, 208 Ariz. 27, 90 P.3d 764 (2004); *In re Scholl*, 200 Ariz. 222, 25 P.3d 710 (2001); *In re Walker*, 200 Ariz. 155, 24 P.3d 602 (2001); *In re Rivkind*, 164 Ariz. 154, 791 P.2d 1037 (1990); *In re Hoover*, 161 Ariz. 529, 779 P.2d 1268 (1989); and *In re Neville*, 147 Ariz. 106, 708 P.2d 1297 (1985). Rehabilitation is impossible when, as here, a respondent attorney does not even participate in the disciplinary process.

The Hearing Panel has determined the sanction using the facts deemed admitted, the *Standards*, the aggravating factors, the lack of any mitigating factors, and the goals of the attorney discipline system. The Hearing Panel orders:

1. Mr. Wiggins shall be suspended from the practice of law for two years effective immediately.
2. As a condition of reinstatement, Mr. Wiggins shall obtain a MAP evaluation.
3. Mr. Wiggins shall pay all costs and expenses incurred by the SBA and the Office of the Presiding Disciplinary Judge in this proceeding within 30 days of the date the Final Judgment and Order is entered. If costs are not paid within the 30 days, interest will accrue at the legal rate.
4. A Final Judgment and Order will follow.

DATED this 29th day of December.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

CONCURRING:

Clarence Matherson, Jr.

Clarence Matherson, Jr., Volunteer Attorney Member

Michael Snitz

Michael Snitz, Volunteer Public Member

Copies of the foregoing mailed/emailed
this 29th day of December, 2014.

Anthony J. Wiggins
7400 North Oracle Road, Suite 323
Tucson, Arizona 85704-6341
Email: tony.wigginslaw@hotmail.com
Respondent

David L. Sandweiss
Senior Bar Counsel
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

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

by: JAlbright

David L. Sandweiss, Bar No. 005501
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Telephone (602)340-7272
Email: LRO@staff.azbar.org

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

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

**ANTHONY J. WIGGINS,
Bar No. 010523,**

Respondent.

PDJ 2014-_____

COMPLAINT

State Bar No. 14-1206

COUNT ONE of ONE (Marnel Camp, Complainant)

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 November 9, 1985.
2. While in Illinois, on March 28, 2012, Ms. Camp was attacked and injured by a dog.
3. The dog owner knew of the animal's vicious propensity but took no precautions to safeguard Ms. Camp against an attack.
4. On July 27, 2012, Ms. Camp, an Oro Valley resident, hired Respondent to represent her in the case.
5. The written fee agreement between Ms. Camp and Respondent called for Ms. Camp to pay Respondent a contingent fee of one-third of a settlement prior

to arbitration or trial, and 40% of the amount received after the start of an arbitration or trial.

6. The agreement authorized Respondent to associate outside counsel and provided that he would obtain Ms. Camp's consent if the association were to increase costs or fees.

7. Thereafter, Respondent took no action on Ms. Camp's behalf.

8. The applicable statutory limitations period is two years which has expired.

9. Respondent failed to communicate to Ms. Camp the status of her matter and the reasons for his inaction.

10. In February 2014, in State Bar matter no. 13-0306, Respondent was suspended from the practice of law in Arizona for 90 days.

11. Respondent failed to inform Ms. Camp of his suspension.

12. Respondent failed to respond to the bar's screening and reminder letters dated May 12 and June 12, 2014, respectively, that included a request that he furnish a copy of his file.

13. By failing to take any action on Ms. Camp's behalf during the course of the representation or prior to expiration of the statutory limitations period, Respondent failed to provide competent representation to Ms. Camp in violation of Rule 42, Ariz. R. Sup. Ct., ER 1.1.

14. By failing to take any action on Ms. Camp's behalf during the course of the representation or prior to expiration of the statutory limitations period, Respondent failed to act with reasonable diligence and promptness in representing Ms. Camp in violation of Rule 42, Ariz. R. Sup. Ct., ER 1.3.

15. By failing to respond to Ms. Camp's requests for a status of her legal matter and to explain his reasons for inaction, Respondent failed to communicate reasonably with Ms. Camp in violation of Rule 42, Ariz. R. Sup. Ct., ER 1.4.

16. By knowingly failing to respond to the SBA's screening efforts or produce his client file, Respondent failed to respond to a lawful demand for information from the SBA in connection with a disciplinary matter in violation of Rule 42, Ariz. R. Sup. Ct., ER 8.1, and Rule 54, Ariz. R. Sup. Ct.

17. By failing to inform Ms. Camp of his suspension from the practice of law, Respondent failed to provide notice of his suspension to his client in the required manner, or at all, in violation of Rule 72, Ariz. R. Sup. Ct.

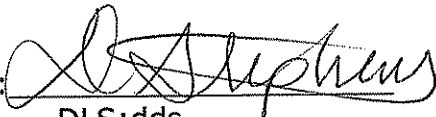
DATED this 2nd day of October, 2014.

STATE BAR OF ARIZONA

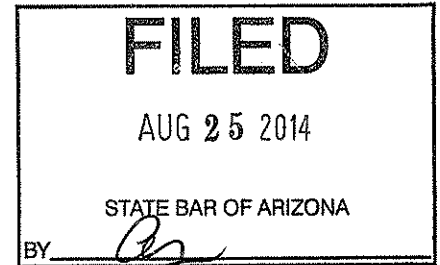


David L. Sandweiss
Senior Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 2nd day of October, 2014.

by: 
DLS:dds

**BEFORE THE ATTORNEY DISCIPLINE
PROBABLE CAUSE COMMITTEE
OF THE SUPREME COURT OF ARIZONA**



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

**ANTHONY J. WIGGINS,
Bar No. 010523,**

Respondent.

No. 14-1206

PROBABLE CAUSE ORDER

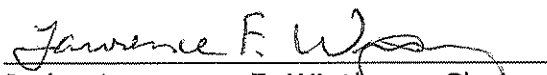
The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on August 15, 2014, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation.

By a vote of 8-0-1¹, the Committee finds probable cause exists that Respondent violated the Rules of the Supreme Court of Arizona in File No. 14-1206.

IT IS THEREFORE ORDERED pursuant to Rules 55(c) and 58(a), Ariz. R. Sup. Ct., authorizing the State Bar Counsel to prepare and file a complaint with the Disciplinary Clerk.

Parties may not file motions for reconsideration of this Order.

DATED this 25 day of August, 2014.



Judge Lawrence F. Winthrop, Chair
Attorney Discipline Probable Cause
Committee of the Supreme Court of Arizona

¹ Committee member Karen E. Osborne did not participate in this matter.

Original filed this 25th day
of August, 2014, with:

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

Copy mailed this 26th day
of August, 2014, to:

Anthony J. Wiggins
7400 North Oracle Road,
Suite 323
Tucson, Arizona 85704-6341
Respondent

Copy emailed this 26th day
of August, 2014, to:

Attorney Discipline Probable Cause Committee
of the Supreme Court of Arizona
1501 West Washington Street, Suite 104
Phoenix, Arizona 85007
E-mail: ProbableCauseComm@courts.az.gov

Lawyer Regulation Records Manager
State Bar of Arizona
4201 North 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

by

