

IN THE
SUPREME COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

IN RE DISCIPLINARY PROCEEDINGS OF STEPHEN C. WOODRUFF,
Respondent.

SUPREME COURT NO. 2013-SLD-0001-ADA

OPINION

Cite as: 2013 MP 1

Decided February 1, 2013

BEFORE: ALEXANDRO C. CASTRO, Chief Justice; JOHN A. MANGLONA, Associate Justice; ROBERT C. NARAJA, Justice Pro Tem.

CASTRO, C.J.:

¶ 1 The CNMI Bar Association Disciplinary Committee (“Disciplinary Committee”) requests an interim suspension of attorney Stephen C. Woodruff (“Woodruff”) pending the resolution of eleven ethical complaints against him. Woodruff, in contrast, claims: (1) the Disciplinary Committee needed to serve him physically with the motion for interim suspension, rather than through File & ServeXpress; (2) due process requires more than nineteen days notice prior to a hearing; and (3) this Court does not have the authority to issue an interim suspension because the disciplinary rules and procedures do not expressly provide for interim suspensions. For the reasons stated below, Woodruff is temporarily suspended, effective immediately, pending the resolution of the disciplinary matters referred to the Superior Court for prosecution. It is further ordered that Woodruff: (1) provide this Court a complete list of his active clients, in chronological order based on nearest deadline, no later than February 6, 2013; (2) provide his current clients a copy of this opinion no later than February 19, 2013; and (3) file a proof of service of the client notifications with this Court no later than February 22, 2013.

I. Factual and Procedural Background

¶ 2 On January 4, 2013, the Disciplinary Committee filed an application with this Court (but did not serve Woodruff with a copy) requesting an Order to Show Cause against Woodruff, an attorney admitted in the Commonwealth, regarding why he should not be suspended from practicing law until the resolution of several disciplinary matters currently pending before the Disciplinary Committee and the Superior Court. In support, the Disciplinary Committee alleges Woodruff has had eleven ethical complaints filed with the CNMI Bar against him in the last five years: nine currently before the Superior Court for prosecution and two still before the Disciplinary Committee. Disciplinary Committee Application for Interim Suspension of Attorney from the Practice of Law at 2-3 (“Application”). The Disciplinary Committee alleges this pattern of misconduct violates Woodruff’s duties of competence, diligence, communication, and expediting litigation under Rules 1.1, 1.3, 1.4(a)(3), and 3.2, respectively, of the ABA Model Rules of Professional Responsibility.

¶ 3 For example, one complaint asserts Woodruff filed a labor action in United States District Court, but did not appear at scheduled proceedings. The federal court dismissed the case with prejudice and ordered Woodruff to inform his client in writing that the client “may have a cause of action . . . for failure to meet minimum professional standards in client representation.” *Feliciano v. Eastern Hope Corp.*, Civ. No. 08-0001 (D. N. Mar. I. Dec. 1, 2008) (Order Dismissing Lawsuit with Prejudice at 3). Woodruff, however, downplayed the District Court’s ruling at the Order to Show Cause hearing (“OSC Hearing”)

before this Court. He called the notification a normal part of orders in the federal district court for the Northern Mariana Islands when an attorney misses a proceeding and, in any event, when the client filed a malpractice suit against him, Woodruff won. Following the District Court's dismissal with prejudice, Woodruff appealed to the Ninth Circuit Court of Appeals, which dismissed the appeal because Woodruff failed to file an opening brief. *Feliciano v. Eastern Hope Corp.*, Civ. No. 09-15167 (9th Cir. Oct. 6, 2009) (Order at 1).

¶ 4 A client in another labor case filed a complaint with the CNMI Bar alleging Woodruff missed a critical deadline in the client's case, which resulted in dismissal with prejudice. *Cambronero v RJCL Corp.*, No. 08-117 (NMI Dep't of Labor April 27, 2009) (Order Dismissing Case at 1) (noting Cambronero, through his lawyer Woodruff, failed to oppose the motion to dismiss). At the OSC Hearing, Woodruff claimed the judge changed dates without providing Woodruff notice. Likewise, in the client's companion case in United States District Court, that court granted summary judgment against Woodruff's client because Woodruff conceded the court should grant defendant summary judgment. *Cambronero v. RJCL Corp.*, Civ. No. 08-0033 (D. N. Mar. I. Mar. 6, 2009) (Order Granting Defendant's Motion for Summary Judgment as to All Claims and Taking All Matters, Including Trial, Off-Calendar at 2).

¶ 5 In addition, a complaint filed with the CNMI Bar by a criminal defendant client of Woodruff made three allegations. First, the client claimed Woodruff was unprepared at trial and allowed the government to introduce unreliable evidence against him. A court subsequently sentenced the client to twenty-eight years in prison. *Commonwealth v. Qun Yu*, Crim. No. 10-0154 (NMI Super. Ct. July 20, 2011) (Sentence and Commitment Order at 5). At the OSC Hearing, Woodruff characterized the trial as well-litigated by both sides. Second, the complaint alleged Woodruff misrepresented he had filed an appeal, when he had not. Woodruff, in contrast, disagrees, stating during the OSC Hearing that he filed a renewal of motion for judgment as a matter of law, which the judge has not responded to despite sentencing over a year ago. According to Woodruff, the motion tolls the period he has to make an appeal. And, third, the complaint asserted Woodruff ignored numerous requests to talk to his client. Woodruff, in contrast, claims he has visited this client on a number of occasions, including recently.

¶ 6 Like the previous client, another client filed a complaint with the CNMI Bar claiming Woodruff avoided communicating with her. In that case, after waiting for an undisclosed period of time, the client allegedly called Woodruff's office to get an update on her case but did not receive one. Following more than ten unsuccessful telephone attempts, she alleges she began visiting Woodruff's office three times a week. During those visits, a secretary would tell her Woodruff was with a client, but she waited from 1:00 p.m. to 6:00 p.m. on several occasions without seeing another client leave Woodruff's office. At the OSC Hearing, Woodruff countered that in spite of the complaint the woman has continued to use him as her attorney.

¶ 7 Similarly, in a paternity action, a client filed a complaint alleging Woodruff not only failed to keep her updated on her case, but also threatened to have the police remove her from his office if she continued coming there to seek updates. Woodruff, according to the complaint, never filed the client’s paternity action.

¶ 8 In light of the Disciplinary Committee’s allegations, on January 4, 2013, we granted its emergency application for an order to show cause why Woodruff should not be suspended. We served Woodruff in person at the courthouse on the same day with an order, which gave him ten days to respond in writing and set a hearing for January 16, 2013. At 3:10 a.m. the day after his response was due, Woodruff filed a response concurrently opposing the Disciplinary Committee’s application and seeking a continuance. Despite being untimely under NMI Rule for Electronic Filing and Service 6.2 and non-compliant with NMI Supreme Court Rule 31-1, governing requests for a continuance, we nonetheless granted Woodruff a one-week continuance. The Disciplinary Committee then filed a Supplemental Investigative Report, including four exhibits, the day before the hearing without permission.¹ At 1:39 a.m. on the day of the hearing, in turn, Woodruff filed a renewed request for a continuance, which both rebutted the Disciplinary Committee’s supplemental filing and asked for another extension. We ignored the request both as untimely and because it failed to follow NMI Supreme Court Rule 31-1. Woodruff then filed supporting documents thirty-eight minutes prior to his hearing. This opinion follows that hearing, which took place on January 23, 2013, nineteen days after we issued the Order to Show Cause.

II. Jurisdiction

¶ 9 We have inherent jurisdiction to regulate attorney conduct. NMI CONST. art. IV, § 3 (“The supreme court shall have all inherent powers . . . necessary to the complete exercise of its duties.”); PL 10-26 §§ 1-2 (affirming the Supreme Court’s duty to govern the practice of law in the Commonwealth); NMI R. DIS. 1 (“Any attorney . . . who practices law in the Commonwealth of the Northern Mariana Islands is subject to the disciplinary jurisdiction of the Courts of the Commonwealth . . .”).

III. Analysis

A. Sufficiency of Service

¶ 10 Before reaching the suspension question, we first look at the Disciplinary Committee’s failure to serve Woodruff. At the OSC Hearing, the Disciplinary Committee claimed no rule required them to serve

¹ For actions outside the normal appellate briefing process, petitioners may not file a reply brief unless requested or ordered by the Court. *See* NMI SUP. CT. R. 21-1 (original actions “must conform, so far as is practicable, to the [writ] procedures prescribed in Rule 21(a) and (b)”); NMI SUP. CT. R. 21(b)(2) (limiting responses to “all persons directed to respond” by the Court). Similarly, unless ordered to do so by the Court, parties may not file a reply brief, which the Disciplinary Committee’s Supplemental Investigative Report appears to be, within three days of oral argument. NMI SUP. CT. R. 31(a)(1). Because we did not order the Disciplinary Committee to submit a reply brief and they neither asked for permission nor filed it at a proper time, we will not consider it for purposes of this application.

Woodruff. Woodruff, in contrast, criticized the Disciplinary Committee’s failure to serve him, but did not challenge this Court’s jurisdiction. Opposition to Application for Interim Suspension of Attorney from the Practice of Law and Request for Continuance at 2 (“Opposition”).

¶ 11 At the outset, we note this action is procedurally unique because while we have issued interim suspensions before, which we will discuss further below, the emergency nature and lack of standards for seeking an interim suspension meant all parties had to make their best judgment without the benefit of guidance. Nonetheless, the Disciplinary Committee should have served Woodruff. NMI Rule of Discipline 9(c) requires service on respondent attorneys. Likewise, NMI Supreme Court Rule 21-1, which governs original actions before this Court, obliges the moving party to “fil[e] a petition with the Clerk with proof of service on the respondents.” Both rules require service, which comports with other court rules placing the burden of service on the movant. *E.g.*, NMI R. CIV. P. 4(c)(1); NMI R. CRIM. P. 4(d)(1), 4(d)(3). As a result, we hold that the Disciplinary Committee must serve the opposing party and provide us with proof of service before filing an application for interim suspension in the future.

¶ 12 Despite the Disciplinary Committee’s defective service, we nonetheless find it remedied in the narrow circumstances of this case because: (1) we served Woodruff on the same day as the Disciplinary Committee filed its application; (2) Woodruff appeared at the OSC Hearing, where we allowed him to argue well beyond our usual time limits; and (3) this is the first time we have articulated the precise contours of the rule regarding interim attorney suspensions. Notably, because of the first two factors, Woodruff had the same notice and *more* opportunity to be heard than he would have had if the Disciplinary Committee had properly served him.

B. Interim Suspension

¶ 13 Finding the Disciplinary Committee’s deficient service cured here, we turn to the application to suspend Woodruff pending the outcome of disciplinary proceedings before the Superior Court and the Disciplinary Committee. The Disciplinary Committee seeks to suspend Woodruff in the interim for three reasons: (1) the number of complaints filed against Woodruff; (2) the repetitive nature of the complaints, suggesting Woodruff has not learned from past mistakes; and (3) the need to protect the public from further harm.

¶ 14 Woodruff counters that “the number of complaints is actually quite small – likely around one percent – in relation to the number of clients I have served over the period covered by the complaints.” Opposition at 4. He also objects to the repetitive nature allegation, stating: “to the best of my present recollection, this is the first time in [the Disciplinary Committee’s] dealing with me that the DC or anyone associated with it has ever articulated any specific Rule of Professional Conduct it is thought I may have violated.” *Id.* Finally, Woodruff argues that an interim suspension “would be disastrous to my clients and . . . harmful to the public, especially to the economically, politically, and socially disadvantaged

elements of the public and particularly to aliens” because he is “the only attorney qualified, capable, and willing to handle their type of case for a fee they can afford (or on a pro bono publico basis).” *Id.* at 6.

¶ 15 We have the authority and jurisdiction to regulate attorney conduct. NMI CONST. art. IV, § 3 (“The supreme court shall have all inherent powers . . . necessary to the complete exercise of its duties.”); PL 10-26 §§ 1-2; NMI R. DIS. 1. That includes suspending attorneys for, among other things, violating the ABA Model Rules of Professional Conduct. NMI R. DIS. 2(a), 3(a); *Saipan Lau Lau Dev., Inc. v. Superior Court*, 2001 MP 2 ¶ 37 (“A court has the well-established inherent authority to suspend or disbar attorneys on its own initiative.”) (citing *In re MacKay*, 416 P.2d 823, 837 (Alaska 1964)). When necessary to guard the administration of justice, maintain the dignity of the courts and the profession, or protect the public, we may also issue an interim suspension pending the resolution of disciplinary proceedings. *See Tenorio v. Superior Court*, 1 NMI 112, 127 (1990) (stating we have “the inherent authority to impose sanctions . . . not specifically addressed by rule”); *cf.* NMI R. JUD. DIS. P. 32 (setting out the standard for issuing an interim suspension of a judicial officer). For instance, we have suspended attorneys in the interim for inappropriate statements and behavior in briefs and oral argument, *Saipan Lau Lau Dev., Inc.*, 2001 MP 2 ¶¶ 1, 10, 39, and for serious inaccuracies in a government attorney application pertinent to an attorney’s fitness to practice law in the Commonwealth. *In re Dollison*, SUPDA No. 2000-001 (NMI Sup. Ct. June 27, 2000) (Opinion at 5-7). Finally, we may consider an attorney’s cumulative conduct when considering what sanction to impose. NMI R. DIS. 3(b).

¶ 16 While we have the authority to suspend an attorney, including before a hearing, we have not established a test for deciding when to issue an interim suspension. Other jurisdictions, however, have applied a standard similar to the standard governing issuance of preliminary injunctions. *In re Malvin*, 466 A.2d 1220, 1223 (D.C. 1983); *People v. Varallo*, 913 P.2d 1, 5-6 (Colo. 1996); *In re Ellis*, 680 N.E.2d 1154, 1157, 1160 (Mass. 1997); *In re Trujillo*, 24 P.3d 972, 979 (Utah 2001). We find their reasoning persuasive and, therefore, adopt it here. Thus, in evaluating whether to issue an interim suspension, we consider whether the CNMI Bar has shown: (1) the public will suffer irreparable harm if the attorney continues practicing law prior to the resolution of disciplinary proceedings; (2) a substantial likelihood exists, based on all the evidence available, of clear and convincing evidence showing attorney misconduct; (3) the balance of hardships, as between attorney and clients, favors interim suspension; and (4) an interim suspension would serve the public interest. Like preliminary injunctions, we balance these factors and weigh whether, in light of the evidence, an interim suspension is warranted. *See In re Malvin*, 466 A.2d at 1223 (requiring courts to consider each factor in analyzing whether an interim suspension is warranted).

¶ 17 Applying these principles, we find an interim suspension warranted and suspend Woodruff, effective immediately, pending the resolution of attorney disciplinary proceedings against him. First, the

public will suffer irreparable harm if Woodruff continues practicing law prior to resolution of the disciplinary proceedings. Woodruff has eleven complaints against him alleging conduct ranging from lying about filing a criminal appeal to having several cases dismissed with prejudice due to lack of diligence. If true, these complaints suggest Woodruff routinely fails to follow through regarding cases he takes. Woodruff's clients, in turn, permanently lose their claims. We decline to risk a similar fate for current and future clients.

¶ 18 Second, a substantial likelihood exists, based on all the evidence available, of clear and convincing evidence showing attorney misconduct. Clients have filed at least eleven complaints in the last five years against Woodruff. In many instances, court rulings and statements reinforce the credibility of these allegations. For instance, the United States District Court ordered Woodruff to notify his client in writing that the client "may have a cause of action . . . for failure to meet minimum professional standards in client representation." *Feliciano v. Eastern Hope Corp.*, Civ. No. 08-0001 (D. N. Mar. I. Dec. 1, 2008) (Order Dismissing Lawsuit with Prejudice at 3). Similarly, the Ninth Circuit Court of Appeals dismissed Woodruff's appeal in the same case because he failed to file an opening brief. *Feliciano v. Eastern Hope Corp.*, Civ. No. 09-15167 (9th Cir. Oct. 6, 2009) (Order at 1). Woodruff allegedly missed a critical deadline in another case, resulting in dismissal with prejudice. Taken together, the eleven complaints, as well as the court orders and statements related to them, demonstrate a substantial likelihood the Disciplinary Committee will show by clear and convincing evidence Woodruff engaged in misconduct violating, at a minimum, his duties of diligence and expediting litigation under Rules 1.3 and 3.2, respectively, of the ABA Model Rules of Professional Responsibility.

¶ 19 Third, the balance of hardships, as between attorney and clients, favors interim suspension. An interim suspension, on the one hand, would temporarily prevent Woodruff from practicing law, the source of his livelihood.² On the other hand, based on the allegations, permitting Woodruff to continue practicing law pending resolution of the disciplinary proceedings against him would seriously threaten his current clients' claims and run the risk of subjecting future clients to similar problems. Current and future clients, according to these allegations, would be better served by hiring a new attorney and seeking continuances with the courts adjudicating any pending matters.

¶ 20 We also note Woodruff's behavior in this matter buttresses the credibility of the Disciplinary Committee's allegations. Woodruff waited six days before accessing File & ServeXpress to review the Application. He then proceeded to file his response late. Even after we put him on notice about timely

² Because a temporary suspension obstructs an attorney from making a living prior to a full resolution of disciplinary proceedings, we emphasize interim suspensions are an "extreme measure" available only in egregious cases. *In re Malvin*, 466 A.2d at 1223.

filing responses, he filed his second response late as well. And then he filed his calendar *less than an hour* before his hearing.

¶ 21 Clients at a minimum deserve attorneys who meet deadlines and proactively respond to court orders. Woodruff did neither in response to an application for interim suspension. If the threat of suspending his ability to practice law did not motivate Woodruff to make an effort to meet clearly defined deadlines, we have serious concerns about how he handles his client's matters. As a result, on balance, we conclude the risk to current and future clients who entrust important issues to Woodruff outweighs the significant hardship an interim suspension would impose on him.

¶ 22 Fourth, an interim suspension would serve the public interest. Even if the allegations turn out to be false, Woodruff's behavior has nonetheless led to nearly a dozen complaints in recent years. Each instance harms the CNMI Bar's reputation, which diminishes the public's faith in the legal system. Faith in the competence, diligence, and equity of the legal system is an essential public interest we must zealously guard.

¶ 23 Because the weight of the evidence favors suspension, we hold an interim suspension is warranted.³

C. Expedited Disciplinary Process

¶ 24 While we issue an interim suspension in this case, we are mindful that an interim suspension denies suspended attorneys the ability to practice their livelihood prior to a full evidentiary hearing. In light of that concern, we direct the Disciplinary Committee to take all reasonable steps to expedite resolution of the disciplinary proceedings against Woodruff and expect the Superior Court resolve the nine disciplinary complaints against Woodruff already referred to it by the Disciplinary Committee within sixty days of this opinion.

IV. Conclusion

¶ 25 For the foregoing reasons, Woodruff is temporarily suspended, effective immediately, pending the resolution of the disciplinary matters referred to the Superior Court for prosecution. It is further ordered that Woodruff: (1) provide this Court a complete list of his active clients, in chronological order based on nearest deadline, no later than February 6, 2013; (2) provide his current clients a copy of this opinion no later than February 19, 2013; and (3) file a proof of service of the client notifications with this Court no later than February 22, 2013. Failure to timely comply with these orders will lead to further sanctions.

³ If circumstances substantially change, Woodruff may file a motion with this Court seeking rescission of the interim suspension. That motion should explain how circumstances have substantially changed and why an interim suspension is no longer warranted under the standard expressed in paragraph 16, above.

SO ORDERED this 1st day of February, 2013.

/s/ _____
ALEXANDRO C. CASTRO
Chief Justice

/s/ _____
JOHN A. MANGLONA
Associate Justice

/s/ _____
ROBERT C. NARAJA
Justice Pro Tem