

Sep 19, 2016, 3:37 pm

RECEIVED ELECTRONICALLY

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In re

Teresa Lynn Border,
Lawyer (Bar No. 19222).

Supreme Court No.

201971-9

ODC'S PETITION FOR
INTERIM SUSPENSION [ELC
7.2(a)(3)]

Under Rule 7.2(a)(3) of the Rules for Enforcement of Lawyer Conduct (ELC), the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association petitions this Court for an Order of Interim Suspension of Respondent Teresa Lynn Border pending cooperation with the disciplinary investigation.

This Petition is based on the Declaration of Disciplinary Counsel Natalea Skvir, filed with this Petition.

STATEMENT OF GROUNDS/ARGUMENT

Respondent Teresa Lynn Border (Respondent) failed to comply with requests that she respond to four grievances and to furnish additional information with regard to a fifth grievance. She also failed to appear for deposition and to produce records in response to subpoenas duces tecum issued by Disciplinary Counsel under ELC 5.3(h)(1). The subpoenas were issued due to Respondent's failure to cooperate in the investigation of the five grievances filed against her.

It is necessary to obtain Respondent's responses and records in order to determine whether these grievances have merit. By refusing to respond to the grievances and inquiries and to provide client records in response to multiple subpoenas duces tecum, Respondent has impeded and delayed the disciplinary process. Accordingly, ODC asks this Court to order Respondent's immediate interim suspension pending compliance with ODC's investigation.

STANDARD

Under ELC 7.2(a)(3), a respondent lawyer may be immediately suspended from the practice of law when the lawyer fails without good cause to comply with a request from ODC for information or documents or fails without good cause to comply with a subpoena.¹ Respondent's failure to comply with ODC's requests for responses to grievances, to

¹ ELC 7.2(a)(3) provides:

When any lawyer fails without good cause to comply with a request under rule 5.3(g) for information or documents, or with a subpoena issued under rule 5.3(h), or fails to comply with disability proceedings as specified in rule 8.2(d), disciplinary counsel may petition the Court for an order suspending the lawyer pending compliance with the request or subpoena. A petition may not be filed if the request or subpoena is the subject of a timely objection under rule 5.5(e) and the hearing officer has not yet ruled on that objection. If a lawyer has been suspended for failure to cooperate and thereafter complies with the request or subpoena, the lawyer may petition the Court to terminate the suspension on terms the Court deems appropriate.

furnish information and to produce records in response to subpoenas meets this standard.

EFFECT OF RESPONDENT'S FAILURE TO COOPERATE

The lawyer discipline system provides "protection of the public and preservation of confidence in the legal system." In re Disciplinary Proceeding Against McMurray, 99 Wn.2d 920, 930, 655 P.2d 1352 (1983). Given the limited resources available to investigate allegations of lawyer misconduct, disciplinary proceedings depend upon the cooperation of attorneys. In re Disciplinary Proceeding Against Scannell, 169 Wn.2d 723, 738, 239 P.3d 332 (2010). Compliance with disciplinary requests and investigations is "vital." Id. Noncompliance impedes the investigation of possible misconduct and undermines the effectiveness of the regulatory system. McMurray, 99 Wn.2d at 930-31.

Because Respondent has failed to respond or to provide requested information, to produce records, and to appear for deposition concerning five separate grievances, the ODC has not been able to conduct complete investigations of these matters. ODC's effective and timely investigation of the grievances and protection of the public has been impeded and delayed.

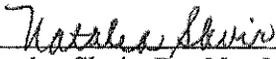
CONCLUSION

Respondent's failure to cooperate with disciplinary investigations is an ongoing violation of the duty to cooperate with a disciplinary investigation as set forth in ELC 5.3(f). Accordingly, ODC asks the Court to issue an order to show cause under ELC 7.2(b)(2) requiring Teresa Lynn Border to appear before the Court on such date as the Chief Justice may set, and show cause why this petition for interim suspension should not be granted.

DATED THIS 19th day of September, 2016.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL



Natalea Skvir, Bar No. 34335
Disciplinary Counsel
1325 4th Avenue, Suite 600
Seattle, WA 98101-2539
(206) 239-2123