

FILED

Feb 8, 2024

Disciplinary
Board

Docket # 035

DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION

Proceeding No. 23#00030

In re

JAMES DEWITT MCBRIDE II,

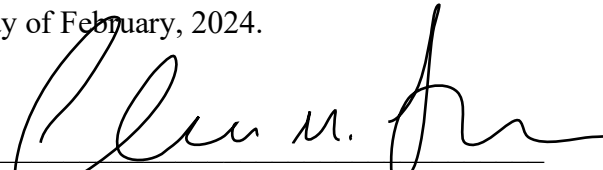
Lawyer (WSBA No.1603)

DISCIPLINARY BOARD ORDER
DECLINING *SUA SPONTE* REVIEW AND
ADOPTING HEARING OFFICER'S
DECISION

This matter came before the Disciplinary Board for consideration of *sua sponte* review pursuant to ELC 11.3(a). On January 24, 2024, the Clerk distributed the attached decision to the Board.

IT IS HEREBY ORDERED THAT the Board declines *sua sponte* review and adopts the Hearing Officer's decision¹.

Dated this 8th day of February, 2024.


Christopher M. Sanders, WSBA #47518
Disciplinary Board Chair

¹ The vote on this matter was 11-0. The following Board members voted: Sanders, Severson, Hayes, Ashby, Zeidel, Atreya, Cohon, Davenport, Tindell, Endter, and Overby. Jones, Brangwin and Idbaatar did not participate.

I certify that I caused a copy of the DB Order Declining Sua Sponte Review and Adopting HO's Decision to be emailed to the Office of Disciplinary Counsel and to Respondent James Dewitt McBride II, at mcbritelawyer@icloud.com, on the 8th day of February, 2024.



Clerk to the Disciplinary Board

FILED

Dec 18, 2023

**Disciplinary
Board**

Docket # 030

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**DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION**

In re

JAMES DEWITT MCBRIDE II,
Lawyer (Bar No. 1603).

Proceeding No. 23#00030

**FINDINGS OF FACT, CONCLUSIONS OF
LAW, AND HEARING OFFICER'S
RECOMMENDATION**

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The undersigned Hearing Officer on December 18, 2023, held a disciplinary proceeding conducted on the written submissions of the Office of Disciplinary Counsel under Rule 10.6(b)(3) of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC).

**FINDINGS OF FACTS AND CONCLUSIONS OF LAW
REGARDING CHARGED VIOLATIONS**

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1. The Formal Complaint (Bar File 2) charged James Dewitt McBride II with misconduct as set forth therein.

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2. Under ELC 10.6(a)(4), the Hearing Officer finds that each of the facts set forth in the Formal Complaint is admitted and established.

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3. The Hearing Officer finds that Respondent received an admonition in 2014 for violations of RPC 1.7 and RPC 8.4(d).

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4. The Hearing Officer finds that Respondent was admitted to practice law in the State

1 of Washington in 1967.

2 5. Under ELC 10.6(a)(4), the Hearing Officer concludes that each of the violations
3 charged in the Formal Complaint is admitted and established as follows:

4 6. By recording a lis pendens against personal property, Respondent violated RPC 3.1
5 and RPC 8.4(d).

6 7. By failing to abide by Jessica McCormick's (the client) request to release the lis
7 pendens, Respondent violated RPC 1.2(a) and RPC 1.4.

8 8. By failing to timely act to release the improper lis pendens, Respondent violated
9 RPC 1.3 and RPC 3.2.

10 9. By failing to respond to the client's request for information about the total fees owed,
11 Respondent violated RPC 1.4.

12 **FINDINGS OF FACTS AND CONCLUSIONS OF LAW**
13 **REGARDING RECOMMENDED SANCTION**

14 1. Respondent received an admonition in 2014 for violations of RPC 1.7 and RPC and
15 8.4(d).

16 2. Respondent acted knowingly by failing to perform services for McCormick, failing
17 to abide by the client's wishes, and failing to communicate with the client.

18 3. Respondent was at least negligent in failing to pursue only meritorious claims.

19 4. Respondent engaged in a pattern of neglect by ignoring McCormick's multiple
20 requests to release the lis pendens.

21 5. There was injury to McCormick because the sale of the mobile home was made more
22 difficult than necessary.

23 6. There was interference with a legal proceeding because Respondent's actions and
24 inactions prevented the parties from resolving the litigation.

1 7. The presumptive sanction for the violations of RPC 3.1 and RPC 8.4(d) charged in
2 Count 1 of the Formal Complaint is reprimand under ABA Standards 6.2:

3 6.23 **Reprimand** is generally appropriate when a lawyer negligently fails to comply
4 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.

5 8. The presumptive sanction for the violations of RPC 1.2, RPC 1.3, and RPC 1.4
6 charged in Counts 2-4 of the Formal Complaint is suspension under ABA Standards 4.4:

7 4.42 **Suspension** is generally appropriate when:

8 (a) a lawyer knowingly fails to perform services for a client and causes injury
or potential injury to a client, or

9 (b) a lawyer engages in a pattern of neglect and causes injury or potential
injury to a client.

10 9. Where there are multiple ethical violations, the "ultimate sanction imposed should
11 at least be consistent with the sanction for the most serious instance of misconduct among a
12 number of violations." In re Disciplinary Proceeding Against Petersen. 120 Wn.2d 833, 854, 11
13 846 P. 2d 1330 (1993) (quoting ABA Standards at 6).

14 10. The length of suspension is based on the aggravating and mitigating factors.
15 Halverson, 140 Wn.2d at 493. A six-month suspension is "the presumptive starting point when
16 suspending an attorney." In re Disciplinary Proceeding Against Conteh. 175 Wn.2d 134, 154, 15
17 284 P. 3d 724 (2012) (quotation omitted). On balance, the aggravating and mitigating factors do
18 not provide cause to deviate from the presumptive sanction of suspension or the presumptive
19 starting point of six months.

20 11. The following aggravating factors set forth in Section 9.22 of the ABA Standards
21 apply in this case:

22 (a) prior disciplinary offenses [2014 admonition for violations of RPC 1.7 and
8.4(d)];

23 (i) substantial experience in the practice of law [admitted to practice law in
24 Washington in 1967].

1 12. It is an additional aggravating factor that Respondent failed to file an answer to the
2 Formal Complaint as required by ELC 10.5(a).

3 13. There are no applicable mitigating factors as set forth in Section 9.32 of the ABA
4 Standards.

5 **HEARING OFFICER RECOMMENDATION**

6 14. Based on the ABA Standards and the applicable aggravating and mitigating factors,
7 the Hearing Officer recommends that Respondent James Dewitt McBride II be suspended for a
8 period of one year.

9 DATED this 18th day of December, 2023.

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14 _____
15 Diana Marie Dearmin, WSBA# 23396
16 Hearing Officer

I certify that I caused a copy of the FOF, COL and HO's Recommendation to be emailed to the Office of Disciplinary Counsel and to Respondent James Dewitt McBride II, at mcbritelawyer@icloud.com, on the 18th day of November, 2023.



Clerk to the Disciplinary Board

FILED

Aug 23, 2023

Disciplinary
Board

Docket # 002

DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION

In re

JAMES DEWITT MCBRIDE II,

Lawyer (Bar No. 1603).

Proceeding No. 23#00030

FORMAL COMPLAINT

Under Rule 10.3 of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC), the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association charges the above-named lawyer with acts of misconduct under the Washington Supreme Court's Rules of Professional Conduct (RPC) as set forth below.

ADMISSION TO PRACTICE

1. Respondent James Dewitt McBride II was admitted to the practice of law in the State of Washington on September 22, 1967.

FACTS REGARDING COUNTS 1, 2, 3, and 4

2. On August 6, 2020, Heather Mullen filed a complaint against Jessica McCormick in Snohomish County Superior Court.

1 3. The subject of the complaint was McCormick's alleged failure to comply with a
2 purchase agreement for a mobile home.

3 4. Specifically, Mullen alleged that McCormick failed to provide Mullen with title to
4 the mobile home as required by the agreement.

5 5. McCormick hired Respondent to represent McCormick in the matter.

6 6. On November 2, 2020, Respondent recorded a lis pendens against the mobile home.

7 7. A lis pendens may be filed only in an action affecting the title to real property.

8 8. Mobile homes are personal, not real property.

9 9. By February 2021, Mullen and McCormick had reached an agreement between
10 themselves regarding the dispute about the mobile home.

11 10. As part of the agreement, McCormick agreed to release the lis pendens so Mullen
12 could sell the mobile home.

13 11. In February 2021, Mullen and McCormick participated in a conference call with
14 Respondent during which McCormick instructed Respondent to release the lis pendens from the
15 mobile home.

16 12. In addition to the February 2021 conference call, McCormick instructed Respondent to
17 release the lis pendens at least two additional times by telephone.

18 13. In addition, McCormick emailed Respondent multiple times instructing Respondent
19 to release the lis pendens.

20 14. Respondent did not respond to McCormick.

21 15. Respondent refused to remove the lis pendens until McCormick paid the attorney fees
22 McCormick owed Respondent.

23 16. Mullen offered to pay McCormick's fees, but Respondent refused the offer.

1 17. McCormick asked Respondent to determine the amount of fees owed and Respondent
2 did not respond to McCormick.

3 18. Respondent did not release the lis pendens.

4 19. Mullen and McCormick agreed on how to resolve the issues between them.

5 20. Lawyer Chris Rosfjord, who represented Mullen, drafted a settlement agreement that
6 captured the agreement between the parties.

7 21. Instead of using the agreement drafted by Rosfjord, Respondent requested that the
8 parties use an agreement that Respondent drafted.

9 22. The agreement Respondent drafted included a provision that Respondent would
10 release the lis pendens only if the funds representing the full amount of the purchase price were
11 deposited into Respondent's trust account.

12 23. McCormick transferred the title to the mobile home to Mullen.

13 24. The lis pendens has not been released and the litigation is still open.

14 25. McCormick wants the matter closed.

15 26. Although McCormick and Mullen reached an agreement regarding the dispute about
16 the mobile home, Mullen cannot sell the home while the lis pendens is in place.

17 **COUNT 1**

18 27. By recording a lis pendens against personal property, Respondent violated RPC 3.1
19 and/or RPC 8.4(d).

20 **COUNT 2**

21 28. By failing to abide by the client's request to release the lis pendens, Respondent
22 violated RPC 1.2(a) and/or RPC 1.4.

1 **COUNT 3**

2 29. By failing to timely act to release the improper lis pendens, Respondent violated
3 RPC 1.3 and/or RPC 3.2.

4 **COUNT 4**

5 30. By failing to respond the client's request for information about the total fees owed,
6 Respondent violated RPC 1.4.

7
8 THEREFORE, Disciplinary Counsel requests that a hearing be held under the Rules for
9 Enforcement of Lawyer Conduct. Possible dispositions include disciplinary action, probation,
10 restitution, and assessment of the costs and expenses of these proceedings.

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12 Dated this 23rd day of August, 2023.

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15 Sachia Stonefeld Powell, Bar No. 21166
16 Disciplinary Counsel