

FILED

Mar 19, 2024

Disciplinary
Board

Docket # 006

DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION

In re

JUSTIN C. OSEMENE,

Lawyer (Bar No. 28082).

Proceeding No. 23#00055

ODC File No. 23-00265

STIPULATION TO REPRIMAND

Under Rule 9.1 of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC), the following Stipulation to Reprimand is entered into by the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association (Association) through disciplinary counsel Chris Chang, Respondent's Counsel Anne I. Seidel, and Respondent lawyer Justin C. Osemene.

Respondent understands that Respondent is entitled under the ELC to a hearing, to present exhibits and witnesses on Respondent's behalf, and to have a hearing officer determine the facts, misconduct and sanction in this case. Respondent further understands that Respondent is entitled under the ELC to appeal the outcome of a hearing to the Disciplinary Board, and, in certain cases, the Supreme Court. Respondent further understands that a hearing and appeal could result in an outcome more favorable or less favorable to Respondent. Respondent chooses to resolve this

1 proceeding now by entering into the following stipulation to facts, misconduct and sanction to
2 avoid the risk, time, expense attendant to further proceedings.

3 **I. ADMISSION TO PRACTICE**

4 1. Respondent was admitted to practice law in the State of Washington on June 30, 1998.

5 **II. STIPULATED FACTS**

6 2. On January 5, 2021, Respondent filed a complaint against Respondent's homeowners
7 association (the HOA) in Snohomish County Superior Court alleging, among other things,
8 wrongful foreclosure (housing case).

9 3. In September 2021, the court granted summary judgment of the housing case in favor
10 of the HOA.

11 4. Respondent filed notices of appeal and various motions, including a motion for
12 discretionary review, with the Court of Appeals.

13 5. Respondent was not represented by counsel during the appellate proceedings.

14 6. On August 10, 2022, the Court of Appeals denied all of Respondent's motions.

15 7. Respondent sought discretionary review with the Washington Supreme Court, which
16 the commissioner denied on January 13, 2023.

17 8. On February 2, 2023, Respondent filed a Motion to Modify and Reconsider Court
18 Commissioner's Decision and to Grant Discretionary Review.

19 9. While Respondent's motions were pending before the Court, Respondent mailed
20 packages addressed to Chief Justice Steven González, Justice Helen Whitener, and Justice Mary
21 Yu, which the court clerk's office received the packages on February 7, 2023.

22 10. Respondent's packages included a handwritten letter to each of the above-named
23 Justices and the motion Respondent had filed on February 2, 2023.

1 11. In Respondent’s letter to Justice González, Respondent requested the justice to “please
2 intervene and prevent a miscarriage of justice on the pending matter before this Court.”

3 12. In Respondent’s letter to Justice Whitener, Respondent sought the justice’s “review
4 and intervention with the other Justices of the Supreme Court to timely review the attached matter
5 currently before the Court...”

6 13. In Respondent’s letter to Justice Yu, Respondent requested the justice to “intercede in
7 preventing our family’s home of 18 years from being unlawful taken from us without the DUE
8 PROCESS of law and the intervention of the courts...”

9 14. Respondent did not provide a copy of the letters to opposing counsel representing the
10 HOA.

11 15. Respondent had a good faith but erroneous belief that Respondent did not have to
12 provide copies of the letters to opposing counsel because Respondent was writing in a personal
13 capacity and not as a lawyer for a party.

14 III. STIPULATION TO MISCONDUCT

15 16. By communicating ex parte with three Washington Supreme Court Justices regarding
16 a case pending before the Washington Supreme Court, Respondent violated RPC 3.5(b).

17 IV. PRIOR DISCIPLINE

18 17. In December 2014, Respondent received a two-year suspension for trust account
19 violations, making settlement offers without client authorization, failing to return client files in
20 violation of RPC 1.2, RPC 1.4 RPC RPC 4.1, RPC 5.3, RPC 8.4, RPC 1.15A, RPC 1.15B, and
21 RPC 1.16.

22 V. APPLICATION OF ABA STANDARDS

23 18. The following American Bar Association Standards for Imposing Lawyer Sanctions

1 (1991 ed. & Feb. 1992 Supp.) apply to this case:

2 **6.3 Improper Communications with Individuals in the Legal System**

3 Absent aggravating or mitigating circumstances, upon application of the factors
4 set out in Standard 3.0, the following sanctions are generally appropriate in cases
5 involving attempts to influence a judge, juror, prospective juror or other official
6 by means prohibited by law:

7 6.31 Disbarment is generally appropriate when a lawyer:

8 (a) intentionally tampers with a witness and causes serious or
9 potentially serious injury to a party, or causes significant or potentially
10 significant interference with the outcome of the legal proceeding; or

11 (b) makes an ex parte communication with a judge or juror with intent
12 to affect the outcome of the proceeding, and causes serious or potentially
13 serious injury to a party, or causes significant or potentially significant
14 interference with the outcome of the legal proceeding; or

15 (c) improperly communicates with someone in the legal system other
16 than a witness, judge, or juror with the intent to influence or affect the
17 outcome of the proceeding, and causes significant or potentially significant
18 interference with the outcome of the legal proceeding.

19 6.32 Suspension is generally appropriate when a lawyer engages in
20 communication with an individual in the legal system when the lawyer knows that
21 such communication is improper, and causes injury or potential injury to a party
22 or causes interference or potential interference with the outcome of the legal
23 proceeding.

24 6.33 Reprimand is generally appropriate when a lawyer is negligent in
determining whether it is proper to engage in communication with an individual
in the legal system, and causes injury or potential injury to a party or interference
or potential interference with the outcome of the legal proceeding.

6.34 Admonition is generally appropriate when a lawyer engages in an isolated
instance of negligence in improperly communicating with an individual in the
legal system, and causes little or no actual or potential injury to a party, or causes
little or no actual or potential interference with the outcome of the legal
proceeding.

19. Respondent acted knowingly when Respondent sent the justices letters requesting
their intervention and assistance in Respondent's pending case before the court without providing
copies of the correspondence to opposing counsel.

20. Respondent's conduct caused the court's clerk office to expend additional time to
address Respondent's communications.

21. The presumptive sanction is under ABA Standard 6.32 is suspension.

1 22. The following aggravating factors apply under ABA Standard 9.22:

- 2 (a) prior disciplinary offenses [Respondent received a two-year suspension in 2014 for
3 trust account violations, making settlement offers without client authorization, failing
4 to return client files];
(i) substantial experience in the practice of law [licensed in Washington since 1998].

5 23. The following mitigating factors apply under ABA Standard 9.32:

- 6 (c) personal or emotional problems (emotional distress due to Respondent and
7 Respondent's family's eviction from the family home of the past 18 years);
(l) remorse.

8 24. It is an additional mitigating factor that Respondent has agreed to resolve this matter
9 at an early stage of the proceedings.

10 25. On balance, based on the factors set forth above, the presumptive sanction should be
11 mitigated to a reprimand.

12 VI. STIPULATED DISCIPLINE

13 26. The parties stipulate that Respondent shall receive a reprimand.

14 VII. RESTITUTION

15 27. Restitution is not applicable.

16 VIII. COSTS AND EXPENSES

17 28. In light of Respondent's willingness to resolve this matter by stipulation at an early
18 stage of the proceedings, Respondent shall pay attorney fees and administrative costs of \$750 in
19 accordance with ELC 13.9(i). The Association will seek a money judgment under ELC 13.9(l) if
20 these costs are not paid within 30 days of approval of this stipulation.

21 IX. VOLUNTARY AGREEMENT

22 29. Respondent states that prior to entering into this Stipulation Respondent has consulted
23 independent legal counsel regarding this Stipulation, that Respondent is entering into this

1 Stipulation voluntarily, and that no promises or threats have been made by ODC, the Association,
2 nor by any representative thereof, to induce the Respondent to enter into this Stipulation except
3 as provided herein.

4 30. Once fully executed, this stipulation is a contract governed by the legal principles
5 applicable to contracts, and may not be unilaterally revoked or modified by either party.

6 X. LIMITATIONS

7 31. This Stipulation is a compromise agreement intended to resolve this matter in
8 accordance with the purposes of lawyer discipline while avoiding further proceedings and the
9 expenditure of additional resources by the Respondent and ODC. Both the Respondent and ODC
10 acknowledge that the result after further proceedings in this matter might differ from the result
11 agreed to herein.

12 32. This Stipulation is not binding upon ODC or the respondent as a statement of all
13 existing facts relating to the professional conduct of the Respondent, and any additional existing
14 facts may be proven in any subsequent disciplinary proceedings.

15 33. This Stipulation results from the consideration of various factors by both parties,
16 including the benefits to both by promptly resolving this matter without the time and expense of
17 hearings, Disciplinary Board appeals, and Supreme Court appeals or petitions for review. As such,
18 approval of this Stipulation will not constitute precedent in determining the appropriate sanction
19 to be imposed in other cases; but, if approved, this Stipulation will be admissible in subsequent
20 proceedings against Respondent to the same extent as any other approved Stipulation.

21 34. If this Stipulation is approved by the Chief Hearing Officer, it will be followed by the
22 disciplinary action agreed to in this Stipulation. All notices required in the Rules for Enforcement
23 of Lawyer Conduct will be made.

1 35. If this Stipulation is not approved by the Chief Hearing Officer, this Stipulation will
2 have no force or effect, and neither it nor the fact of its execution will be admissible as evidence
3 in the pending disciplinary proceeding, in any subsequent disciplinary proceeding, or in any civil
4 or criminal action.

5 WHEREFORE the undersigned being fully advised, adopt, and agree to this Stipulation
6 to Reprimand as set forth above.

7 Justin C. Osemene
8 Justin C. Osemene, Bar No. 28082
9 Respondent

Dated: 3/4/24

10 Anne I. Seidel
11 Anne I. Seidel, Bar No. 22742
12 Counsel for Respondent

Dated: 3/4/24

13 Chris Chang
14 Chris Chang, Bar No. 54808
15 Disciplinary Counsel

Dated: 3/5/2024