

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**ELVIN GARRY. GRUNDY,
Bar No. 027545**

Respondent.

PDJ 2020-9065

**FINAL JUDGMENT AND
ORDER**

State Bar No. 19-3561

FILED FEBUARY 8, 2021

The Presiding Disciplinary Judge accepted the parties' Agreement for Discipline by Consent pursuant to Rule 57(a), Ariz. R. Sup. Ct.

Accordingly:

IT IS ORDERED Respondent, **ELVIN GARRY GRUNDY, Bar No. 027545** is reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents.

IT IS FURTHER ORDERED Mr. Grundy is placed on probation for a period of eighteen (18) months. The terms of probation are as follows:

- a) Law Office Management Assistance Program (LOMAP): Mr. Grundy shall contact the State Bar Compliance Monitor at (602) 340-7258, within ten (10) days from the date of this Order. Mr. Grundy shall submit to a LOMAP examination of their office procedures. Mr. Grundy shall sign

terms and conditions of participation, including reporting requirements, which shall be incorporated herein. Mr. Grundy shall be responsible for any costs associated with LOMAP.

Mr. Grundy shall commit no further violations of the Rules of Professional Conduct.

IT IS FURTHER ORDERED Mr. Grundy shall pay the costs and expenses of the State Bar of Arizona in the amount of \$1,200.00, within thirty (30) days from the date of this Order. There are no costs or expenses incurred by the Office of the Presiding Disciplinary Judge in these proceedings.

DATED this 8th day of February, 2021.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing emailed
this 8th day of February, 2021, to:

Elvin Garry Grundy
The Grundy Law Firm PLLC
PO Box 90166
Phoenix, Arizona 85066-0166
Email: eggrundy@yahoo.com
Respondent

Hunter F Perlmeter
Senior Bar Counsel
State Bar of Arizona
4201 N 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

by: SHunt

BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**ELVIN GARRY GRUNDY,
Bar No. 027545**

Respondent.

PDJ 2020-9065

**DECISION ACCEPTING
DISCIPLINE BY CONSENT**

[State Bar No. 19-3561]

FILED FEBRUARY 8, 2021

Under Rule 57(a), Ariz. R. Sup. Ct.,¹ an Agreement for Discipline by Consent was filed on January 11, 2021. A Probable Cause Order issued on August 5, 2020 and the formal complaint was filed on August 7, 2020. The State Bar of Arizona is represented by Senior Bar Counsel Hunter F. Perlmeter. Mr. Grundy is self-represented.

Rule 57 requires admissions be tendered solely “...in exchange for the stated form of discipline...” Under that rule, the right to an adjudicatory hearing is waived only if the “...conditional admission and proposed form of discipline is approved...” If the agreement is not accepted, those conditional admissions are automatically withdrawn and shall not be used against the parties in any subsequent proceeding. Mr. Grundy has voluntarily waived the right to an adjudicatory hearing, and waived all

¹ Unless otherwise stated rule references are to the Ariz. R. Sup. Ct.

motions, defenses, objections or requests that could be asserted upon approval of the proposed form of discipline. Notice to the complainant and an opportunity to object under Rule 53(b)(3) was sent by email on December 28, 2020. Complainant filed an objection to the settlement as it did not provide for full restitution. The Court has previously held however, that monetary damages and restitution are best left to civil courts and are not a substitute for malpractice. *Matter of Murphy*, Ariz. 188, 375 (1997).

The Agreement details a factual basis to support the conditional admissions. It is incorporated by this reference. Mr. Grundy admits he violated Rule 42, ERs 1.1 (competence), 1.3 (diligence), 1.4 (communication) and 8.4(d) (conduct prejudicial to the administration of justice). The parties stipulate to a reprimand, eighteen months of probation including participation in the State Bar's Law Office Management Assistance Program (LOMAP), and the payment of costs within 30 days.

For the Agreement, the parties stipulate Mr. Grundy represented a client in a criminal matter in 2018. Thereafter, Mr. Grundy failed to adequately communicate and diligently represent the client. Specifically, he failed timely review the State's discovery material and provide it to the client.

The parties stipulate he negligently violated his duties to the client and the legal system, which caused potential harm to the client, the profession, the legal system and

the public. The presumptive sanction is reprimand under ABA *Standards* 4.43 *Lack of Diligence*.

The parties agree to the presence of aggravating factor 9.22(h) vulnerability of client and mitigating factor 9.32(a) absence of prior disciplinary offenses.

IT IS ORDERED accepting the Agreement and incorporating it with any supporting documents by this reference. A final judgment and order is signed this date.

DATED this 8th day of February 2021.

William J. O'Neil
William J. O'Neil, Presiding Disciplinary Judge

COPY of the foregoing e-mailed/mailed
on this 8th day of February 2021 to:

Elvin Garry Grundy
The Grundy Law Firm, PLLC
PO Box 90166
Phoenix, AZ 85066-0166
Email: eggrundy@yahoo.com
Respondent

Hunter F. Perlmeter
Senior Bar Counsel
State Bar of Arizona
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Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

by: SHunt

FILED
8/7/2020
/s/ BRANDI ENSIGN

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Senior Bar Counsel
State Bar of Arizona
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BEFORE THE PRESIDING DISCIPLINARY JUDGE

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

**ELVIN GARRY GRUNDY III,
Bar No. 027545,**

Respondent.

PDJ 2020-9065

COMPLAINT

State Bar No. 19-3561

Complaint is made against Respondent as follows:

GENERAL ALLEGATIONS

1. At all times relevant, Respondent was a lawyer licensed to practice law in the state of Arizona having been first admitted on March 19, 2010.

COUNT ONE (File no. 19-3561/Moore)

2. On August 11, 2018, Respondent entered into a \$6,000 flat fee agreement with Mark Moore for pre-trial representation on felony charges related to his involvement in a prostitution business. (CR2017-138679-001).

3. While out of custody, Moore allegedly entered a home at night, armed, in an attempt to collect a debt. Moore was shot, taken to the hospital, and charged in a second criminal case.

4. On November 7, 2018, Respondent agreed to take on the second case for a flat fee of \$2,500 (CR2018-151968-001). The court consolidated the two matters.

5. The State emailed disclosure to Respondent on February 22, 2019. Links to the disclosure remained active until March 24, 2019, but Respondent did not download the disclosure.

6. On April 12, 2019, Respondent emailed the State and asked for the disclosure to be sent again and stated: "I was never successful with the upload to my Dropbox & would like to re-attempt."

7. The State again sent the disclosure links to Respondent. Respondent did not access the newly provided links and never reviewed the State's discovery.

8. On December 23, 2019, Moore filed the subject bar charge citing diligence and communication issues with Respondent and Respondent's failure to provide him with the State's disclosure.

9. On January 14, 2020, Respondent emailed the prosecutor and asked for the State to send its electronic disclosure links for a third time. He did so more than one year from the start of his representation, after he had engaged in a settlement conference, and after the State's plea offer had expired.

10. On January 20, 2020, attorney David Erlichman filed his substitution of counsel taking over representation for Respondent. Respondent was unable to provide Erlichman with the State's discovery, because he did not obtain it.

11. Documentation provided by MCAO to the State Bar shows the following with respect to discovery in CR2018-151968-001:

- a. The initial discovery of Bates 0001 – 0054 was sent to the PD's office on 10.29.18. It was not downloaded.
- b. Bates 1000 – 1003 (Booking photo and print card) was sent to R on 01.22.19. It was not downloaded.
- c. Bates 1004 – 1008 (certified prior) was sent to R on 01.22.19. It was not downloaded.
- d. Bates 1009 – 1012 (certified prior) was sent to R on 01.22.19. It was not downloaded.
- e. Bates 1013 – 1017 (certified prior) was sent to R on 01.22.19. It was not downloaded.

- f. Bates 1018 – 1026 (DOC pen pack) was sent to R on 01.22.19. It was not downloaded.
- g. A letter regarding e-discovery was sent to R on 08.18.19. It was downloaded on 08.20.19 by R.
- h. A zip file of discovery was sent to R on 08.18.19. It was not downloaded.
- i. Lab reports were sent to R on 01.22.19. It was not downloaded.
- j. Discovery (175–198 DISCOVERY) sent to R on 02.22.19. It was not downloaded.
- k. More discovery (199–215 and COMMO) sent to R on 02.22.19. It was not downloaded.
- l. Discovery letter sent to R on 03.18.19. It is not downloaded.
- m. LSB Reports and Notes sent to R on 03.18.19. It is not downloaded.
- n. Discovery letter sent to R on 04.29.19. It is not downloaded.
- o. LSB Report and Notes #2 sent to R on 04.29.19. It is not downloaded.
- p. Restoration of Rights Affidavit sent to R on 01.22.19. It is not downloaded.
- q. Discovery letter sent to R on 01.22.19. It is not downloaded.
- r. EMS report sent to R on 01.22.19. It is not downloaded.
- s. A "No BWC Letter" sent to R on 01.22.19. It is not downloaded.
- t. Toxicology Report sent to R on 01.22.19. It is not downloaded.
- u. Search Warrant sent to R on 01.22.19. It is not downloaded.
- v. DR 201800001877787 sent to R on 01.22.19. It is not downloaded.
- w. Alicia Padilla 1 zip file sent to R on 01.22.19. It is not downloaded.
- x. Alicia Padilla 2 zip sent to R on 01.22.19. It is not downloaded.
- y. Arthur Noble 1 zip sent to R on 01.22.19. It is not downloaded.

- z. Arthur Noble 2 zip sent to R on 01.22.19. It is not downloaded.
- aa. Arthur Noble 3 zip sent to R on 01.22.19. It is not downloaded.
- bb. Photos and discovery letter sent to R on 01.22.19. It is not downloaded.
- cc. Photos zip 1 sent to R on 01.22.19. It is not downloaded.
- dd. Photos zip 2 sent to R on 01.22.19. It is not downloaded.
- ee. Photos zip 3 sent to R on 01.22.19. It is not downloaded.
- ff. Photos zip 4 sent to R on 01.22.19. It is not downloaded.
- gg. Photos zip 5 sent to R on 01.22.19. It is not downloaded.
- hh. Police communications – 6 files sent to R on 02.22.19. It is not downloaded.

12. Additionally, Respondent failed to review a voicemail that Moore's girlfriend emailed to Respondent on November 3, 2018. The voicemail purportedly contained the victim or the victim's associates attempt to extort money from Moore.

13. On that date, at 8:06 p.m., Moore's girlfriend sent an email to Respondent that included an attached voicemail. On the same date, she sent a text message to Respondent regarding the voicemail.

14. Respondent did not review the voicemail or notify Moore's girlfriend that he had any difficulty accessing it.

15. Respondent's conduct violated ERs 1.1, 1.3, 1.4, and 8.4(d).

DATED this 7th day of August, 2020.

STATE BAR OF ARIZONA

/s/ Hunter F. Perlmeter

Hunter F. Perlmeter

Senior Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 7th day of August, 2020.

by: /s/ Karen E. Calcagno

HFP:kec

Filed
August 5, 2020
/s/ Brandy Freeman

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

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

**ELVIN GARRY. GRUNDY
Bar No. 027545**

Respondent.

No. 19-3561

PROBABLE CAUSE ORDER

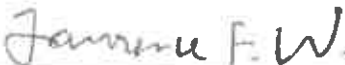
The Attorney Discipline Probable Cause Committee of the Supreme Court of Arizona ("Committee") reviewed this matter on July 10, 2020, pursuant to Rules 50 and 55, Ariz. R. Sup. Ct., for consideration of the State Bar's Report of Investigation and Recommendation.

By a vote of 9-0-0, the Committee finds probable cause exists to file a complaint against Respondent in File No. 19-3561.

IT IS THEREFORE ORDERED pursuant to Rule 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 5th day of August, 2020.



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

Original filed this 5th day
of August, 2020, with:

Lawyer Regulation Records Manager
State Bar of Arizona
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Respondent

Copy emailed this 5th day
of August, 2020, to:

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By: /s/ Karen E. Calcagno