

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

**SOPO NGWA,
Bar No. 021953**

Respondent.

PDJ 2016-9038

FINAL JUDGMENT AND ORDER

[State Bar No. 15-0976]

FILED MAY 11, 2016

The Presiding Disciplinary Judge having reviewed the Agreement for Discipline by Consent filed on May 4, 2016, accepted the parties' proposed agreement under Rule 57(a), Ariz. R. Sup. Ct.

Accordingly:

IT IS ORDERED Respondent, **Sopo Ngwa**, is reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective immediately.

IT IS FURTHER ORDERED Mr. Ngwa shall be placed on probation for two (2) years effective the date of this order.

IT IS FURTHER ORDERED Mr. Ngwa shall contact Compliance Monitor, Yvette Penar, at (602) 340-7258, within ten (10) days of changing his residence from the State of New York to the State of Arizona or accepting any representation(s) requiring any legal services to be performed in the State of Arizona.

IT IS FURTHER ORDERED Mr. Ngwa shall be subject to any additional terms imposed by the Presiding Disciplinary Judge.

NON-COMPLIANCE LANGUAGE

If Respondent fails to comply with any of the foregoing probation terms, and information thereof, is received by the State Bar of Arizona, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, under Rule 60(a)(5), Ariz. R. Sup. Ct.

The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether a term of probation has been breached and, if so, to recommend a sanction. If there is an allegation that Respondent failed to comply with any of the foregoing terms, the burden of proof shall be on the State Bar of Arizona to prove noncompliance by a preponderance of the evidence.

IT IS FURTHER ORDERED Mr. Ngwa shall pay the costs and expenses of the State Bar of Arizona for \$ 1,200.00, within thirty (30) days from this order, and if costs are not paid within the thirty (30) days, interest will accrue at the legal rate. There are no costs or expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings.

DATED this 11th day of May, 2016.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/emailed
this 11th day of May, 2016, to:

Craig D. Henley
Senior Bar Counsel - Litigation
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266
Email: LRO@staff.azbar.org

Sopo Ngwa
Immigrants Assistance, LLC
3766 72nd Street, Floor 2, Suite B
Jackson Heights, NY 11372-6143
Email: nanasein12@aol.com
Respondent

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266

Compliance Monitor
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266

by: MSmith

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

**SOPO NGWA,
Bar No. 021953**

Respondent.

No. PDJ-2016-9038

**DECISION AND ORDER
ACCEPTING DISCIPLINE BY
CONSENT**

[State Bar File No. 15-0976]

FILED MAY 11, 2016

An Agreement for Discipline by Consent (Agreement) was filed on May 4, 2016, and submitted under Rule 57(a)(3), of the Rules of the Arizona Supreme Court. An Order of Probable Cause issued on March 26, 2016 and the formal complaint was filed on April 13, 2016. Upon filing such Agreement, the presiding disciplinary judge, "shall accept, reject or recommend modification of the agreement as appropriate".

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.

Under Rule 53(b)(3), notice of this Agreement was provided to the complainants by letter on April 26, 2016 and complainants were notified of the opportunity to file a written objection to the Agreement with the State Bar within five business days. No objection was filed.

The Agreement details a factual basis for the admissions to the charge in the Agreement. Mr. Ngwa conditionally admits he violated Supreme Court Rule 42, ERs 1.2 (scope of representation), 1.3 (diligence), 1.4 (communication) and 8.4(d) (conduct prejudicial to the administration of justice). The parties stipulate to a sanction of reprimand, two (2) years of probation (Respondent shall contact the compliance monitor within 10 days of changing residence from New York to Arizona), and the payment of costs and expenses of the disciplinary proceeding totaling \$1,200.00 within thirty (30) days from the final judgment and order. The parties further stipulate to aggravating factors 9.22(a) (prior disciplinary history), 9.32(c) (pattern of misconduct) and mitigating factors 9.32(e) (full and free disclosure to disciplinary board or cooperative attitude toward proceedings).

The parties agree that *Standard* 4.43 of the American Bar Association's *Standards for Imposing Lawyer Sanctions (Standards)* is most applicable to Mr. Ngwa's violations of ERs 1.2, 1.3, and 1.4 and provides:

Reprimand is generally appropriate when a lawyer is negligent and does not act with reasonable diligence in representing a client, and causes injury or potential injury to a client.

Standard 6.23 is applicable to Mr. Ngwa's violation of ER 8.4(d) and provides:

Reprimand is generally appropriate when a lawyer negligently fails to comply with a court order or rule, and causes injury or potential injury to a client or a party, or interference or potential interference with a legal proceeding.

Mr. Ngwa conditionally admits he negligently failed to abide by his client's authority, failed to diligently represent and adequately communicate with his client and his misconduct was prejudicial to the administration of justice.

The Presiding Disciplinary Judge finds the proposed sanctions of reprimand and probation meet the objectives of attorney discipline. The Agreement is therefore accepted.

IT IS ORDERED incorporating by this reference the Agreement and any supporting documents by this reference. The agreed upon sanctions are: reprimand, two years of probation, and the payment of costs and expenses of the disciplinary proceeding for \$1,200.00 to be paid within thirty (30) days from this order.

IT IS FURTHER ORDERED the Agreement is accepted. Costs as submitted are approved for \$1,200.00. Now therefore, a final judgment and order is signed this date. Mr. Ngwa is reprimanded, placed on probation, and costs are imposed.

DATED this 11th day of May, 2016.

William J. O'Neil

William J. O'Neil, Presiding Disciplinary Judge

Copies of the foregoing mailed/emailed
this 11th day of May, 2016 to:

Craig D. Henley
Senior Bar Counsel
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, AZ 85016-6266
Email: lro@staff.azbar.org

Sopo Ngwa
Immigrants Assistance, LLC
3766 72nd Street, Floor 2, Suite B
Jackson Heights, NY 11372-6143
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Phoenix, AZ 85016-6266
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Compliance Monitor
State Bar of Arizona
4201 N. 24th Street, Suite 100
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by: MSmith

Craig D. Henley, Bar No. 018801
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3766 72nd St Fl 2 Ste B
Jackson Heights, NY 11372-6143
Telephone 240-418-8610
Email: nanasein12@aol.com
Respondent

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

SOPO NGWA,
Bar No. 021953,

Respondent.

PDJ 2016-9038

**AGREEMENT FOR DISCIPLINE BY
CONSENT**

[State Bar File No. 15-0976]

The State Bar of Arizona, through undersigned Bar Counsel, and Respondent, Sopo Ngwa, who has chosen not to seek the assistance of counsel, hereby submit their Agreement for Discipline by Consent, pursuant to Rule 57(a), Ariz. R. Sup. Ct. A probable cause order was entered on March 4, 2016, and a formal complaint was filed in this matter on April 13, 2016.

Respondent voluntarily waives the right to an adjudicatory hearing, unless otherwise ordered, and waives all motions, defenses, objections or requests which have been made or raised, or could be asserted thereafter, if the conditional admission and proposed form of discipline is approved.

Pursuant to Rule 53(b)(3), Ariz. R. Sup. Ct., notice of this agreement was provided to the complainant(s) by letter on April 26, 2016. Complainant(s) have been notified of the opportunity to file a written objection to the agreement with the State Bar within five (5) business days of bar counsel's notice.

Respondent conditionally admits that his conduct, as set forth below, violated Rule 42, Ariz. R. Sup. Ct., ERs 1.2, 1.3, 1.4 and 8.4(d). Upon acceptance of this agreement, Respondent agrees to accept imposition of the following discipline: Reprimand with Probation.

Respondent also agrees to pay the costs and expenses of the disciplinary proceeding, within 30 days from the date of this order, and if costs are not paid within the 30 days, interest will begin to accrue at the legal rate.¹ The State Bar's Statement of Costs and Expenses is attached hereto as Exhibit A.

FACTS

GENERAL ALLEGATIONS

1. Respondent was licensed to practice law in the State of Arizona on October 14, 2003.

COUNT ONE (File No. 15-0976/ Aguirre-Torres)

2. Maria and Ernesto Aguirre-Torres (hereinafter referred to individually as "Maria" and "Ernesto" or jointly as "Complainants") are brother and sister.

3. In or around January of 2012, Complainants hired Respondent for various immigration matters including, but not limited to, obtaining work permits for Complainants and applying for residency pursuant to the Family Unity Act.

¹ Respondent understands that the costs and expenses of the disciplinary proceeding include the costs and expenses of the State Bar of Arizona, the Disciplinary Clerk, the Probable Cause Committee, the Presiding Disciplinary Judge and the Supreme Court of Arizona.

4. While Complainants initially received work permits, Respondent filed for asylum instead of residency.

5. Respondent failed to explain the asylum interviewing process or the possibility of deportation if the asylum application was denied.

6. After the December 2012 asylum interview, Complainants had a number of questions regarding the interview and the immigration process but were unable to contact Respondent as he frequently moved his office until mid-2013.

7. In mid-2013, Complainants went to Respondent's office to meet with Respondent but were only able to meet with Respondent's assistant.

8. During the meeting, Complainants requested that Respondent file a work permit renewal and paid the firm additional legal fees.

9. Respondent failed to file the requested work permit renewal and failed to communicate with Complainants throughout the remainder of 2013.

10. On December 8, 2014, Complainants met with Respondent at his "Phoenix office".

11. In or around April 2015, Ernesto hired successor counsel and discovered that he had a hearing scheduled in August of 2015.

12. In September 2015, Maria met with Ernesto's successor counsel and discovered that, unbeknownst to her, a court hearing was held in her absence on August 27, 2015, wherein she was ordered removed from the United States.

13. Respondent admits that he failed to inform Maria about her hearing, but claims that he did not receive notice of the hearing as he was moving offices to the State of New York.

14. On November 3, 2015, successor counsel filed a motion to reopen Maria's case alleging, among other things, that Respondent was ineffective during his representation of Maria and failed to reasonably communicate with her during the representation.

15. The Court reopened Maria's case and scheduled a hearing in August 2016.

CONDITIONAL ADMISSIONS

Respondent's admissions are being tendered in exchange for the form of discipline stated below and are submitted freely and voluntarily and not as a result of coercion or intimidation.

Respondent conditionally admits that his conduct violated Rule 42, Ariz. R. Sup. Ct., ERs 1.2, 1.3, 1.4 and 8.4(d).

CONDITIONAL DISMISSALS

The State Bar has conditionally agreed to dismiss nothing.

RESTITUTION

Restitution is not an issue in this matter.

SANCTION

Respondent and the State Bar of Arizona agree that based on the facts and circumstances of this matter, as set forth above, the following sanctions are appropriate: Reprimand with 2 years of Probation.

If Respondent violates any of the terms of this agreement, further discipline proceedings may be brought.

LEGAL GROUNDS IN SUPPORT OF SANCTION

In determining an appropriate sanction, the parties consulted the American Bar Association's *Standards for Imposing Lawyer Sanctions (Standards)* pursuant to Rule 57(a)(2)(E). The *Standards* are designed to promote consistency in the imposition of sanctions by identifying relevant factors that courts should consider and then applying those factors to situations where lawyers have engaged in various types of misconduct. *Standards* 1.3, Commentary. The *Standards* provide guidance with respect to an appropriate sanction in this matter. *In re Peasley*, 208 Ariz. 27, 33, 35, 90 P.3d 764, 770 (2004); *In re Rivkind*, 162 Ariz. 154, 157, 791 P.2d 1037, 1040 (1990).

In determining an appropriate sanction consideration is given to the duty violated, the lawyer's mental state, the actual or potential injury caused by the misconduct and the existence of aggravating and mitigating factors. *Peasley*, 208 Ariz. at 35, 90 P.3d at 772; *Standard* 3.0.

The parties agree that *Standards* 4.43 and 6.23 are the appropriate *Standards* given the facts and circumstances of this matter.

With respect to Respondent's violation of Rule 42, Ariz. R. Sup. Ct., ERs 1.2, 1.3 and 1.4, *Standard* 4.43 states that:

Reprimand is generally appropriate when a lawyer is negligent and does not act diligently or reasonably communicate with a client, and causes injury or potential injury to a client.

With respect to Respondent's violation of Rule 42, Ariz. R. Sup. Ct., ER 8.4(d), *Standard* 6.23 states that:

Reprimand is generally appropriate when a lawyer negligently fails to comply 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.

The duty violated

As described above, Respondent's conduct violated his duty to his client and the legal system.

The lawyer's mental state

For purposes of this agreement the parties agree that Respondent negligently failed to abide by the clients' authority, failed to act diligently, failed to communicate with the clients and engaged in misconduct that prejudiced the administration of justice and that his conduct was in violation of the Rules of Professional Conduct.

The extent of the actual or potential injury

For purposes of this agreement, the parties agree that there was potential harm to his client and the legal system.

Aggravating and mitigating circumstances

The presumptive sanction in this matter is reprimand. The parties conditionally agree that the following aggravating and mitigating factors should be considered.

In aggravation:

Standard 9.22(a) prior disciplinary history:

- SB 12-9051 (July 2012) - Reciprocal Censure;

Standard 9.22(c) pattern of misconduct.

In mitigation:

Standard 9.32(e) cooperative attitude towards the investigation and proceedings.

Discussion

The parties have conditionally agreed that, upon application of the aggravating and mitigating factors to the facts of this case, the presumptive sanction is appropriate.

The parties have conditionally agreed that a greater or lesser sanction would not be appropriate under the facts and circumstances of this matter. This agreement was based on the following:

Respondent's misconduct in the above-referenced case predates the Respondent's misconduct in the prior consolidated discipline cases of SB 14-2436, 14-2647, and 14-3555 (April 2015) – Admonition and Probation for violations of ERs 1.3, 3.2 and 8.4(d) and is unrelated to Respondent's prior discipline case of SB 12-9051 (July 2012) – Reciprocal Censure for violations of Local Rule 701.1 "Non-Maryland Lawyers Maintaining Office in Maryland".

More importantly, Respondent has since permanently relocated to the State of New York and has not accepted any representations requiring legal services to be performed in the State of Arizona.

Based on the *Standards* and in light of the facts and circumstances of this matter, the parties conditionally agree that the sanction set forth above is within the range of appropriate sanction and will serve the purposes of lawyer discipline.

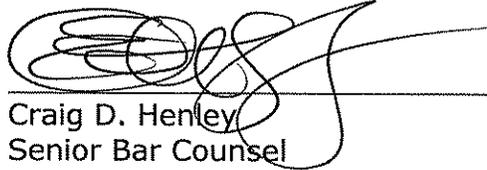
CONCLUSION

The object of lawyer discipline is not to punish the lawyer, but to protect the public, the profession and the administration of justice. *Peasley, supra* at ¶ 64, 90 P.3d at 778. Recognizing that determination of the appropriate sanction is the prerogative of the Presiding Disciplinary Judge, the State Bar and Respondent

believe that the objectives of discipline will be met by the imposition of the proposed sanction of Reprimand with 2 years of Probation and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit B.

DATED this 4th day of ~~April~~^{May}, 2016.

STATE BAR OF ARIZONA



Craig D. Henley
Senior Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation.

DATED this _____ day of April, 2016.

Sopo Ngwa
Respondent

Approved as to form and content



Maret Vessella
Chief Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this 4th day of ~~April~~^{May}, 2016.

believe that the objectives of discipline will be met by the imposition of the proposed sanction of Reprimand with 2 years of Probation and the imposition of costs and expenses. A proposed form order is attached hereto as Exhibit B.

DATED this _____ day of April 2016.

STATE BAR OF ARIZONA

Craig D. Henley
Senior Bar Counsel

This agreement, with conditional admissions, is submitted freely and voluntarily and not under coercion or intimidation.

DATED this 3 day of April, 2016.



Sopo Ngwa
Respondent

Approved as to form and content

Maret Vessella
Chief Bar Counsel

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this____ day of April, 2016.

Copy of the foregoing emailed
this 4TH day of May, 2016, to:

The Honorable William J. O'Neil
Presiding Disciplinary Judge
Supreme Court of Arizona
1501 West Washington Street, Suite 102
Phoenix, Arizona 85007
E-mail: officepdj@courts.az.gov

Copy of the foregoing mailed/emailed
this 4TH day of May, 2016, to:

Sopo Ngwa
Immigrants Assistance LLC
3766 72nd Street, Floor 2, Suite B
Jackson Heights, NY 11372-6143
Email: nanasein12@aol.com
Respondent

Copy of the foregoing hand-delivered
this 4TH day of May, 2016, to:

Lawyer Regulation Records Manager
State Bar of Arizona
4201 N. 24th Street, Suite 100
Phoenix, Arizona 85016-6266

by: Jalena Stone
CDH/ts

EXHIBIT A

Statement of Costs and Expenses

In the Matter of a Member of the State Bar of Arizona,
Sopo Ngwa, Bar No. 021953, Respondent

File No. 15-0976

Administrative Expenses

The Supreme Court of Arizona has adopted a schedule of administrative expenses to be assessed in lawyer discipline. If the number of charges/complainants exceeds five, the assessment for the general administrative expenses shall increase by 20% for each additional charge/complainant where a violation is admitted or proven.

Factors considered in the administrative expense are time expended by staff bar counsel, paralegal, secretaries, typists, file clerks and messenger; and normal postage charges, telephone costs, office supplies and all similar factors generally attributed to office overhead. As a matter of course, administrative costs will increase based on the length of time it takes a matter to proceed through the adjudication process.

General Administrative Expenses for above-numbered proceedings

\$1,200.00

Additional costs incurred by the State Bar of Arizona in the processing of this disciplinary matter, and not included in administrative expenses, are itemized below.

Staff Investigator/Miscellaneous Charges

Total for staff investigator charges \$ 0.00

TOTAL COSTS AND EXPENSES INCURRED \$ 1,200.00

EXHIBIT B

**BEFORE THE PRESIDING DISCIPLINARY
JUDGE**

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

SOPO NGWA,
Bar No. 021953,

Respondent.

PDJ 2016-9038

FINAL JUDGMENT AND ORDER

[State Bar No. 15-0976]

The undersigned Presiding Disciplinary Judge of the Supreme Court of Arizona, having reviewed the Agreement for Discipline by Consent filed on _____, pursuant to Rule 57(a), Ariz. R. Sup. Ct., hereby accepts the parties' proposed agreement.

Accordingly:

IT IS HEREBY ORDERED that Respondent, **Sopo Ngwa**, is hereby Reprimanded for his conduct in violation of the Arizona Rules of Professional Conduct, as outlined in the consent documents, effective immediately.

IT IS FURTHER ORDERED that, Respondent shall be placed on probation for a period of 2 years.

IT IS FURTHER ORDERED that, Respondent shall contact Compliance Monitor, Yvette Penar, at (602) 340-7258, within 10 days of changing his residence from the State of New York to the State of Arizona or accepting any representation(s) requiring any legal services to be performed in the State of Arizona.

IT IS FURTHER ORDERED that Respondent shall be subject to any additional terms imposed by the Presiding Disciplinary Judge.

NON-COMPLIANCE LANGUAGE

In the event that Respondent fails to comply with any of the foregoing probation terms, and information thereof, is received by the State Bar of Arizona, Bar Counsel shall file a notice of noncompliance with the Presiding Disciplinary Judge, pursuant to Rule 60(a)(5), Ariz. R. Sup. Ct.

The Presiding Disciplinary Judge may conduct a hearing within 30 days to determine whether a term of probation has been breached and, if so, to recommend an appropriate sanction. If there is an allegation that Respondent failed to comply with any of the foregoing terms, the burden of proof shall be on the State Bar of Arizona to prove noncompliance by a preponderance of the evidence.

IT IS FURTHER ORDERED that Respondent pay the costs and expenses of the State Bar of Arizona in the amount of \$ 1,200.00, within 30 days from the date of this order, and if costs are not paid within the 30 days, interest will begin to accrue at the legal rate.

IT IS FURTHER ORDERED that Respondent shall pay the costs and expenses incurred by the disciplinary clerk and/or Presiding Disciplinary Judge's Office in connection with these disciplinary proceedings in the amount of _____, within 30 days from the date of service of this Order.

DATED this _____ day of May, 2016.

William J. O'Neil, Presiding Disciplinary Judge

Original filed with the Disciplinary Clerk of
the Office of the Presiding Disciplinary Judge
of the Supreme Court of Arizona
this _____ day of May, 2016.

Copies of the foregoing mailed/emailed
this _____ day of May, 2016, to:

Sopo Ngwa
Immigrants Assistance LLC
3766 72nd Street, Floor 2, Suite B
Jackson Heights, NY 11372-6143
Email: nanasein12@aol.com
Respondent

Copy of the foregoing emailed/hand-delivered
this _____ day of May, 2016, to:

Craig D. Henley
Senior Bar Counsel - Litigation
State Bar of Arizona
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Phoenix, Arizona 85016-6266

Compliance Monitor
State Bar of Arizona
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by: _____