

SUPREME COURT OF ARIZONA

In the Matter of a Member of the ) Arizona Supreme Court  
State Bar of Arizona ) No. SB-17-0033-AP  
)  
RONALD M. DEBRIGIDA JR., ) Office of the Presiding  
Attorney No. 15697 ) Disciplinary Judge  
) No. PDJ20169114  
Respondent. )  
\_\_\_\_\_ ) **FILED: 11/1/2018**

**DECISION ORDER**

Pursuant to Rule 59, Rules of the Arizona Supreme Court, the State Bar appealed from the hearing panel's order dismissing the disciplinary complaint with prejudice. The panel's four-page decision, however, did not contain findings of fact and conclusions of law as to each count and each charge in the complaint. On January 10, 2018, this Court remanded the matter to the hearing panel with directions to file "a supplemental decision including findings of fact and conclusions of law as to each count and each charge alleged in the disciplinary complaint."

On April 4, 2018, the panel filed its Supplemental Decision. The Court notes that the panel failed to comply with the Court's remand order. The Supplemental Decision does not contain findings of fact and conclusions of law as to each count and each charge alleged in the complaint. Nevertheless, the Court has considered the Supplemental Decision, the parties' briefs, and the record in this matter. The Court concludes that DeBrigida engaged in misconduct by violating several ethical rules, as set forth in this order. We impose an admonition and place DeBrigida on probation for two years.

DeBrigida was appointed to represent three inmate clients in Rule 32 of-right proceedings. Each client filed a complaint with the State Bar alleging that DeBrigida had failed to communicate with them or to act diligently in representing them in their post-conviction proceedings. DeBrigida failed to meet numerous court-ordered deadlines, instead seeking extensions of time or complying only after the deadlines had passed. The State Bar filed a three-count complaint and DeBrigida admitted most of the factual allegations.

With respect to **Count One**, the Court rejects the panel's findings, explicit or implicit, that DeBrigida did not violate ERs 1.3, 1.4, and 8.4(d). DeBrigida's admitted conduct demonstrates by clear and convincing evidence that he failed to act with reasonable diligence and failed to adequately communicate with his client during

the representation. Further, this pattern of delay and failure to abide by court-ordered deadlines negatively impacted his client and the court. This conduct served to undermine the client's confidence in DeBrigida's trustworthiness. See ER 1.3, Comment 3. This type of conduct also negatively impacted the court and the administration of justice by necessitating additional oversight and hearings. Contrary to the panel's conclusion, the impact on the administration of justice was not de minimus.

With respect to the charge that DeBrigida's conduct violated ER 3.4(c), the panel's finding that DeBrigida did not "knowingly" violate the court orders was not clearly erroneous. "Knowledge" is "the conscious awareness of the nature or attendant circumstances of the conduct." *In re Van Dox*, 214 Ariz. 300, 305 ¶ 21 (2007) (quoting the ABA Standards). DeBrigida presented evidence that his failure to comply with the orders was a result of his calendaring and docketing practice and the transition to a new case management system. His failure to comply with court orders was more likely a result of negligence rather than a knowing decision. DeBrigida admitted that he remained responsible for the management of his law office. The sheer number of errors and the fact that the errors occurred over a significant period of time demonstrates that, at a minimum, DeBrigida was negligent in his office management. Accordingly, the Court accepts the panel's dismissal of the ER 3.4(c) violation. The Court rejects, however, the panel's findings that this conduct was unconscious and that there was insufficient proof that the conduct was negligent.

With respect to **Count Two**, the Court rejects for the same reasons as to Count One, the panel's findings, explicit or implicit, that DeBrigida did not violate ERs 1.3, 1.4, 3.2, and 8.4(d). As with Count One, the Court accepts the panel's dismissal of the ER 3.4(c) violation. The Court also accepts the panel's dismissal of the ER 1.15(d). The State Bar does not challenge the panel's dismissal of this charge.

With respect to **Count Three**, the Court again rejects the panel's findings, explicit or implicit, that DeBrigida did not violate ERs 1.3, 1.4, 3.2, and 8.4(d). As with Counts One and Two, the Court accepts the panel's dismissal of the ER 3.4(c) violation.

The undisputed facts demonstrate a pattern of lack of communication, lack of diligence, failure to expedite litigation, and negligence in complying with court orders. Accordingly, the Court finds DeBrigida's conduct in these matters violated ERs 1.3, 1.4, 3.2, and 8.4(d).

Given these findings and conclusions, the Court must consider the appropriate sanction. In doing so, the Court and the hearing panel look to the American Bar Association's *Standards for Imposing Lawyer Sanctions*. Ariz. R. Sup. Ct. 58(k); *In re Alexander*, 232 Ariz. 1, 13 ¶ 49 (2013). Several factors affect the appropriate sanction: (1) the duty violated, (2) the lawyer's mental state, (3) the potential or actual injury caused by the lawyer's conduct, and (4) the existence of aggravating or mitigating factors. *In re Phillips*, 226 Ariz. 112, 117 ¶ 29 (2010).

DeBrigida violated his duties to his clients by violating ERs 1.3, 1.4, and 3.2. He also violated his duties to the legal system by violating ER 8.4(d). His pattern of misconduct was clearly negligent. This pattern of delay and failure to abide by court-ordered deadlines negatively impacted his clients and the courts. Under ABA Standard 4.42(b), suspension is the presumptive sanction when "a lawyer engages in a pattern of neglect and causes injury or potential injury to a client."

A presumptive sanction may be overcome by aggravating and mitigating factors. *In re Abrams*, 227 Ariz. 248, 252 ¶ 26 (2011). DeBrigida presented significant mitigation: lack of a discipline record, his earnest attempts to address the law office management problems, and his good character references. These factors call for a downward adjustment of the sanction to an admonition. The Court also finds that DeBrigida should be subject to a two-year period of probation with supervision by the Law Office Management Assistance Program (LOMAP). Accordingly,

**IT IS ORDERED** granting the State Bar's appeal.

**IT IS FURTHER ORDERED** vacating the hearing panel's decision dismissing the complaint with prejudice.

**IT IS FURTHER ORDERED** that DeBrigida is admonished and placed on probation for a period of two years under the following terms and conditions:

- 1) Within thirty days of this order, DeBrigida must contact the Compliance Monitor at the State Bar and submit to a LOMAP assessment. DeBrigida shall enter into a LOMAP contract based on the recommendations following the assessment. DeBrigida shall be responsible for any costs associated with LOMAP.
- 2) The State Bar shall report material violations of the terms of probation pursuant to Rule 60(a)(5)(C), and a hearing may be held within thirty days to determine if the terms of probation have been violated and if an additional sanction should be

imposed. The burden of proof shall be on the State Bar to prove non-compliance by a preponderance of the evidence.

**IT IS FURTHER ORDERED** that DeBrigida shall pay the costs and expenses of the disciplinary proceedings.

DATED this 1<sup>st</sup> day of November, 2018.

FOR THE COURT:

/S/

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CLINT BOLICK, Justice

TO:

Patricia A Sallen  
Hunter F Perlmeter  
Amanda McQueen  
Sandra Montoya  
Maret Vessella  
Beth Stephenson  
Mary Pieper  
Lexis Nexis  
Don Lewis  
Raziel Atienza