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COLORADO SUPREME COURT
ATTORNEY REGULATION COUNSEL



Attorneys' Fund for Client Protection
Unauthorized Practice of Law

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COPY

May 11, 2018

Mr. David Paul Hersh
40 Inverness Dr. E.
Englewood, CO 80112

Re: Request for investigation on Gwendolyn Maurice Lawson filed by David Paul Hersh, 17-2505

Dear Mr. Hersh:

The Office of Attorney Regulation Counsel has reviewed the evidence in this matter in light of the Colorado Rules of Procedure Regarding Attorney Discipline and Disability Proceedings and the Colorado Rules of Professional Conduct. The Office of Attorney Regulation Counsel has determined that the circumstances here do not warrant imposition of discipline.

Investigators thoroughly reviewed the request for investigation and all supporting documentation which included a statement from Judge Arguello. They reviewed the response from Ms. Lawson and conducted an in person interview of her. Investigators interviewed Lamont Banks in person and spoke with Adam Kendall, Gerald Rafferty, Michael Yarros, Gary Walker and Eliseo Puig over the phone. As you are aware, Investigators also met with Judge Arguello in her court chambers along with her two clerks, Sacoro West and Melissa Romero, who also provided input as to the events in question. In addition, Investigators viewed the courtroom.

We examined this matter to determine whether any of the following rules of professional conduct had been violated: Colo. RPC 1.7(a) (conflict of interest; current client), 3.4(c) (disobedience of an obligation under the rules of a tribunal), 4.4(a) (respect for rights of third persons), 5.4(c) (professional independence of a lawyer), 8.4(c) (dishonesty), and 8.4(d) (engaging in conduct prejudicial to the administration of justice). After a thorough review of the evidence, we conclude there is insufficient evidence to prove by clear and convincing evidence that Ms. Lawson violated the rules of professional conduct.

Judge Arguello held a hearing pursuant to Rule 44(c) to determine whether the Defendants knowingly, voluntarily, and intelligently waived their Sixth Amendment right to conflict free representation. The court conducted an extensive *ex parte* colloquy with each

individual defendant, and each defendant affirmed that he knowingly, voluntarily, and intelligently waived his rights to conflict-free representation. Each defendant also submitted a signed waiver of conflict to Judge Arguello. The Court found that each defendant fully understood his Sixth Amendment right to effective assistance of counsel and how joint representation could imperil that right. Judge Arguello permitted Ms. Lawson to represent the defendants jointly during their sentencing proceedings. We therefore cannot prove Ms. Lawson violated Colo. RPC 1.7(a) by clear and convincing evidence.

Judge Arguello's concerns that Ms. Lawson intentionally took the court's exhibit notebook and recorded the court's comments during the resentencing hearing of Gary Walker are certainly understandable. However Mr. Kendall, Ms. Lawson's attorney who accompanied her when she was called to testify, informed investigators that Ms. Lawson had a white three-ring notebook containing documents with her when she testified. She brought the notebook with the documents with her to refresh her memory, if needed, when she testified. Because Ms. Lawson's notebook looked like the exhibit notebook, there is no clear and convincing evidence that Ms. Lawson intentionally took the exhibit notebook and left her notebook in place of the exhibit notebook. In addition, we are unable to prove evidence of premeditation to switch the notebooks. Ms. Lawson and her attorney were not allowed into the courtroom until she was called to testify therefore there is no evidence Ms. Lawson knew there would be an exhibit notebook or the size and color of the notebook. Mr. Kendall and Mr. Rafferty stated that although Ms. Lawson took the exhibit notebook, they do not believe anything in the exhibit notebook was disseminated or used in some manner.

Judge Arguello and her clerks suspect Ms. Lawson recorded the Court's comments during the resentencing hearing on June 28th, 2017. Investigators spoke with Eliseo Puig, who served as the Court's law clerk for two years and who was present during the hearing. He stated he intentionally positioned himself in the back of the courtroom so that he could "keep eyes" on Ms. Lawson. He saw Ms. Lawson with her phone and drew the attention of Ms. Sacoro who then alerted Judge Arguello. Ms. Lawson was instructed to turn off her phone and although the Court and her clerks suspect this was not done, any clear and convincing evidence that Ms. Lawson disobeyed the Court order and recorded the proceedings is lacking. Although Judge Arguello suspects Ms. Lawson disobeyed her order and recorded the proceedings, Judge Arguello acknowledges in her letter to the Committee that she has no proof Ms. Lawson disobeyed her order and surreptitiously recorded the hearing.

Investigators met with Lamont Banks who informed them that the resentencing hearing was open to the public and he sent individuals affiliated with A Just Cause to the hearing for the sole purpose of memorializing the Court's comments. He stated that these individuals recorded the hearing by way of handwritten, short hand, notes. He stated Ms. Lawson has never provided him with information nor did she provide him with a recording of the June 28th hearing. Based on the information he was provided with by the members of A Just Cause, Mr. Banks wrote a letter to the House Judiciary Committee of Congress of the United States that was critical of Judge Arguello.

Mr. Walker informed investigators that Ms. Lawson, his parents, a friend and "quite a few other people" were present in the gallery during his resentencing hearing. Mr. Walker stated

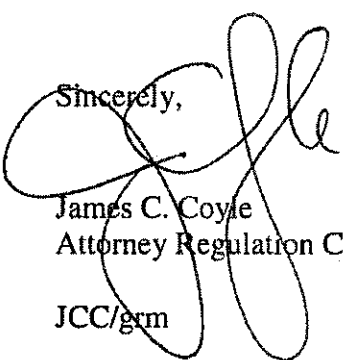
he made a statement from the podium and had his back to the gallery so he does not know if additional people entered the courtroom while he was speaking. He has no knowledge concerning whether or not Respondent recorded the hearing.

Based on the above, we are unable to prove a violation of Colo. RPC 3.4(c) (disobedience of an obligation under the rules of a tribunal), 4.4(a) (respect for rights of third persons), 5.4(c) (professional independence of a lawyer), 8.4(c) (dishonesty), or 8.4(d) (engage in conduct prejudicial to the administration of justice) by the requisite standard of proof.

Thank you for your willingness to bring this matter to our attention and your cooperation. Your involvement in the attorney disciplinary process is a vital part of the Supreme Court's efforts to ensure that attorneys abide by the court's standards of professional ethics.

For the reasons stated above, this matter has been dismissed.

Sincerely,



James C. Coyle
Attorney Regulation Counsel

JCC/grm

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May 11, 2018

Gwendolyn M. Lawson Attorney
3472 Research Pkwy
Colorado Springs, CO 80920

Re: Request for Investigation on Gwendolyn Maurice Lawson filed by David Paul Hersh, # 17-2505

Dear Ms. Lawson:

The Office of Attorney Regulation Counsel has reviewed the evidence in this matter in light of the Colorado Rules of Procedure Regarding Attorney Discipline and Disability Proceedings and the Colorado Rules of Professional Conduct. The Office of Attorney Regulation Counsel has determined that the circumstances do not warrant imposition of discipline.

Mr. Hersh reported that Judge Arguello had concerns that on June 15, 2017, you intentionally switched a notebook you brought into court with the court's exhibit notebook. In addition, the court believed you had surreptitiously recorded the hearing that took place on June 28, 2017. We thoroughly reviewed the request for investigation and considered your comments made to the investigators in this matter. Investigators met with Mr. Hersh and Lamont Banks in person and spoke with Adam Kendall, Gerald Rafferty, Michael Yarros, Gary Walker and Eliseo Puig over the phone. Investigators met with Judge Arguello in her court chambers along with her two clerks, Sacoro West and Melissa Romero, who also provided input as to the events in question. The investigators also viewed the courtroom where the resentencing hearing of Gary Walker was held.

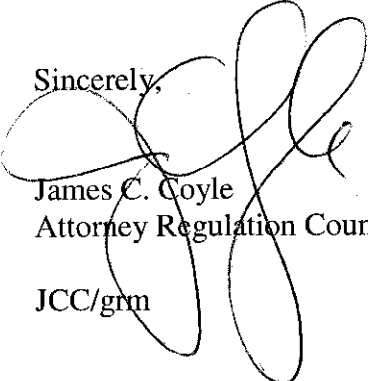
Adam Kendall told investigators that he accompanied you to the hearing on June 15, 2017, and that you brought your own white, three ring notebook with you. Your notebook contained documents that could be used to refresh your recollection when you testified. The court's exhibit notebook was also a white, three ring notebook. When you left the courtroom, you took the exhibit notebook leaving your notebook on the witness stand. Although this caused the Court concern, we are unable to prove that you intended to switch the court's exhibit notebook with your own in order to take the exhibit notebook out of the courtroom.

In addition, the Court was concerned that you had surreptitiously recorded the hearing that took place on June 28, 2017. Although you were seen with your phone in the courtroom at the beginning of the hearing, we are unable to prove that you disobeyed the Court's order to turn off your phone and instead recorded the proceedings. Lamont Banks told investigators that he had members of A Just Cause present at the hearing who took notes by way of short hand in order to memorialize the Court's comments. These comments were later documented in a letter Mr. Banks sent to the Senate Judiciary Committee of Congress calling for the impeachment of Judge Arguello.

We examined this matter to determine whether the following rules of professional conduct were violated: 1.7(a) (conflict of interest), 3.4(c) (disobedience of an obligation under the rules of a tribunal), 4.4(a) (respect for rights of third persons), 5.4(c) (professional independence of a lawyer), 8.4(c) (dishonesty), and 8.4(d) (engaging in conduct prejudicial to the administration of justice). Based on the above, we have determined that we would be unable to prove the rule violations by the requisite clear and convincing standard.

Based on the facts of this case, the matter has been dismissed.

Sincerely,



James C. Coyle
Attorney Regulation Counsel

JCC/grm