

S21Y0468. IN THE MATTER OF PATRICK A. POWELL.

PER CURIAM.

This disciplinary matter is before the Court on the report and recommendation of Special Master LaVonda Rochelle DeWitt, recommending that Patrick A. Powell (State Bar No. 586289) be disbarred for his misconduct in abandoning a client in a criminal matter in federal court. Powell is currently suspended until further order of this Court because of his failure to respond to the Notice of Investigation issued in this matter. See Case No. S20Y0741 (Jan. 23, 2020).

The record before this Court reflects that in June 2020 the State Bar filed and served the underlying Formal Complaint by e-mail and served it by mail and by publication in August 2020. Powell, who was admitted to the Bar in 1998 and was suspended for three months in 2011, see *In the Matter of Powell*, 289 Ga. 215 (710 SE2d 145) (2011), failed to file an answer to the Formal Complaint,

and the Special Master granted the State Bar's motion for default. See Bar Rule 4-212 (a). The Special Master found the following facts to be established by Powell's default, and we agree that the record supports her findings. In May 2018 Powell was retained by a third party to represent a client in connection with federal criminal charges pending in the United States District Court for the Northern District of Georgia. The third party paid Powell a \$4,000 retainer and made one additional \$1,000 payment towards the \$12,000 fee Powell quoted. Although Powell entered an appearance on the client's behalf in May 2018, he failed to respond to requests for an update on the case, failed to perform any work on the case, failed to appear at pretrial and status conferences held in August 2018, failed to respond to the district court and prosecutor when they attempted to contact him, and failed to appear at a show cause hearing. A grievance was filed in December 2018, and, as noted above, Powell failed to respond to the resulting Notice of Investigation.

By this conduct, the Special Master determined that Powell violated Rules 1.2, 1.3, 1.4 (a), 1.5 (a), 3.2, and 9.3 of the Georgia Rules of Professional Conduct found in Bar Rule 4-102 (d). The maximum sanction for a violation of Rules 1.2 and 1.3 is disbarment, and the maximum sanction for a violation of the remaining rules is a public reprimand.

The Special Master appropriately considered the ABA Standards for Imposing Lawyer Sanctions, see *In the Matter of Morse*, 266 Ga. 652, 653 (470 SE2d 232) (1996), and found that Powell's actions were intentional and caused injury that affected his client significantly. The Special Master found numerous aggravating factors¹ and no mitigating factors, and concluded that disbarment was the appropriate sanction.

¹ We agree with the Special Master that the following aggravating factors are present: prior disciplinary sanction; dishonest or selfish motive; a pattern of misconduct; vulnerability of the victim; and substantial experience in the practice of law. See ABA Standard 9.22 (a), (b), (c), (h), and (i). As mentioned above, in 2011 we suspended Powell for three months for violating Rules 1.3, 1.4, and 3.2. See *In the Matter of Powell*, 289 Ga. at 216.

Having reviewed the record, we agree with the Special Master's recommendation. Powell's abandonment of his client and his failure to respond for over two years to the disciplinary authorities warrants the sanction of disbarment, and this sanction is consistent with prior cases in which we have disbarred attorneys who abandoned clients and failed to respond to the disciplinary authorities. See, e.g., *In the Matter of Annis*, 306 Ga. 187 (829 SE2d 346) (2019); *In the Matter of Jennings*, 305 Ga. 133 (823 SE2d 811) (2019); *In the Matter of Miller*, 302 Ga. 366 (806 SE2d 596) (2017); *In the Matter of Lenoir*, 282 Ga. 311 (647 SE2d 572) (2007).

Accordingly, it is hereby ordered that the name of Patrick A. Powell be removed from the rolls of persons authorized to practice law in the State of Georgia. Powell is reminded of his duties pursuant to Bar Rule 4-219 (b).

Disbarred. All the Justices concur.

DECIDED FEBRUARY 15, 2021.

Disbarment.

Paula J. Frederick, General Counsel State Bar, William D. NeSmith III, Deputy General Counsel State Bar, Jenny K. Mittelman, Wolanda R. Shelton, Assistant General Counsel State Bar, for State Bar of Georgia.