

# Supreme Court of Kentucky

2018-SC-000607-KB

KENTUCKY BAR ASSOCIATION

MOVANT

V.

IN SUPREME COURT

CHRISTY HANLEY SHIRCLIFF

RESPONDENT

## **OPINION AND ORDER**

The Kentucky Bar Association moves this Court, pursuant to SCR<sup>1</sup> 3.380(2),<sup>2</sup> to suspend indefinitely Respondent, Christy Hanley Shircliff,<sup>3</sup> for failure to answer the charge in KBA file 18-DIS-0059. The charge concerns

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<sup>1</sup> Supreme Court Rule.

<sup>2</sup> SCR 3.380(2) provides the following:

In cases in which the Respondent has failed to answer a charge filed pursuant to Rule 3.200, or having answered, has thereafter declined to participate in the disciplinary process the Court may in its discretion, sua sponte or on motion by the Office of Bar Counsel, suspend the Respondent from the practice of law for an indefinite period of time. Reinstatement following an indefinite suspension imposed under this Rule, may be initiated by motion of the Respondent accounting for the failure to respond and requesting a final determination of the matter, and shall be subject to the reinstatement requirements of SCR 3.510. If respondent fails to seek reinstatement within 5 years, Bar Counsel shall move for permanent disbarment.

<sup>3</sup> Shircliff's KBA Number is 91769, and her professional address is 436 S 7th St., Suite 200, Louisville, Kentucky 40203-1966.

Shircliff's failure to answer a Bar Complaint filed by her former client, Cameron Rowe, with respect to her mishandling of his child custody case.

Rowe hired Shircliff on December 18, 2017, to represent him in a child custody case, which included filing a petition to register foreign judgment, and paid Shircliff a \$1,800.00 retainer fee. On January 29, 2018, in response to Rowe's inquiry, Shircliff explained that she had not filed the petition to register foreign judgment and she only needed Rowe's ex-wife's address to serve her with the petition.

On January 31, 2018, Rowe sent Shircliff an email and terminated her representation. Shircliff did not reply to that email. On February 5, 2018, and February 9, 2018, Rowe attempted to reach Shircliff by phone and left messages on both dates when he was unable to reach her. Shircliff did not return his calls. On February 20, 2018, and March 20, 2018, Rowe sent letters to Shircliff asking for an accounting, a refund of his prepaid \$1,800.00 fee, and any documents in his client file. Shircliff also failed to respond to those letters.

The Jefferson County Sheriff's Department personally served Shircliff with the Bar Complaint on April 25, 2018. Together with the Bar Complaint, Shircliff received a letter advising her that the Inquiry Commission ("the Commission"), through the Office of Bar Counsel, required additional information from her regarding the Bar Complaint and that her failure to respond to the Bar Complaint could result in an additional charge of misconduct pursuant to SCR 3.130(8.1). Shircliff did not file a response to the Bar Complaint. On May 22, 2018, the Office of Bar Counsel sent her a separate letter requesting a response to the Bar Complaint by June 5, 2018. The letter

was sent by U.S. Mail and was not returned. Shircliff also failed to respond to this letter.

The Commission issued a four-count charge against Shircliff. The Commission alleges a violation of SCR 3.130(8.1)(b), which provides that a lawyer shall not “knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority.” Shircliff violated this rule when she failed to respond to the Bar Complaint. The Commission alleges a violation of SCR 3.130(1.3), which provides that “[a] lawyer shall act with reasonable diligence and promptness in representing a client.” Shircliff violated this rule when she failed to file the petition to register foreign judgment in Rowe’s case as she was hired. The Commission alleges that Shircliff violated SCR 3.130(1.4)(a)(4), which provides that “[a] lawyer shall . . . promptly comply with reasonable requests for information.” Shircliff violated this rule when she failed to respond to Rowe’s phone calls, his January 31, 2018, email, and his February 20, 2018 and March 20, 2018, letters. Finally, the Commission alleges a violation of SCR 3.130(1.16)(d), which provides that “[u]pon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client’s interests, such as . . . surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred.” Shircliff violated this rule when she failed to return Rowe’s file and refund the unearned portion of his prepaid fee.

The Jefferson County Sheriff’s Department personally served Shircliff with the four-count Charge on October 5, 2018. Shircliff failed to file an Answer

to the Charge, has failed to participate in any proceedings before the Commission, and has defaulted at every level of this disciplinary process.

In *Kentucky Bar Assoc. v. Bader*, 531 S.W.3d 20, 21 (Ky. 2017), this Court exercised its discretion, pursuant to SCR 3.380(2), to suspend Bader indefinitely until he appeared and accounted for his failure to answer the disciplinary charges. Likewise, here we believe that suspension of Shircliff's license to practice law is warranted until she appears and accounts for her behavior.

Accordingly, the Court ORDERS:

1. Christy Hanley Shircliff is found guilty of violating SCR 3.130(8.1)(b), SCR 3.130(1.3), SCR 3.130(1.4)(a)(4), and SCR 3.130(1.16)(d);
2. Shircliff is suspended from the practice of law indefinitely;
3. If she has not already done so, Shircliff must promptly provide to Rowe an accounting, must immediately refund any portion of the \$1,800.00 fee that has not been earned (plus interest at the legal interest rate stated in KRS 360.010, calculated from the date the bar complaint was filed), and must promptly return any files belonging to Rowe in her possession;
4. As required by SCR 3.390, Shircliff must, if she has not already done so, within 10 days after issuance of this order of suspension from the practice of law for more than 60 days, notify, by letter duly placed with the United States Postal Service, all courts or other tribunals in which she has matters pending, and all clients of her inability to represent them and of the necessity and urgency to promptly obtain new counsel. Shircliff must simultaneously provide a copy of all such letters of

notification to the Office of Bar Counsel. Shircliff must immediately cancel any pending advertisements, to the extent possible, and must terminate any advertising activity for the duration of the term of suspension;

5. Shircliff is instructed to promptly take all reasonable steps to protect the interests of her clients. She must not, during the term of suspension, accept new clients or collect unearned fees, and she shall comply with the provisions of SCR 3.130–7.50(5);
6. In accordance with SCR 3.450, Shircliff is directed to pay all costs associated with these disciplinary proceedings against her, for which execution may issue from this Court upon finality of this Opinion and Order.

Minton, C.J.; Hughes, Keller, Lambert, VanMeter and Wright, JJ., sitting.  
All concur.

Dated: February 14, 2019

  
CHIEF JUSTICE JOHN D. MINTON