

Supreme Court of Kentucky

2020-SC-0389-KB

KENTUCKY BAR ASSOCIATION

MOVANT

V.

IN SUPREME COURT

ERIC TULEY WEINER

RESPONDENT

OPINION AND ORDER

Pursuant to SCR 3.165(1)(b) and (d), the Inquiry Commission of the Kentucky Bar Association (KBA) has petitioned this Court to enter an order temporarily suspending Respondent, Eric Tuley Weiner, from the practice of law in the Commonwealth of Kentucky. Weiner's KBA number is 95736 and his bar roster address is 1387 South Fourth Street, Louisville, Kentucky 40208. The Inquiry Commission asserts there is probable cause to believe Weiner's current struggle with illicit substance abuse poses a substantial threat of harm to his clients or the public and deprives him of the physical or mental fitness to continue to practice law. The Inquiry Commission notes there are presently four separate disciplinary investigations and a criminal prosecution pending against Weiner. Weiner has not responded to the Inquiry Commission's communications. He has likewise failed to respond to this

Court's October 22, 2020, order to show cause why he should not be subject to the requested temporary suspension.

In its petition, the Inquiry Commission sets forth several reasons underlying its request for a temporary suspension and sets forth the basis of its belief Weiner is suffering from addiction to drugs or intoxicants. The facts were received from various independent sources and relate to Weiner's personal and professional issues stemming from his alleged substance abuse.

First, on January 31, 2020, in a divorce proceeding initiated by Weiner's estranged wife, Samantha Richardson, a verified emergency motion seeking sole custody of the couple's infant child alleges Weiner was using cocaine and methamphetamine in the marital residence. Richardson stated she had found drug paraphernalia scattered throughout the home and noted Weiner had recently been evicted from his law office for having drugs and paraphernalia on the premises.

In June 2020, the KBA Office of Bar Counsel (OBC) received three complaints from Weiner's clients regarding his inaction and mishandling of their cases. Although formal complaints resulted from each of these complaints, and Weiner was personally served by the Jefferson County Sheriff's Office, he has failed to respond to any of the charges.

That same month, Chief Administrative Law Judge Douglas W. Gott wrote a letter to OBC reporting his personal observations of Weiner and recounted information gleaned from other ALJ's and attorneys familiar with Weiner's substandard handling of cases. Of note, Weiner had been absent from a large number of court appearances, telephone conferences, and other

meetings related to his cases. He had forgotten to file important documents in some cases leading to the dismissal of some claims. Weiner tried to collect fees, settle, or negotiate in cases for which he was no longer the attorney of record or had turned over to other counsel. These actions led to the opening of a fourth disciplinary investigation. Weiner has not responded to OBC in that matter.

On July 23, 2020, Weiner was arrested at the marital residence. At the time of his arrest, Weiner had been ordered to vacate the home, yet he refused to do so and had allegedly invited others to live there with him and join him in ingesting illicit substances. Police were called to escort Richardson into the home based on her fear Weiner and unknown others might be present and under the influence of intoxicants when she arrived. Officers found Weiner in close proximity to several “loaded” syringes, other paraphernalia, and a baggie of suspected heroin. He was charged with possession of a controlled substance in the first degree, first offense, and possession of drug paraphernalia. A bench warrant was subsequently issued when Weiner failed to appear at his arraignment. Those charges remain pending as of this writing.

SCR 3.165(1)(b) permits the Inquiry Commission to petition this Court for an order of temporary suspension if “[i]t appears that probable cause exists to believe that an attorney’s conduct poses a substantial threat of harm to his clients or to the public[.]” Further, SCR 3.165(1)(d) permits temporarily suspending an attorney if “[i]t appears that probable cause exists to believe that an attorney is mentally disabled or is addicted to intoxicants or drugs and probable cause exists to believe he/she does not have the physical or mental

fitness to continue to practice law.” The Inquiry Commission believes the facts set forth above are sufficient to meet this burden in requesting Weiner be suspended pending the outcome of the multiple disciplinary and criminal proceedings currently underway.

This Court has reviewed the uncontroverted allegations of the Inquiry Commission and agrees probable cause exists to believe Weiner’s conduct poses a substantial threat of harm to his clients as required by SCR 3.165(1)(b). We further agree a reasonable basis exists to believe Weiner “is addicted to intoxicants or drugs” and he “does not have the physical or mental fitness to continue to practice law.” Consequently, we agree with the Inquiry Commission that, when coupled with SCR 3.165(1)(b), Weiner’s license to practice law should be temporarily suspended pending disciplinary proceedings pursuant to SCR 3.165(1).

ACCORDINGLY, IT IS HEREBY ORDERED as follows:

1. Eric Tuley Weiner is temporarily suspended from the practice of law in the Commonwealth of Kentucky, effective upon the date of entry of this order, pending further orders from this Court;

2. Disciplinary proceedings against Weiner may be initiated by the Inquiry Commission pursuant to SCR 3.160, unless already begun or unless Weiner resigns under terms of disbarment;

3. Pursuant to SCR 3.165(5), Weiner shall, within twenty (20) days from the date of the entry of this Opinion and Order, notify in writing all clients of his inability to provide further legal services and furnish the Director of the Kentucky Bar Association with copies of all such letters;

4. Pursuant to SCR 3.165(6), Weiner shall immediately, to the extent reasonably possible, cancel and cease any advertising activities in which he is engaged.

All sitting. All concur.

ENTERED: January 21, 2021.



CHIEF JUSTICE