

# Supreme Court of Kentucky

2017-SC-000613-KB

TO BE PUBLISHED ASSOCIATION

FEB 15 2018

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KENTUCKY BAR ASSOCIATION

MOVANT

V.

IN SUPREME COURT

DELBERT KEITH PRUITT

RESPONDENT

## **OPINION AND ORDER**

On September 22, 2017, the Supreme Court of Illinois disbarred Delbert Keith Pruitt from the practice of law.<sup>1</sup> Thereafter, the Kentucky Bar Association (KBA) filed a petition with this Court asking that we impose reciprocal discipline pursuant to SCR 3.435(4). We ordered Pruitt to show cause why we should not impose such discipline and he failed to respond to that order. Because Pruitt failed to show cause as to why we should not impose reciprocal discipline, this Court hereby disbars him from the practice of law, as consistent with the order of the Supreme Court of Illinois.

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<sup>1</sup> Pruitt was admitted to the practice of law in the Commonwealth of Kentucky on October 29, 1999. His bar roster address is listed as 217 Edwards Drive, Paducah, Kentucky 42003, and his KBA number is 87872.

## **I. BACKGROUND**

Pruitt represented a client in a post-divorce-decree matter. During that representation, Pruitt was to act as the conduit between his client and her former husband for the payment of funds. However, rather than passing those funds along to his client, Pruitt converted almost \$5,000 to his own use. Pruitt failed to respond to the complaint issued against him or to participate in the disciplinary process in Illinois and the matter became a default proceeding.

The Supreme Court of Illinois adopted the report and recommendation of the Hearing Board of the Illinois Attorney Registration and Disciplinary Commission. It held that Pruitt violated Illinois's equivalent of Kentucky's SCR 3.130-1.1.15(a) for commingling client and attorney funds; 3.130-1.15(b) for failing to promptly deliver funds to which the client is entitled; and 3.130-8.4(c) for engaging "in conduct involving dishonesty, fraud, deceit or misrepresentation."

## **II. ANALYSIS**

If an attorney licensed to practice law in this Commonwealth receives discipline in another jurisdiction, SCR 3.435(4) generally requires this Court to impose identical discipline. Furthermore, SCR 3.435(4)(c) requires this Court to recognize that "[i]n all other respects" a final adjudication of misconduct in another jurisdiction establishes conclusively the same misconduct for purposes of a disciplinary proceeding in Kentucky. Pursuant to SCR 3.435(4), we impose reciprocal discipline as Pruitt failed to prove "by substantial evidence: (a) a lack of jurisdiction or fraud in the [Illinois] disciplinary proceeding, or (b) that

misconduct established warrants substantially different discipline in this State.”

**III. ORDER**

Having failed to timely show sufficient cause, it is hereby ORDERED as follows:

1. Pruitt is hereby permanently disbarred from the practice of law in Kentucky; and
2. In accordance with SCR 3.450, Pruitt shall pay all costs associated with these proceedings; and
3. Pursuant to SCR 3.390, Pruitt shall, within ten (10) days from the entry of this Opinion and Order, notify all clients, in writing, of his inability to represent them; notify, in writing, all courts in which he has matters pending of his disbarment from the practice of law; and furnish copies of all letters of notice to the Office of Bar Counsel. Furthermore, to the extent possible, Pruitt shall immediately cancel and cease any advertising activities in which he is engaged.

Minton, C.J.; Hughes, Keller, Venters, VanMeter and Wright, JJ., sitting.

All concur. Cunningham, J., not sitting.

ENTERED: February 15, 2018.

  
CHIEF JUSTICE

*Supreme Court of Kentucky*

2017-SC-000141-KB



KENTUCKY BAR ASSOCIATION

MOVANT

V.

IN SUPREME COURT

DELBERT KEITH PRUITT

RESPONDENT

**OPINION AND ORDER**

Delbert Keith Pruitt, Kentucky Bar Association (KBA) Number 87872, was admitted to the practice of law in the Commonwealth of Kentucky on October 29, 1999, and his bar roster address is listed as 321 Ferry St., Metropolis, IL 62960. The Board of Governors found Pruitt guilty of violating SCR 3.130-1.4(a)(3) (two counts), -1.4(a)(4), -3.4(c), and -8.1(b). For these violations, the Board unanimously recommends Pruitt: 1) be suspended from the practice of law for 181 days, to run concurrent with any current suspension; 2) be referred to the Kentucky Lawyer Assistance Program (KYLAP); and 3) pay all associated costs. For the following reasons, we adopt the Board's recommendation.

## **I. BACKGROUND**

This case concerns two separate complaints to the KBA. Pruitt failed to respond to either of the charges, and they reached the Board as default cases pursuant to SCR 3.210. In addition to the matters currently before the Court, Pruitt was privately admonished in 2006 and was suspended for sixty-one days in 2016.

### **A. KBA File 22631**

On February 20, 2014, Michael Orendoff filed a bar complaint against Pruitt. Orendoff alleged he hired Pruitt to defend him in a matter, but Pruitt failed to file an answer in his case. Pruitt filed a response to Orendoff's complaint, indicating that he had drafted the answer, and believed he had mailed it. Pruitt asserted he returned Orendoff's retainer when he learned the court had not received the document he thought he had mailed. During that time period, Pruitt's wife had suffered a stroke and later died. Pruitt asserted that he suffered from depression.

The Inquiry Commission determined a private admonition was the proper discipline, conditioned upon Pruitt's participation in KYLAP. As a result, the terms of the admonition required Pruitt to send Bar Counsel quarterly updates confirming his participation in the program. Pruitt did not submit the KYLAP reports, and KYLAP indicated he had not participated in the program.

Given Pruitt's failure to follow through with the condition of his discipline, the Inquiry Commission issued a two-count charge against him. Count I asserted Pruitt violated SCR 3.130-1.4(a)(3) when he failed to keep

Orendoff reasonably informed concerning the status of his case. Count II asserted Pruitt violated SCR 3.130-3.4(c) when he “knowingly disobey[ed] an obligation under the rules of a tribunal . . . .” Pruitt did not answer the charge.

**B. KBA File 16-DIS-24372**

Clayton Kennedy had hired Pruitt to represent him in a divorce action. On March 24, 2016, Kennedy filed a bar complaint against Pruitt, alleging Pruitt had failed to promptly and adequately communicate with Kennedy during the pendency of the divorce. Pruitt did not file a response to the complaint.

The Inquiry Commission charged Pruitt in a two-count charge. Count I asserted Pruitt violated SCR 3.130-1.4(a)(3), (4) when he failed to keep Kennedy reasonably informed about the status of his divorce and when he failed to “promptly comply with reasonable requests for information.” Count II asserted Pruitt violated SCR 3.130-8.1(b) when he failed “to respond to a lawful demand for information from an admissions or disciplinary authority . . . .” Pruitt did not answer the charge.

**II. BOARD’S RECOMMENDATION**

In KBA File 22631, the Board voted 17 to 0 to find Pruitt guilty of both charges. In KBA File 16-DIS-24372, the Board voted 16 to 1 to find Pruitt guilty of Count I, and voted 17 to 0 to find him guilty of Count II. Thereafter, the seventeen members of the Board unanimously recommended that Pruitt: 1) be suspended from the practice of law for 181 days, to be served concurrently with any other suspensions; 2) be referred to KYLAP for evaluation and

assistance as necessary; and 3) pay all costs associated with these disciplinary proceedings.

### III. ADOPTION OF BOARD'S RECOMMENDATION

Pursuant to SCR 3.370(9),<sup>1</sup> this Court adopts the unanimous recommendation of the Board given: 1) the significance of Pruitt's violations, 2) the fact that aside from filing an initial response in one of the cases, he has failed to respond to any correspondence, and 3) his disciplinary history. Our precedent supports the Board's recommendation. For example, in *Kentucky Bar Ass'n v. Quesinberry*, 260 S.W.3d 786, 788 (Ky. 2008), we suspended Quesinberry for 181 days for violating SCR 3.130-1.3, SCR 3.130-1.4, and SCR 3.130-8.1(b). In that case (much like Pruitt's), Quesinberry failed to file a divorce decree for her client and failed to respond to the KBA charges brought against her. Agreeing that the Board's recommended sanction is appropriate, it is ORDERED that:

1. Pruitt is found guilty of the above-described and admitted violations of the Rules of Professional Conduct and thus suspended from the practice of law for 181 days; and
2. Pruitt is hereby referred to KYLAP for evaluation and assistance as necessary; and

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<sup>1</sup> SCR 3.370(9) provides that "[i]f no notice of review is filed by either of the parties, or the Court under paragraph eight (8) of this rule, the Court shall enter an order adopting the decision of the Board or the Trial Commissioner, whichever the case may be, relating to all matters."

3. In accordance with SCR 3.450, Pruitt is directed to pay all costs associated with these disciplinary proceedings against him, said sum being \$484.88, for which execution may issue from this Court upon finality of this Opinion and Order; and
4. Pursuant to SCR 3.390, Pruitt shall, within ten days from the entry of this Opinion and Order, notify all Kentucky clients, in writing, of his inability to represent them; notify, in writing, all Kentucky courts in which he has matters pending of his suspension from the practice of law; and furnish copies of all letters of notice to the Office of Bar Counsel of the KBA. Furthermore, to the extent possible, Pruitt shall immediately cancel and cease any advertising activities in which he is engaged.

Minton, C.J.; Hughes, Keller, VanMeter, Venters, and Wright; JJ.,  
concur. Cunningham, J., not sitting.

ENTERED: September 28, 2017.

  
CHIEF JUSTICE

# Supreme Court of Kentucky

2016-SC-000487-KB

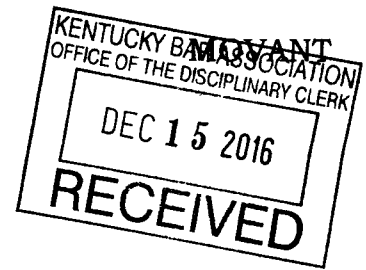
KENTUCKY BAR ASSOCIATION

V.

IN SUPREME COURT

DELBERT KEITH PRUITT

RESPONDENT



## OPINION AND ORDER

The Board of Governors of the Kentucky Bar Association (KBA) has recommended that Delbert Keith Pruitt be found guilty of several counts of misconduct and be suspended from the practice of law for 61 days. This Court adopts the recommendation.

Pruitt was admitted to the practice of law in the Commonwealth of Kentucky on October 29, 1999. His KBA number is 87872. His bar roster address is 321 Ferry Street, Metropolis, Illinois 62960, although he previously listed an address in Paducah, Kentucky.

The allegations of misconduct in this case, KBA File No. 24009, stem from Pruitt's representation of Barbara Long in a felony criminal case. Long hired Pruitt in 2015 and paid him \$2,500 in cash at that time. Pruitt, however, contacted Long only sporadically. Long was worried because an arrest warrant had been issued for her. She became dissatisfied with Pruitt's representation

and hired new counsel. Even though he had been terminated, Pruitt failed to return the \$2,500 fee or account for any portion of it that he may have earned.

Long filed a bar complaint in September 2015. Several attempts were made to serve the complaint at Pruitt's Paducah office address. Eventually, service was made on Pruitt via the Executive Director of the KBA under SCR 3.175(2). Pruitt did not respond to the bar complaint.

The Inquiry Commission issued a four-count charge alleging that Pruitt violated: (1) SCR 3.130-1.3<sup>1</sup> by failing to act with reasonable diligence in representing Long; (2) SCR 3.130-1.4(a)(3) and (4)<sup>2</sup> by failing to keep Long updated about her case and by failing to respond to Long's requests for information and attempts to communicate with him; (3) SCR 3.130-1.16(d)<sup>3</sup> by failing to timely return any unearned portion of the fee upon termination of the representation; and (4) SCR 3.130-8.1(b)<sup>4</sup> by failing to respond to the bar complaint.

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<sup>1</sup> "A lawyer shall act with reasonable diligence and promptness in representing a client." SCR 3.130-1.3.

<sup>2</sup> "A lawyer shall ... keep the client reasonably informed about the status of the matter; [and] promptly comply with reasonable requests for information ...." SCR 3.130-1.4(a)(3)-(4).

<sup>3</sup> "Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, 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. The lawyer may retain papers relating to the client to the extent permitted by other law." SCR 3.130-1.16(d).

<sup>4</sup> "[A] lawyer ... in connection with a disciplinary matter, shall not ... knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority ...." SCR 3.130-8.1(b).

Service of a copy of the charge was attempted at Pruitt's Paducah address by certified mail, but the charge was returned marked "unable to forward." Service was again accomplished via the Executive Director under SCR 3.175(2). The Executive Director, in turn, served a copy of the charge on Pruitt at his current Illinois address by certified mail, restricted delivery. Pruitt appears to have signed for this delivery.

Pruitt did not answer the charge, and the matter was submitted to the Board of Governors as a default case under SCR 3.210(1). Three members of the board recused from voting. On count 1, the board voted 12 to 2 to find Pruitt guilty. As to Count 2, the board voted 13 to 1 to find Pruitt guilty. As to counts 3 and 4, the board voted 14 to 0 to find Pruitt guilty.

The board then considered Pruitt's disciplinary history since his admission to the bar in 1999 (a private admonition in 2006) and his lack of interest in defending himself against the charge. The board considered two proposed sanctions, a 30-day suspension and a 61-day suspension. Under both, Pruitt would be required to repay the \$2,500 fee, successfully attend and complete the KBA's Ethics and Professional Enhancement Program (EPEP), and pay the costs of the proceeding. The board voted 11 to 3 in favor of the 61-day suspension.

Neither the KBA's Office of Bar Counsel nor Pruitt has sought review by the Court under SCR 3.370(7). Furthermore, this Court declines to undertake review pursuant to SCR 3.370(8). Thus, the Board's decision is adopted in full under SCR 3.370(9).

## Order

ACCORDINGLY, IT IS ORDERED THAT:

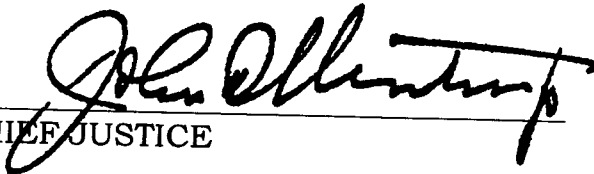
1. Delbert Keith Pruitt is found guilty of the above-described violations of the Rules of Professional Conduct in KBA Case No. 24009.
2. Pruitt is hereby suspended from the practice of law in this Commonwealth for a period of 61 days.
3. Pruitt is ordered to repay the \$2,500 fee to Barbara Long within 45 days.
4. Pruitt is ordered to attend and successfully complete the next Ethics and Professional Enhancement Program offered by the KBA.
5. As stated in SCR 3.390(a), this order shall take effect on the tenth day following its entry. Pruitt is instructed to promptly take all reasonable steps to protect the interests of his clients. He shall not during the term of suspension accept new clients or collect unearned fees, and shall comply with the provisions of SCR 3.130-7.50(5).
6. As stated in SCR 3.390(b), Pruitt must, within 10 days after the issuance of this order of suspension from the practice of law, notify by letter duly placed with the United States Postal Service all courts or other tribunals in which he has matters pending, and all of his clients of his inability to represent them and of the necessity and urgency of promptly retaining new counsel. Pruitt shall simultaneously provide a copy of all such letters of notification to the Office of Bar Counsel. He shall immediately cancel any pending advertisements, to the extent

possible, and shall terminate any advertising activity for the duration of the term of suspension.

7. In accordance with SCR 3.450, Pruitt is directed to pay all costs associated with these disciplinary proceedings against him, said sum being \$272.57, for which execution may issue from this Court upon finality of this Opinion and Order.

Minton, C.J; Hughes, Keller, Noble, Venters, and Wright, JJ., sitting. All concur. Cunningham, J., not sitting.

ENTERED: December 15, 2016.

  
CHIEF JUSTICE