In the Supreme Court of Georgia

Decided: October 5, 2020

S21Y0002. IN THE MATTER OF DAVID GODLEY RIGDON.

PER CURIAM.

This disciplinary matter is before the Court on a Supplemental Petition for Voluntary Discipline filed by David Godley Rigdon (State Bar No. 689829), following the Court's rejection of his original petition. See *In the Matter of Rigdon*, 307 Ga. 676 (837 SE2d 759) (2020) ("*Rigdon I*"). In his original petition, Rigdon, who has been a member of the Bar since 2010, acknowledged his January 10, 2019 convictions by guilty pleas to eight counts of violating the Georgia Controlled Substances Act (GCSA), see OCGA § 16-13-30 et seq., and admitted that by his convictions he had violated Rule 8.4 (a) (2) of the Georgia Rules of Professional Conduct found in Bar Rule 4-102 (d). Rule 8.4 (a) (2) says: "It shall be a violation of the Georgia Rules of Professional Conduct for a lawyer to . . . be convicted of a felony."

While the maximum penalty for a Rule 8.4 (a) (2) violation is disbarment, Rigdon sought the imposition of a suspension, with conditions on reinstatement, for either 36 months from the date of his convictions or the remaining time in his five-year term of probation, whichever is longer. The State Bar and the special master, Chong Joo Kim, agreed with that proposed sanction. However, the Court rejected Rigdon's original petition, explaining that the existing record was insufficient to show that the requested discipline was appropriate because the record contained virtually no information about the factual basis for the guilty pleas, the conspiracy of which Rigdon was alleged to have been a part, or the circumstances underlying three nolle prossed charges for crossing the guard lines of a correctional institution with drugs. See *Rigdon I*, 307 Ga. at 678. In his supplemental petition, Rigdon has provided additional factual details; he seeks the same level of discipline. The State Bar supports the petition, and the special master recommends that the Court accept the petition and impose the requested discipline.

The now-expanded record shows the following. In October 2017, Rigdon was indicted in Tift County on a total of 13 counts for drug-related offenses, including eight counts of felony violation of the GCSA by possessing a controlled substance, see OCGA § 16-13-30 (a)[1]; one count of conspiracy to violate the GCSA, see OCGA § 16-13-33; one count of possession of a dangerous drug, see OCGA § 16-13-70 et seq.; and three counts of crossing guard lines with drugs, see OCGA § 42-5-15. The 35-count indictment also charged seven other defendants, one of whom appears to have been the primary dealer of the drugs. Upon being indicted, Rigdon voluntarily stopped practicing law, timely notified his clients of his inability to continue their representation, and refunded any unearned fees.

Rigdon pled guilty to the eight controlled-substance-possession counts, with the State agreeing to nolle pros the remaining five charges; he was sentenced under OCGA § 16-13-2 (conditional discharge for possession of controlled substances as a first offense)

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[1] Rigdon pled guilty to two counts each of possessing methamphetamine, methadone hydrochloride, and Concerta; one count of possessing amphetamine and dextroamphetamine; and one count of possessing alprazolam.

to serve five years on probation with various conditions. As the supplemental petition shows, the conspiracy charge arose from a text message that Rigdon sent to his dealer inquiring about buying some pills. The State agreed to nolle pros that count because it determined that Rigdon's and his dealer's conduct was "vastly different" and did not indicate a conspiracy. The crossing-guard-lines charge stemmed from the police discovering drugs in Rigdon's vehicle after he was arrested in the jail parking lot; the drugs were for his own use, and he did not take them into the jail. One of the pills discovered in his vehicle was a Viagra pill, which was the basis for the dangerous-drugs count.

In his supplemental petition, Rigdon sets out the same mitigating circumstances as presented in his original petition. Rigdon has never before been subject to professional discipline. At the time of the events leading to his arrest, he was suffering from personal and emotional problems occasioned by his heavy workload and family responsibilities, including addiction issues for which he voluntarily sought treatment after his arrest. He was diagnosed

after his arrest with depression and anxiety, for which he has since submitted to ongoing, consistent, and successful treatment. He contacted the State Bar upon his indictment, has fully cooperated throughout these proceedings, and filed his petition for voluntary discipline prior to the scheduling of a show-cause hearing. He has otherwise exhibited good character and integrity, as evidenced by letters of support from three members of the Georgia Bar that were attached to his original petition. His conduct did not result in injury to a client. And he is remorseful and has acknowledged the serious nature of his wrongdoing. See ABA Standards for Imposing Lawyer Sanctions (2015), Standard 9.32 (a), (c), (e), (g), and (l). See also *In the Matter of Morse*, 266 Ga. 652, 653 (470 SE2d 232) (1996) ("[W]e look to the American Bar Association's standards for guidance in determining the appropriate sanction to impose.").

Rigdon seeks the same disciplinary sanction that he requested in his original petition. Having considered the additional factual information now in the record as well as the significant mitigating circumstances, we agree that a lengthy suspension with conditions

on reinstatement is consistent with the purposes of the Bar disciplinary process, see *In the Matter of Nicholson*, 243 Ga. 803, 807 (257 SE2d 195) (1979), and consistent with sanctions imposed in similar circumstances involving Rule 8.4 (a) (2) violations. See, e.g., *In the Matter of Barnes*, 304 Ga. 324, 326 (818 SE2d 497) (2018) (21-month suspension for single felony drug possession conviction and related misdemeanor disorderly conduct conviction where criminal sentencing was deferred subject to completion of drug program); *In the Matter of Richbourg*, 295 Ga. 356, 357 (759 SE2d 865) (2014) (suspension for longer of three years or expiration of term of probation for conviction on two felony counts of false imprisonment); *In the Matter of Topmiller*, 293 Ga. 667, 669 (748 SE2d 919) (2013) (18-month suspension, retroactive to date of guilty plea, for conviction on one count of possession of more than one ounce of marijuana); *In the Matter of Waldrop*, 283 Ga. 80, 81 (656 SE2d 529) (2008) (24-month suspension with conditions for first-offender drug possession conviction).

Accordingly, we accept the petition for voluntary discipline and direct that Rigdon be suspended from the practice of law in Georgia for 36 months from January 10, 2019, the date of his convictions, or until the termination of his probation, whichever is longer.[2] To seek reinstatement, Rigdon must demonstrate to the State Bar's Office of General Counsel that he has successfully completed his term of probation, has continued treatment through a board-certified and licensed mental health professional, and has obtained certification by such professional that he is fit to return to the practice of law. If the State Bar agrees that the conditions have been met, it will submit a notice of compliance to this Court, and this Court will issue an order granting or denying reinstatement. Rigdon is reminded of his duties pursuant to Bar Rule 4- 219 (b).

Petition for voluntary discipline accepted. Suspension with conditions for reinstatement. All the Justices concur.

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[2] As noted above, Rigdon had stopped practicing law by the time of his convictions. See *In the Matter of Onipede*, 288 Ga. 156, 157 (702 SE2d 136) (2010) (discussing the imposition of attorney disciplinary sanctions nunc pro tunc).