

BEFORE THE BOARD OF PROFESSIONAL CONDUCT  
OF  
THE SUPREME COURT OF OHIO

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APR 27 2015

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BOARD OF PROFESSIONAL CONDUCT

In re:

APR 28 2015

Complaint against

BOARD OF PROFESSIONAL CONDUCT

Kierra Loree Smith, Esq.  
7000 State Route 56 SE  
London, OH 43140

No. 15 - 023 a 

Attorney Registration No. 0083862

COMPLAINT AND CERTIFICATE

Respondent,

(Rule V of the Supreme Court Rules for  
the Government of the Bar of Ohio.)

Disciplinary Counsel  
250 Civic Center Drive, Suite 325  
Columbus, Ohio 43215-7411

Relator.

Now comes the relator and alleges that Kierra Loree Smith, an Attorney at Law, duly admitted to the practice of law in the state of Ohio, is guilty of the following misconduct:

1. Respondent, Kierra Loree Smith, was admitted to the practice of law in the state of Ohio on November 17, 2008.
2. At all times relevant to the allegations of this Complaint, respondent has been subject to the Ohio Rules of Professional Conduct and the Supreme Court Rules for the Government of the Bar of Ohio.
3. Sometime on or before December 13, 2013, respondent was retained by Benjamin D.A. Murphy to represent him in a divorce proceeding entitled *Kristin D. Murphy v. Benjamin D. A. Murphy*, Highland County Court of Common Pleas Case No. 11 DR 148.

4. On and after December 13, 2013, respondent filed pleadings and appeared at scheduled hearings on behalf of Benjamin Murphy in the above-referenced divorce proceeding.
5. Respondent appeared on behalf of Benjamin Murphy at a hearing before Magistrate Cynthia A. Williams on January 28, 2014. At that time, Magistrate Williams scheduled a Pretrial and Final Custody Hearing for April 1, 2014, at 10:00 a.m. In addition to the oral notice of the hearing that she received on April 1, 2014, respondent subsequently received written notice of the April 1, 2014 hearing.
6. On March 21, 2014, Magistrate Williams also scheduled a hearing on plaintiff Kristin Murphy's motion to compel responses to discovery for April 1, 2014, at 10:00 a.m. Respondent received notice of this hearing.
7. Respondent failed to appear for the hearing on April 1, 2014 and did not contact the court regarding her inability to appear. At the hearing, opposing counsel John W. Judkins reported to Magistrate Williams that mail he had recently sent to respondent had been returned by the U.S. Postal Service. Additionally, respondent's client, Benjamin Murphy, told Magistrate Williams at the hearing that respondent had not notified him that she would not be present in court. At Magistrate Williams' request, her bailiff performed a Google search and found that respondent was working as a teacher at Primrose School of Hilliard. Magistrate Williams then contacted respondent by telephone. Respondent did not offer any explanation to Magistrate Williams for her failure to appear at the scheduled hearing other than to state that she was no longer practicing law.
8. On April 7, 2014, Magistrate Williams filed a Magistrate's Order in which she found that (a) respondent failed to appear on behalf of her client, Benjamin Murphy, at the scheduled hearing on April 1, 2014; (b) respondent is now employed at Primrose School

of Hilliard and claims to be no longer practicing law; (c) respondent has not withdrawn as attorney of record, has failed to appear and has neglected client matters by failing to inform her client that she was no longer practicing law, thereby leaving him at a hearing unprepared; (d) respondent's client claims to have paid her in full for her representation; (e) respondent's client attempted to call her on several occasions but she did not return his phone calls; (f) opposing counsel has filed discovery requests for which no responses were submitted; and (g) respondent's client did not receive the discovery requests from respondent and was not aware that a motion to compel discovery was pending.

9. On April 7, 2014, Magistrate Williams also issued an Order to Show Cause directing respondent to appear before the court on April 30, 2014, at 10:00 a.m. to show cause why she should not be held in contempt of court for willfully failing to appear as counsel for her client or to communicate with the court, opposing counsel and her client regarding her cessation from the practice of law. Respondent received notice of the April 30, 2014 contempt hearing.
10. Respondent appeared at the contempt hearing. The court continued the contempt hearing until further order of the court. However, the court ordered respondent to file a motion for leave to withdraw as counsel for Benjamin Murphy, to provide Mr. Murphy with a full accounting for all fees and expenses incurred in her representation and to refund the balance owed from any fee deposits by Mr. Murphy within fourteen days. The court also ordered respondent to provide Mr. Murphy with a complete copy of his file within fourteen days. Additionally, the court ordered respondent to file written notice with the court within thirty days that she had complied with each of the court's orders.

11. On June 2, 2014, respondent filed a motion to withdraw as counsel for Benjamin Murphy. In her motion to withdraw, respondent stated that she had complied with all of the requirements set forth in the court's May 1, 2014 order. Although respondent claimed in her motion to withdraw that she had attached copies of the accounting and the certified receipt reflecting her transmittal of the file and accounting to Mr. Murphy to her motion, those documents were not attached.
12. In light of respondent's failure to attach the accounting and certified mail receipt to her motion to withdraw, Magistrate Williams called respondent's place of employment and was permitted to leave a message for respondent. Magistrate Williams left a message for respondent informing her that she had failed to attach the accounting to her pleading and stating that respondent needed to file the accounting with the court as soon as possible. Respondent did not respond to Magistrate Williams' message and did not subsequently file a copy of the accounting with the court.
13. Notwithstanding respondent's failure to file the accounting and the certified mail receipt, the court subsequently granted respondent's motion to withdraw and dismissed the contempt against her.
14. On May 14, 2014, relator mailed a Letter of Inquiry to respondent by certified mail, return receipt requested regarding Magistrate Williams' referral of respondent's failure to appear at the scheduled hearing on April 1, 2014. Although respondent received relator's Letter of Inquiry on May 17, 2014, she did not respond to the letter either by the due date of May 28, 2014 or any time thereafter.
15. In light of respondent's failure to reply to relator's May 14, 2014 Letter of Inquiry, relator mailed a second Letter of Inquiry to respondent by certified mail, return receipt

- requested, on June 5, 2014. This letter was subsequently returned to relator by the U.S. Postal Service on July 3, 2014, with a label that stated "Return to Sender – Unclaimed."
16. In light of respondent's failure to respond to relator's Letters of Inquiry, relator applied for and obtained a subpoena *duces tecum* for a deposition of respondent that was scheduled to be conducted in relator's office on July 29, 2014, commencing at 10:00 a.m. Relator's investigator appeared at the address maintained by respondent with the Supreme Court's Office of Attorney Services (i.e., 7000 State Route 56 SE, London, Ohio 43140) on July 2, 2014 at approximately 1:15 p.m. No one answered the door at respondent's residence. Therefore, relator's investigator taped the subpoena to the front door of respondent's home.
  17. On July 28, 2014, at 2:46 p.m., relator received an email from respondent in which respondent acknowledged receipt of the deposition subpoena, apologized for her previous failure to respond to relator's inquiries and promised to cooperate with the investigation. Additionally, respondent stated that she wanted to avoid the scheduled deposition.
  18. By email dated July 28, 2014, at 4:50 p.m., relator agreed to cancel the scheduled deposition based upon respondent's promise to cooperate with relator's investigation. However, in this email, relator asked respondent when she could provide a written response to relator's May 14, 2014 Letter of Inquiry. By email dated July 28, 2014, at 5:57 p.m., respondent replied that she could email her written response to relator by Wednesday (i.e., July 30, 2014).
  19. On July 31, 2014, relator sent a letter to respondent by email and by first-class mail, stating that relator had not received the written response to relator's May 14, 2014 Letter of Inquiry that respondent had promised to provide by Wednesday, July 30, 2014. In its

- letter, relator gave respondent until 5:00 p.m. on August 4, 2014 to provide her written response to relator's May 14, 2014 Letter of Inquiry.
20. On August 4, 2014, at 2:47 p.m., respondent sent an email response to relator. However, respondent's email did not address most of the questions posed by relator in its May 14, 2014 Letter of Inquiry and did not attach any of the documents requested by relator.
  21. Therefore, on August 11, 2014, relator sent a letter to respondent acknowledging receipt of respondent's August 4, 2014 email but indicating that the response did not address all of the issues identified in the May 14, 2014 Letter of Inquiry. Relator asked respondent to reply to the issues identified in relator's May 14 letter and asked that she provide a written response to additional questions and provide copies of documents identified in relator's August 11 letter. Respondent did not reply to relator's August 11, 2014 letter, either by the due date of August 22, 2014 or at any time thereafter.
  22. By email and letter dated August 26, 2014, relator notified respondent of her failure to provide a timely written response to relator's August 11, 2014 letter. Relator advised respondent that, unless relator received her response by 5:00 p.m. on August 29, 2014, relator intended to re-notice respondent's deposition. Respondent did not respond to relator's August 26, 2014 email or letter, either by the August 29, 2014 due date or at any time thereafter.
  23. In light of respondent's continuing failure to respond to relator's letters seeking information in connection with its investigation, relator applied for and obtained a subpoena *duces tecum* for a deposition of respondent to be conducted at relator's office on September 25, 2014, commencing at 10:00 a.m. Relator's investigator personally served respondent with the deposition subpoena on September 11, 2014.

24. At 8:14 a.m. on September 25, 2014, respondent sent an email to relator stating that she was unable to attend the deposition scheduled for 10:00 a.m. that same morning because “of mandatory work requirements that require that I remain on site.” Respondent further stated that she was sending her entire file to relator by certified mail that day (i.e., September 25, 2014).
25. Relator subsequently received materials from respondent on September 29, 2014. However, the materials sent by respondent did not address or respond to the requests for information contained in relator’s May 14, 2014 Letter of Inquiry and its August 11, 2014 letter seeking additional information.
26. Respondent’s conduct herein violates the following provisions of the Ohio Rules of Professional Conduct and the Supreme Court Rules for the Government of the Bar of Ohio: (a) Prof. Cond. R. 1.3 [a lawyer shall act with reasonable diligence and promptness in representing a client]; (b) Prof. Cond. R. 1.4 [a lawyer shall keep the client reasonably informed about the status of the matter]; (c) Prof. Cond. R. 1.16(c) [if permission for withdrawal from employment is required by the rules of a tribunal, a lawyer shall not withdraw from employment in a proceeding before that tribunal without its permission]; (d) Prof. Cond. R. 1.16(d) [as part of the termination of employment, a lawyer shall take steps to protect a client’s interest including giving due notice to the client, allowing reasonable time for employment of other counsel and delivering to the client all papers and property to which the client is entitled]; (e) Prof. Cond. R. 3.4(c) [a lawyer shall not knowingly disobey an obligation under the rules of a tribunal]; (f) Prof. Cond. R. 8.1(b) [a lawyer shall not knowingly fail to respond to a demand for information from a disciplinary authority]; (g) Prof. Cond. R. 8.4(d) [a lawyer shall not engage in

conduct that is prejudicial to the administration of justice]; and (h) Gov. Bar R. V(9)(G) and former Gov. Bar R. V(4)(G) [a lawyer shall not neglect or refuse to assist in a disciplinary investigation or proceeding].

**CONCLUSION**

Wherefore, pursuant to Gov. Bar R. V and the Ohio Rules of Professional Conduct, relator alleges that respondent is chargeable with misconduct; therefore, relator requests that respondent be disciplined pursuant to Rule V of the Supreme Court Rules for the Government of the Bar of Ohio.



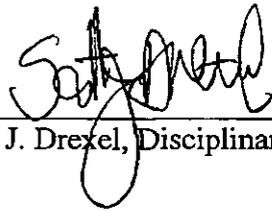
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**CERTIFICATE**

The undersigned, Scott J. Drexel, Disciplinary Counsel, of the Office of Disciplinary Counsel of the Supreme Court of Ohio hereby certifies that he is duly authorized to represent relator in the premises and has accepted the responsibility of prosecuting the complaint to its conclusion. After investigation, relator believes reasonable cause exists to warrant a hearing on such complaint.

Dated: April 27, 2015



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Scott J. Drexel, Disciplinary Counsel

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APR 24 2015

Disciplinary Counsel  
Supreme Court of Ohio

BEFORE THE BOARD OF PROFESSIONAL CONDUCT  
OF  
THE SUPREME COURT OF OHIO

In re:

Complaint against

Kierra Loree Smith, Esq.  
7000 State Route 56 SE  
London, OH 43140

Case No. B4-0791

Attorney Reg. No. 0083862

Respondent,

WAIVER OF DETERMINATION  
OF PROBABLE CAUSE

Disciplinary Counsel  
250 Civic Center Drive, Suite 325  
Columbus, Ohio 43215-7411

(Rule V(11)(B) of the Supreme Court  
Rules for the Government of the Bar  
of Ohio)

Relator.

Pursuant to the provisions of Rule V(11)(B) of the Supreme Court Rules for the Government of the Bar of Ohio, respondent, **Kierra Loree Smith**, stipulates that there is probable cause for the filing of a Complaint in the above-referenced proceeding and hereby waives the determination of probable cause by a Probable Cause Panel of the Board of Professional Conduct.

Dated: April 22, 2015

By: 

Kierra L. Smith (0083862)  
Respondent *Pro Se*