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Supreme Court of Wisconsin

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July 1, 2021

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You are hereby notified that the Court has entered the following order:

2018AP1832-D

Office of Lawyer Regulation v. James C. Ritland

On May 14, 2021, Attorney James C. Ritland filed a motion for reconsideration of this court's decision of April 22, 2021, In re Disciplinary Proceedings Against Ritland, 2021 WI 36, 396 Wis. 2d 509, 957 N.W.2d 540. The Office of Lawyer Regulation filed a response opposing the motion for reconsideration on May 14, 2021. The court having considered the motion and response;

IT IS ORDERED that the motion is denied.

REBECCA FRANK DALLET, J. (*concurring*). I agree with the majority order, but write to clarify that although Attorney Ritland appears to believe his misconduct is limited to soliciting "acts of prostitution," see Motion at 4, in truth, his misconduct encompassed much more. See, e.g., State v. Starks, 2014 WI 91, 357 Wis. 2d 42, 849 N.W.2d 724 (Prosser, J., concurring) (discussing aspects of the reconsideration motion despite denying it). In the referee's words, he "prey[ed] on vulnerable people" with financial or substance abuse problems, and used his standing as an attorney and his law office to do so. See, e.g., Ritland, 396 Wis. 2d 509, ¶¶30, 39. I am authorized to state that Justices ANN WALSH BRADLEY and JILL J. KAROFKY join this concurrence.

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REBECCA GRASSL BRADLEY, J. (*dissenting*). For the reasons expressed in Justice Patience Drake Roggensack's dissent to the court's decision in this matter, I dissent from the denial of the motion for reconsideration. Although the order denies the motion, in responding to the motion with a substantive writing, three members of the majority have effectively granted the motion and ruled against the respondent in a reasoned opinion. Citing to the court's denial of a reconsideration motion in State v. Starks, 357 Wis. 2d 142, three concurring justices deem it appropriate to address the merits of the matter despite denying the motion. The Starks case does not support their decision to do so.

Starks involved a criminal case (not a disciplinary matter), in which the "discussion" extended beyond the motion denial in order to address a unique and unusual procedural issue—namely, whether the court erred in its underlying opinion when it addressed the proper forum for raising ineffective assistance of counsel claims. The Starks motion for reconsideration had been pending for nearly a year, and both parties agreed that the court had erroneously described the procedure regarding the proper court in which a defendant must file an ineffective assistance claim. Starks does not justify justices opining on substantive points when the court denies a motion for reconsideration, particularly because Starks has been overruled by this court's decision in State ex rel. Warren v. Meisner, 2020 WI 55, ¶¶37-43, 391 Wis. 2d 1, 944 N.W.2d 588. Meisner in essence granted Starks' motion for reconsideration by withdrawing the erroneous language in the underlying case of State v. Starks, 2013 WI 69, 349 Wis. 2d 274, 833 N.W.2d 146—albeit six years later. Meisner did exactly what the parties in Starks had asked this court to do when they requested reconsideration of the decision.

If a majority of justices wish to address the merits of a matter in a reasoned decision, the court should grant the reconsideration motion. Offering an opinion on the merits of the motion is inconsistent with a denial of the motion and improperly bypasses established procedure. Because I too would have granted the motion, there were insufficient votes to deny it. I am authorized to state that Justice PATIENCE DRAKE ROGGENSACK joins this dissent.

Sheila T. Reiff
Clerk of Supreme Court