

STATE OF WISCONSIN**CIRCUIT COURT****IN SUPREME COURT**

**IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST MADALEINE R.
MULREY, ATTORNEY AT LAW****CASE CODE 30912****OFFICE OF LAWYER REGULATION,****CASE NO. 2020AP1651-D****Complainant,****FILED****MADALEINE R. MULREY,****AUG 20 2021****Respondent.****CLERK OF SUPREME COURT
OF WISCONSIN**

**DECISION and ORDER
RESPONDENT'S MOTION TO RECONSIDER DEFAULT JUDGMENT**

PROCEDURAL BACKGROUND AND CURRENT STATUS

This matter is before the referee on a motion by respondent entitled Motion to Reconsider Default Judgment. ¹

On May 10, 2021, pursuant to a Motion for Default Judgment filed by the Office of Lawyer Regulation (OLR) dated February 25, 2021, the referee issued a decision (Decision) finding respondent Madaleine R Mulrey (Mulrey) to be in default for failing to timely answer the

¹ At the telephonic motion hearing on July 20, 2021 Mulrey confirmed that the documents she had been sending to the referee had not been filed with the Supreme Court as required by SCR 22.13(5). (Transcript of July 20, 2021 Hearing, p 3-4). By written Order dated July 20, 2021 the referee ordered that Mulrey file with the Supreme Court all documents or copies of those documents that had been sent to the referee together with the transmittal emails showing the date the documents were sent to the referee. This was to be done by August 6, 2021.. Mulrey was also ordered to certify to the referee compliance with this order. By email dated August 7, 2021, and an attachment, Mulrey showed that she has been in contact with the Supreme Court regarding this issue but for technical reasons had not yet complied.

complaint in this matter. Mulrey, by way of this motion, seeks reconsideration of that decision. Mulrey's motion was received by the referee on June 2, 2021 as an email attachment.

A telephonic hearing on the motion was held on July 20, 2021. At the conclusion of the hearing the referee directed both OLR and Mulrey to submit their positions on whether the motion had been timely filed and whether the referee could consider the motion. Those submissions have been received. Arguments on the merits of the motion were submitted in advance of the hearing.

The matter is now ready for decision.

DECISION

The Motion to Reconsider filed by respondent is denied.

REASONING

Timeliness of Motion to Reconsider

The issue of the timeliness of the Motion to Reconsider was raised at the July 20, 2021 hearing. (Tr.16:16 - 18:23) The referee requested that both parties submit their positions in writing on this issue. Those submissions have been received. Both OLR and Mulrey agree that the referee may proceed to decide the motion to reconsider.

Merits of the Motion to Reconsider

The Decision of May 10, 2021 was based upon the entire record before the referee. That decision set forth a detailed procedural history of this case. (Decision, p. 2-4). The following should be added to that history:

18. Mulrey's Motion to Reconsider Default was sent to the referee by email attachment on June 2, 2021.

19. An Answer was sent to the referee by email attachment on June 20, 2021. (Note that this answer was sent after the finding of default and after the motion for reconsideration had been sent to the referee.)

20. The Motion to Reconsider Default Judgment was heard telephonically on July 20, 2021.

Mulrey does not dispute that no answer, motion for extension of time or other responsive pleading was ever filed by her prior to June 20, 2021. (Motion to Reconsider Default Judgment, p. 3.) The answer was due on or before January 12, 2021, but OLR later agreed that it would not object to an answer filed by February 16, 2021. Since no answer was filed by Mulrey by that date she was in default. *Sec. 806.02 (1) and (2), Wis. Stats.* Her position, however, was that she suffered from a disability and that she was in need of an accommodation consisting of additional time to answer due to that disability.

During the proceedings relative to the motion for default, Mulrey was given an opportunity to submit proof in support of her position. She did not object to proceeding in this manner and was given additional time to submit information when she requested it. (See Notices(s) of Hearing-OLR Motion for Default Judgment and Continued Telephone Scheduling Conference dated March 2 and March 9, 2021 directing that "Attorney Mulrey shall provide to the Referee and to Attorney Kluck any documentation that she wishes to be considered at the motion hearing."). Mulrey did ultimately submit a letter from Eileen Ahearn, MD, PhD, of the Department of Veterans Affairs, William S. Middleton Memorial Veterans Hospital (Exhibit 1 to Decision).

After review of the entire record the referee concluded and stated in the decision that the letter did not establish that Ms. Mulrey suffers from a disability² or what that disability may be. (Decision, p 5). In the decision the referee, in response to Mulrey's request for an accommodation, found that the statements in the letter were nonspecific as to what extra time might be necessary to complete tasks. *Id.*

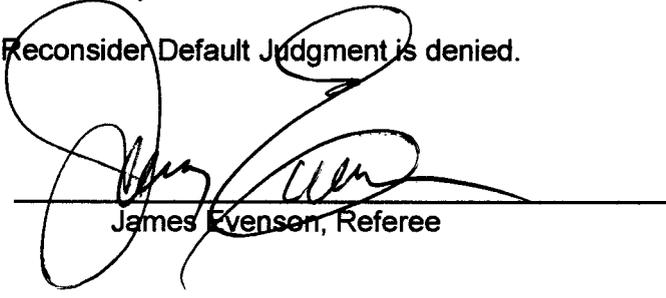
² In the briefing on the motion OLR raised the issue that if (1) she has a medical incapacity, and (2) the medical incapacity she has makes defense of the proceeding "impossible," then SCR 22.16(4) would seem to require the referee to hold a hearing on those claims. (OLR's Brief in Opposition to Mulrey's Motion to Reconsider Default Judgment, p. 3), but Mulrey withdrew any claim of medical incapacity. (Reply Brief in Support of Motion to Reconsider Default Judgment, p 2-3).

In rendering his decision, the referee relied upon the record. That record establishes that Mulrey was in default for failing to timely answer or respond in any other way to the complaint. The record also fails to establish that Mulrey does suffer from a disability, what that disability might be and what accommodation, if any, would be appropriate.

For the reasons set forth in the Decision of May 10, 2021 and the above:

IT IS ORDERED that the Motion To Reconsider Default Judgment is denied.

Dated: August 18, 2021.



James Evenson, Referee