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Supreme Court of Wisconsin

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March 19, 2024

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L. Michael Tobin
Referee
[Confidential Address]

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

No. 2018AP1832-D Office of Lawyer Regulation v. James C. Ritland

This case is before the court on Attorney James C. Ritland's appeal of Referee L. Michael Tobin's November 14, 2023 report recommending that we deny Attorney Ritland's petition for reinstatement of his license to practice law in Wisconsin, following his two-year suspension in 2021. Matter of Disciplinary Proc. Against Ritland, 2021 WI 36, 396 Wis. 2d 509, 957 N.W.2d 540. The referee issued his report after holding an evidentiary hearing on September 21, 2023.

On February 12, 2024, Attorney Ritland filed a motion to supplement the record of his reinstatement proceeding with a January 22, 2024 affidavit signed by him. The affidavit attaches documents dated from May 2021. Also on February 12, 2024, Attorney Ritland filed his appellate brief-in-chief, which cites and attaches the affidavit that he seeks to add to the record.

On February 22, 2024, the OLR filed a response opposing Attorney Ritland's motion to supplement the record.

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Upon consideration of the above,

IT IS ORDERED that the motion to supplement the record is denied. We do not allow parties to build a new record on appeal with evidence that was never admitted in proceedings before the referee. See In re Disciplinary Proceedings Against Wood, 122 Wis. 2d 610, 615–16, 363 N.W.2d 220 (1985) (court will not decide issues of fact); see also In re Disciplinary Proceedings Against Swartwout, 116 Wis. 2d 380, 383, 342 N.W.2d 406 (1984) (same). Motions to supplement the record are properly filed in situations where the record "is defective or . . . does not accurately reflect what occurred" below. Wis. Stat. § (Rule) 809.15(3). By contrast, Attorney Ritland's motion to supplement seeks to backfill the record with information that was previously available yet not advanced at the evidentiary hearing before the referee. We will review only the record made before the referee.

IT IS FURTHER ORDERED that, within ten calendar days of the date of this order, Attorney Ritland shall file an amended brief-in-chief, removing all references to the affidavit that is the subject of his now-denied motion to supplement the record.

Samuel A. Christensen
Clerk of Supreme Court