

SUPREME COURT OF WISCONSIN  
OFFICE OF LAWYER REGULATION

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Public Reprimand With Consent

2018-OLR-11

T. Gregory Amann,  
Attorney at Law

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Attorney T. Gregory Amann of Ellsworth engaged in misconduct in two matters investigated by the Office of Lawyer Regulation (OLR).

MATTER ONE

The Respondent T. Gregory Amann became licensed to practice law in Wisconsin on September 18, 1984. Effective 4:30 p.m. central time on May 30, 2017, the Board of Bar Examiners suspended Amann's license to practice law in Wisconsin pursuant to SCR 31.10(1) due to his noncompliance with the 2015-2016 Wisconsin mandatory continuing legal education reporting requirements. On June 9, 2017, Amann filed a petition for reinstatement and the Board of Bar Examiners reinstated his license to practice law the same date. Amann practiced law in Wisconsin during his period of suspension.

On October 27, 2016, the Board of Bar Examiners sent Amann a memorandum notifying him that he was required to file his CLE report for the 2015-2016 reporting period no later than February 1, 2017. Amann received the memorandum and knew that he was required to file his CLE report no later than February 1, 2017, but did not comply with the CLE reporting requirements.

On March 31, 2017, the Board of Bar Examiners sent Amann a Notice of Noncompliance by certified mail. Amann received notices in his mailbox of the certified correspondence, but he

did not claim the letter. Following several attempts between April 4 and 19, 2017 to deliver the letter to Amann, the notice was returned to the Board of Bar Examiners marked unclaimed.

Between October 27, 2016 and June 1, 2017, Amann took no action to file his CLE report, contact the Board of Bar Examiners regarding CLE reporting requirements, or verify when he might be suspended for failure to comply with CLE reporting requirements.

On May 31, 2017, the Board of Bar Examiners sent Amann a notice of suspension by first class mail, notifying him that his license to practice law had become suspended at 4:30 p.m. central time on May 30, 2017 due to his noncompliance with the CLE reporting requirements. Amann asserted that he did not receive the notice of suspension until he visited the post office on the evening of June 1 or 2, 2017. On May 31, 2017 and June 1, 2017, Amann did not verify the status of his license, even though he was aware that he had not complied with CLE reporting requirements and knew he was late in complying.

Amann practiced law in Wisconsin on May 31, 2017 and June 1, 2017. On May 31, 2017, Amann filed a de novo hearing request with the Pierce County Circuit Court on behalf of a client, and appeared on behalf of clients in Polk County Circuit Court, Pierce County Circuit Court, and St. Croix County Circuit Court. On June 1, 2017, Amann met with a client and spoke with a district attorney related to a Dunn County Circuit Court case.

On June 1, 2017, Amann received an email from the State Public Defender's Office regarding the suspension. Amann asserted that early in the afternoon on June 1, 2017, he attempted to log in and report his CLE credits, but he was not able to do so online. Amann contacted the Board of Bar Examiners, and then began preparing the paperwork and contacting CLE providers, intending to drive his report to Madison the next morning, in hopes that his license would be reinstated the same day. As he prepared the paperwork, Amann came to believe

that he did not have enough CLE credit hours for the reporting period, and began notifying courts and opposing counsel of the need to reschedule his next day's court appearances. While he learned after his reinstatement that he had obtained sufficient hours prior to his suspension, between June 1 and 9, 2017, Amann believed that he did not have sufficient CLE hours and made arrangements to take additional seminars.

Prior to his suspension, Amann knew that he had not timely complied with CLE reporting requirements but thought he would not be suspended "so quickly." Amann should have been aware of the likely timing of his impending suspension, however, because he was suspended on June 4, 2013 under very similar circumstances for failure to comply with CLE reporting requirements for the 2011-2012 reporting period. Similar to the circumstances surrounding Amann's practice of law on May 31 and June 1, 2017, in 2013 Amann practiced law during the period in which his license was suspended for non-compliance with CLE reporting requirements. Like in 2016, the Board of Bar Examiners had sent Amann a memorandum regarding his CLE reporting requirements dated October 17, 2012 and a Notice of Noncompliance dated April 5, 2013. Like the March 31, 2017 Notice of Noncompliance, the April 5, 2013 Notice, sent by certified mail, was returned to the Board of Bar Examiners marked unclaimed by Amann, following several attempts to deliver it to Amann. Given the similarities between the circumstances of his suspension and practice while suspended in 2013 and 2017, Amann should have been aware in 2017 of the timing and consequences for failing to comply with mandatory CLE reporting requirements.

By practicing law in Wisconsin at a time when his license to practice law in Wisconsin was suspended, Amann violated SCR 31.10(1), which states, "A lawyer shall not engage in the practice of law in Wisconsin while his or her state bar membership is suspended under this rule"

and SCR 22.26(2), which states, “An attorney whose license to practice law is suspended or revoked or who is suspended from the practice of law may not engage in this state in the practice of law or in any law work activity customarily done by law students, law clerks, or other paralegal personnel, except that the attorney may engage in law related work in this state for a commercial employer itself not engaged in the practice of law.” Violations of SCR 31.10(1) and SCR 22.26(2) are enforced under the Rules of Professional Conduct via SCR 20:8.4(f), which states, “It is professional misconduct for a lawyer to...violate a statute, supreme court rule, supreme court order or supreme court decision regulating the conduct of lawyers.”

## MATTER TWO

On or about December 1, 2014, the Respondent T. Gregory Amann was appointed to represent a man in four Sawyer County Circuit Court criminal cases. In the first case, the client was charged with one count of burglary and ten counts of theft of moveable property. In the second case, the client was charged with one count of felony escape-criminal arrest, and two counts of felony bail jumping. In the third case, the client was charged with one count of felony bail jumping. In the fourth case, the client was charged with OWI 4th within 5 years, operating with PAC 4th in 5 years, misdemeanor possession of THC, resisting or obstructing an officer, and felony bail jumping.

The client had been convicted in June, 2013, of one felony count of violating WIS. STAT. §943.30(1) Threats to Injure/Accuse of Crime, for which he was sentenced to three years confinement and three years extended supervision (consecutive to a jail term imposed in another matter), stayed, and three years probation, with conditions that included absolute sobriety.

On April 21, 2014, the client was arrested for the conduct leading to the charges at issue in the fourth case, resulting in the revocation of his probation stemming from his 2013

conviction. On April 22, 2014, in the fourth case, the court imposed a \$15,000 cash bond, which the client was unable to post, causing him to remain in custody. The \$15,000 cash bond was imposed only in the fourth case.

On January 21, 2016, pursuant to a plea agreement: in the first case, the client pled no contest to one count of burglary, and the ten counts of theft of moveable property were dismissed and read in; in the second case, pled no contest to felony bail jumping, and the remaining counts were dismissed but read in; in the third case, the single count of felony bail jumping was dismissed but read in; and in the fourth case, the client pled no contest to OWI 4th within 5 years, and the remaining counts were dismissed but read in. Pursuant to the plea agreement, the client's sentence in the four cases was to run concurrent to the prison sentence he was serving for his 2013 conviction.

The client accepted the plea deal based on Amann's advice that, while the client would not receive any sentence credit for the first case, the sentence would begin to run on the date the cash bond was imposed, April 22, 2014, rather than the date of sentencing. Amann gave the client that advice because Amann mistakenly believed that the \$15,000 cash bond applied to all four cases, and not to the fourth case alone.

On April 27, 2016, the client was sentenced in the three cases that resulted in convictions. In the first case, the court sentenced the client to five years initial confinement followed by five years of extended supervision, concurrent with the sentence imposed in the 2013 conviction. The parties stipulated that the client was not entitled to any sentence credit in the first case. The client still believed, based on Amann's inaccurate advice, that his sentence in the first case would begin to run on April 22, 2014, not April 27, 2016.

In September, 2016, the client learned during a review of his placement that his sentence in the first case ran from April 27, 2016, the date of sentencing, rather than April 22, 2014. Between September, 2016, and February 12, 2017, the client attempted to contact Amann numerous times by telephone and mail, and by email through St. Germaine's mother, to request Amann's assistance in resolving what the client perceived to be an error in sentence credits or how his sentence was calculated. Amann sent the man a letter dated November 28, 2016, in which Amann wrote, "I looked through your files again and I believe that I understand the problem. I will look at the Court files the next time that I am in Hayward and will obtain copies of the Court documents including the plea forms. I probably will also need to order transcripts of both those hearings. I will follow up with you once I do that." Amann did not order any transcripts. Amann also failed to review the four cases sufficiently to realize that he had provided the client inaccurate information based on Amann's mistaken belief that the bond applied to all four cases. Between November 28, 2016 and January 24, 2017, Amann did not take any action to advance the client's interests.

On January 28, 2017, Amann sent the client a letter in which he stated, "I looked at the Court files...For some reason the attachments to the plea waiver and questionnaire were not in the file...I will try to determine what happened to those – they may be important to address the sentencing credit issue. At this point...I am looking at filing a motion to have [the court] deal with the sentence and credit issues. If that is unsuccessful, the case will be transferred to the public defender appellate office in Madison and a staff or appointed lawyer will take the case from there. If my performance or advice was insufficient they will be able to assert an ineffective assistance of counsel claim and the problem will be addressed that way."

On February 12, 2017, the client sent a grievance to OLR regarding Amann's failure to take action to correct what the client still believed was an improper credit or computation of his sentence. On February 21, 2017, OLR Intake Staff contacted Amann by telephone to discuss the client's grievance. During that call, Amann asserted to OLR that Amann was "still working on" the client's case, and was aware of the client's concerns. On February 22, 2017, Amann sent the client a letter promising to meet with the client by the middle of March, 2017, and asserting that he was attempting to meet with the prosecutor to see if he would "work with" Amann and the client to "resolve the problem in a shorter time frame than Court proceedings will require." Amann still had not reviewed the four cases sufficiently to determine that he had provided the client inaccurate advice regarding when the sentence would begin to run.

On or about April 3, 2017, Amann realized that he had been mistaken in his belief that the bond applied to all four cases. In an email to OLR, Amann asserted that he intended to "have this addressed by appellate counsel." Amann asserted, "I suspect that the appellate intake office will require me to obtain an extension to file the intent to seek postconviction relief."

Between April 3 and June 23, 2017, Amann did not file a motion to extend time for the client to file a notice of intent to seek postconviction relief, take any other action to advance the client's interests, or contact the State Public Defender's office to discuss the client's case or seek their advice or guidance.

By letter dated May 31, 2017, OLR notified Amann of the investigation of the client's grievance, and requested certain information from Amann, including that Amann identify what actions he had taken on behalf of the client since April 3, 2017. Amann's response was due by June 23, 2017. By letter dated June 23, 2017, Amann asserted again that he had determined that the "best option" for the client was for Amann to "file the motion with the Court of Appeals to

extend the time in which to file notice of intent to seek postconviction relief.” Amann promised to file the motion by June 26, 2017.

On June 28, 2017, Amann filed the client’s motion to extend the time in which to file notice of intent to seek postconviction relief, which the Court of Appeals granted. The client was assigned successor counsel to pursue his appeal.

SCR 20:1.3 states, “A lawyer shall act with reasonable diligence and promptness in representing a client.” Amann violated SCR 20:1.3 by: failing to take steps to timely ascertain that the client’s cash bond applied to only one of the criminal cases to which the client was subject, preventing Amann from providing the client with correct information regarding his potential sentence and the commencement of any such sentence; failing to order sentencing hearing transcripts, notwithstanding his statement to the client that he would do so; and, failing between April 3, 2017 and June 28, 2017 to file a motion to extend time to file a notice of intent to pursue postconviction relief.

In 2014, Amann received a private reprimand for violating SCR 20:8.4(b) by engaging in conduct leading to his conviction for misdemeanor OWI(2nd) in violation of Wis. Stat. §346.63(1)(a), and violating SCR 31.10(1) and SCR 22.26(2), enforced via SCR 20:8.4(f), for practicing law at a time when his license to practice law in Wisconsin was suspended.

In accordance with SCR 22.09(3), Attorney T. Gregory Amann is hereby publicly reprimanded.

Dated this 13th day of December, 2018.

SUPREME COURT OF WISCONSIN

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/s/  
James J. Winiarski, Referee