

SUPREME COURT OF WISCONSIN  
OFFICE OF LAWYER REGULATION

---

Public Reprimand With Consent

2017-OLR-7

Joseph E. Schubert,  
Attorney at Law

---

Joseph E. Schubert is a Wisconsin-licensed attorney admitted to practice in 1981. Schubert engages in the private practice of law in Milwaukee.

In May 2013, the Office of State Public Defender appointed Schubert to provide appellate-level representation to a man following the man's criminal conviction in Milwaukee County Circuit Court. The man's sentence included prison time in excess of 15 years.

Schubert's first contact with his client occurred by telephone on December 5, 2013. The client had by that time sent four letters to Schubert requesting information and contact from Schubert. During the December 5, 2013 telephone call, Schubert told his client that "substantial work" in the matter would begin only after Schubert received the complete transcripts of the client's trial and sentencing. Schubert promised his client that he would meet with him the following week, but Schubert did not do so.

Schubert received all the case transcripts by no later than March 6, 2014. From the time of the December 5, 2013 call to Schubert's receipt of the transcripts, the client had sent Schubert five letters in which he both provided and requested information. Schubert did not respond to those letters.

Schubert filed twelve motions in the Court of Appeals to extend the deadline for filing post-conviction motions or a notice of appeal: in May 2014, July 2014, August 2014, September

2014, October 2014, December 2014, February 2015, March 2015, May 2015, July 2015, August 2015, and September 2015.

In connection with the August 2014 motion, Schubert asserted that while he had met with his client, identified issues and formulated a plan, he still needed to put the motions in “final form.” At that time, however, Schubert had not yet drafted any portion of a post-conviction filing. In connection with the February 2015 motion, Schubert asserted, “[My client] and I ask for an extension in order to get more information concerning an officer that was involved in his case who was involved in disciplinary and court actions. Besides this investigation, it seems necessary to perform other investigations that require more time.” Schubert never pursued any such investigations of any matters during his representation, despite the client’s repeated requests that he do so. In connection with the July 2015 motion, Schubert asserted, “Since my last extension request, I roughed out post-conviction motions.” Schubert, however, had not worked on post-conviction motion content between his May 2015 and July 2015 extension motions.

Schubert did not typically provide his client with contemporaneous notice of his extension motions or communicate to his client the court’s action on those motions. It was only with respect to the March 2015 motion to extend time that Schubert copied his client on the notice of motion. Schubert failed to send copies of the extension motions to his client or communicate the outcome of the motions even after the State Public Defender’s Office instructed Schubert to do so in April 2015. The client repeatedly wrote directly to the Court of Appeals to request information about new filing deadlines, and the Office of the Clerk of the Court of Appeals would respond with the requested information, instruct the client to seek such information from Schubert, and inform the client that SCR 20:1.4 required Schubert to keep his client informed as to case status. The Clerk’s office copied Schubert on these letters. In a

December 2014 letter that he sent to the Court of Appeals, Schubert's client stated in part, "Attorney Schubert for reasons 'unknown' to me, will not communicate with me at all, no matter what I seek to learn about my appeal."

In addition to failing to initiate status updates, Schubert did not respond to numerous requests from his client for information in the matter. These requests included letters dated April 10, 2014, June 9, 2014, and July 9, 2014, in which the client asked Schubert to provide him copies of all case exhibits, specifically fingerprint exhibits. It was not until July 25, 2015 that Schubert provided his client with the requested copies of exhibits.

As of the time of his August 2015 motion to extend time, Schubert had only partially drafted his client's post-conviction motions. The State Public Defender's Office appointed successor counsel for the client in September 2015.

By failing to pursue his client's interests in timely filing a post-conviction motion or notice of appeal, Schubert violated SCR 20:1.3, which states, "A lawyer shall act with reasonable diligence and promptness in representing a client."

By failing at various times during the representation to communicate with his client about the representation and to initiate case status updates, including by failing to provide copies of deadline extension motions filed in the Court of Appeals or to otherwise inform the client of those motions, Schubert violated SCR 20:1.4(a)(3), which states, "A lawyer shall...keep the client reasonably informed about the status of the matter."

By failing to respond to his client's reasonable requests for information, including by failing between April 2014 and July 2015 to provide requested copies of trial exhibits, Schubert violated SCR 20:1.4(a)(4), which states, "A lawyer shall...promptly comply with reasonable requests by the client for information."

