

SUPREME COURT OF WISCONSIN

OFFICE OF LAWYER REGULATION

Public Reprimand with Consent

Richard E. Thomey II

2013-OLR-2

On June 1, 2012, Attorney Richard E. Thomey II was charged with one count of misdemeanor contempt of court, in violation of Wis. Stat. §785.03(1)(b). *State v. Richard E. Thomey II*, Milwaukee County case no. 2012CM3021. According to the criminal complaint, the factual basis for the charge was as follows:

Thomey represented a man in two criminal cases, both of which were scheduled for trial on June 1, 2011. Thomey's client was facing charges of violating a domestic abuse restraining order, substantial battery, stalking, and burglary.

The victim of the client's alleged crimes had been served with a subpoena to appear for the trial but had failed to do so. Thomey sought dismissal of the charges. The assistant district attorney prosecuting the cases requested that a bench warrant be issued for the victim.

The court granted the assistant district attorney's request and issued a warrant for the arrest of the victim.

That same day, two members of the Milwaukee Police Department were assigned to locate the victim. They located her place of employment, a restaurant, at which time she agreed to accompany them to the courthouse for the trial.

While talking to the members of the Milwaukee Police Department, the victim stated that she had spoken with Thomey that day and that Thomey told her she should not go to work that day because the police would arrest her and bring her to court. She also reported that Thomey had previously told her that she did not have to appear at the trial if she did not want to, or words to that substantial effect.

The victim also reported that Thomey had left her a voice mail message that day. A transcript of the message was prepared and reflects the message as stating, “June 1, 2011 at 10:26 a.m. Hello [victim]. Attorney Rick Thomey calling. I am [client’s] attorney. We are in court for a jury trial. You didn’t show up, I know, but the District Attorney asked the court to issue a body attachment which means that she is sending police officers out to pick you up and bring you into court. I don’t know if you are either at home or at work. I know that you told me that you are out of state, they claimed you were not at the restaurant yesterday. Anyway, I guess that if you don’t want to be arrested you should make yourself scarce. If you want to call me back, I’m at [phone number.]”

Thomey admitted to the assistant district attorney that he had contacted the victim and informed her of the arrest warrant.

On June 11, 2012, Thomey pled guilty to the single count contained in the criminal complaint. That same day he was sentenced. Citing Thomey’s age, his lack of prior contact with the criminal justice system, and his long legal career and good reputation, the State recommended that Thomey be fined \$1,000. Thomey’s defense counsel joined in that recommendation. Finding that a sentence of a fine only would “unduly depreciate the seriousness of the offense,” the presiding judge sentenced Thomey to 4 months in jail and a \$1,000 fine. Thomey was ordered to serve the first 30 days of the jail sentence, with Huber privileges, with the remaining 90 days being stayed.

Thomey states that he was “caught up in the heat of the imminent trial and the demands of [his] client” when he advised the victim to “make herself scarce.” Thomey admits that he “obviously did not exercise the judgment the situation and my duty to the court and my duty to the justice system demanded.” Thomey agrees that there is clear, satisfactory, and convincing evidence that his conduct violated SCR 20:3.4(a), SCR 20:8.4(b), and SCR 20:8.4(c).

By engaging in the conduct that led to his criminal conviction on a charge of misdemeanor contempt of court, Thomey violated the following Rule of Professional Conduct:

SCR 20:3.4(a), which states, “A lawyer shall not unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act.”

SCR 20:8.4(b), which states, “It is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects.”

SCR 20:8.4(c), which states, “It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit or misrepresentation.”

Thomey has no prior discipline.

In accordance with SCR 22.09(3), Attorney Richard E. Thomey II is hereby publicly reprimanded.

Dated this 24th day of January, 2013.

SUPREME COURT OF WISCONSIN

/s/ Lisa Goldman
Lisa Goldman, Referee