

FILED

May 30, 2023

**OFFICE OF
APPELLATE COURTS**

STATE OF MINNESOTA

IN SUPREME COURT

A20-1288

In re Petition for Disciplinary Action against
Alejandro Alfonso Espinosa, a Minnesota Attorney,
Registration No. 0299832.

O R D E R

On October 7, 2020, the Director of the Office of Lawyers Professional Responsibility filed a petition for disciplinary action alleging that respondent Alejandro Alfonso Espinosa has committed professional misconduct warranting public discipline—namely, neglect of a client matter, failing to communicate with a client’s attorney-in-fact as representative of the client, failing to obey a court order, failing to respond to a court’s attempts to communicate, and failing to cooperate with the Director’s disciplinary investigations. *See* Minn. R. Prof. Conduct 1.3, 1.4(a)(3), 1.4(a)(4), 3.2, 3.4(c), 8.1(b), 8.4(d); Rule 25, Rules on Lawyers Professional Responsibility (RLPR).

On October 14, 2020, we suspended respondent pursuant to Rule 12(c)(1), RLPR, based on evidence that respondent could not be found in the state to be served with the petition. Our order notified respondent that if he failed to appear in this matter within 1 year, the allegations in the petition may be deemed admitted. Respondent failed to move this court for a vacation of the order of suspension within the required time.

On December 15, 2021, the Director filed a motion seeking clarification as to the appropriate disposition of this matter due to special facts set forth in the Director's motion. The Director requested that the court consider whether the court would, *sua sponte*, place respondent on disability status without stipulation; in the alternative, the Director petitioned for an order to show cause.

In her motion, the Director described her efforts to contact respondent, including making contact with respondent's former spouse, who informed the Director that respondent is very ill and has been diagnosed with dementia and Alzheimer's disease. Respondent's former spouse also informed the Director that respondent has been moved to hospice care, no longer practices law, and does not intend to practice law again due to his severe illness and diagnosis. Finally, respondent's former spouse shared her belief that respondent should be placed on disability status. However, the Director has been unable to obtain confirmation of these facts, either directly from respondent or from someone authorized by law to speak on his behalf. The Director has likewise been unable to obtain medical records that would confirm these facts.

On March 10, 2022, we issued an order that (1) the allegations contained in the petition for disciplinary action were deemed admitted, (2) directed respondent to file a memorandum by May 9, 2022, showing cause why the court should not take appropriate disciplinary action, (3) ordered the Director to attempt to effect service of the order on respondent, and (4) invited the parties to submit written proposals by June 8, 2022, regarding the appropriate disposition of this matter.

On March 28, 2022, the Director filed an affidavit of service indicating that the court's March 10 order had been personally served upon respondent on March 16. Respondent did not file a response to the show cause order, nor did he file a proposal regarding the appropriate discipline. And no other person made any communication with the court on respondent's behalf. On June 7, 2022, the Director filed her proposal. In it, she recommended that the court place respondent on disability inactive status pursuant to Rule 28, RLPR. In the alternative, if the court chose not to place respondent on disability inactive status, the Director recommended that respondent be suspended for a minimum of 90 days, and that any request by respondent for reinstatement be subject to the hearing requirements of Rule 18(a)–(d), RLPR.

We again commend the Director for the extensive efforts she made to gather information about respondent's health and to resolve this matter with a stipulation that would spare respondent and his family additional stress and trauma. We likewise appreciate the efforts made by respondent's former spouse to provide information about respondent's health. If respondent's circumstances are as represented, cooperation by respondent or his guardian or other authorized representative may have led to an appropriate stipulation. However, this court has never *sua sponte* placed an attorney on disability status without a factual finding, stipulation, or court order indicating that the attorney's "physical condition, mental illness, mental deficiency, senility, or habitual and excessive use of intoxicating liquors, narcotics, or other drugs prevents the lawyer from competently representing clients." Rule 28(a), RLPR. We decline to do so for the first time in this case.

We do agree with the Director that, absent respondent's transfer to disability inactive status, the facts of this case support an indefinite suspension and a requirement that respondent demonstrate fitness to practice under Rule 18(a)–(d), RLPR, as a condition of reinstatement. However, we decline to set a minimum period of time before which respondent may be permitted to seek reinstatement. Under the circumstances of this case, where the allegations of the petition were deemed admitted and respondent has never made an appearance, we believe it is appropriate to impose an indefinite suspension without an identified duration. *See In re Pottenger*, 567 N.W.2d 713, 717 (Minn. 1997); *In re Richter*, 963 N.W.2d 709, 709 (Minn. 2014) (order); *In re Bottema*, 844 N.W.2d 527, 527–28 (Minn. 2014) (order).

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. Respondent Alejandro Alfonso Espinosa is indefinitely suspended from the practice of law, effective as of the date of this order.
2. Respondent may petition for reinstatement pursuant to Rule 18(a)–(d), RLPR. Reinstatement is conditioned on successful completion of the written examination required for admission to the practice of law by the State Board of Law Examiners on the subject of professional responsibility, *see* Rule 18(e)(2), RLPR; *see also* Rule 4.A.(5), Rules for Admission to the Bar (requiring evidence that an applicant has successfully completed the Multistate Professional Responsibility Examination); and satisfaction of continuing legal education requirements, *see* Rule 18(e)(4), RLPR.

3. Respondent shall comply with Rule 26, RLPR (requiring notice of suspension to clients, opposing counsel, and tribunals), and shall pay \$900 in costs pursuant to Rule 24(a), RLPR.

Dated: May 30, 2023

BY THE COURT:

A handwritten signature in black ink that reads "Natalie E. Hudson". The signature is written in a cursive style with a prominent initial "N".

Natalie E. Hudson
Associate Justice