FILED
October 25, 2023
OFFICE OF APPELLATE COURTS

FILE NO.

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary Action against CATHERINE A. McENROE, a Minnesota Attorney, Registration No. 0219587.

PETITION FOR DISCIPLINARY ACTION

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

The Director of the Office of Lawyers Professional Responsibility (Director) files this petition upon the parties' agreement pursuant to Rules 10(a) and 12(a), Rules on Lawyers Professional Responsibility. The Director alleges:

The above-named attorney (respondent) was admitted to practice law in Minnesota on October 25, 1991. Respondent most recently practiced law in Minneapolis, Minnesota.

Respondent has committed the following unprofessional conduct warranting public discipline:

FIRST COUNT

1. Respondent served as an Assistant Hennepin County Attorney from April 2013 until January 6, 2023, when she went on leave. In September 2023, respondent received a medical layoff. She held various assignments within the Hennepin County Attorney's Office, including the prosecution of adult felony matters.

2. On January 3, 2023, respondent began a first-degree criminal sexual conduct jury trial involving an alleged child-victim.

3. Following jury selection and opening statements, testimony from the alleged victim began on January 5, 2023. During her testimony, the judge called for a routine afternoon break in the proceedings. The jury had not yet left the courtroom

when a victim-witness advocate (advocate) with the Hennepin County Attorney's Office walked from the gallery, through the bar, and approached respondent at counsel table. The advocate then wrote a note on respondent's notepad that said "venue? HC?" as a reminder to respondent that she needed to prove that the venue element of the offense occurred in Hennepin County (which respondent maintains she had already proven).

4. As the jury continued to exit the courtroom, the judge called the attorneys up to the bench to ask about what had occurred with the advocate. The judge was especially concerned about the note because the advocate was sitting in the gallery with the alleged victim's mother, whom he had allowed into the courtroom as a support person despite her being a witness in the trial. Before the advocate approached the respondent and wrote the note to her, the judge had seen the alleged victim's mother talking to the advocate in the gallery. The judge was concerned because an advocate writing a note to the prosecutor with information from the alleged victim's mother would have violated the court's sequestration order.

5. At the bench conference, respondent told the judge and defense counsel that the advocate had written a note to her about the pronunciation of a witness' Spanish name. While, during the trial preparation process, the advocate had advised respondent and provided written guides indicating the correct pronunciation of names, that was not what the note said. Respondent indicates she does not know why she made the false statement (as it had no bearing on the case and no substantive value to the prosecution) other than she was under extreme pressure and stress and when the judge became upset about the advocate's conduct, she panicked and said the first thing that came to mind. Regardless of her reasoning, respondent's statement to the court was knowingly false.

6. The presiding judge directed respondent to speak with the advocate about acceptable courtroom behavior and, because defense counsel requested it, to show the

note to defense counsel. Respondent agreed, stating that she would get the note to defense counsel.

7. Respondent left the courtroom with her notepad and located the advocate. Respondent informed the advocate of the judge's displeasure with his actions. Respondent also informed the advocate that respondent told the judge that the note related to the pronunciation of a name. Because respondent agreed to show defense counsel the note, and because what she indicated to the court was on the note was not true, respondent told the advocate to write a new note on a different page of her notepad that correlated with the false information she told the judge and opposing counsel. The advocate did so and respondent then showed this second note to the defense attorney. Respondent's conduct was dishonest and misleading.

8. After the break, the judge asked respondent whether the note had been shown to opposing counsel and she confirmed on the record that it had. The judge also asked respondent what the note said. Respondent again lied and said that the note was limited to the phonetic way to pronounce an upcoming witness' name. The trial continued for the rest of the afternoon and into the next day, Friday, January 6, 2023.

9. As respondent continued with the trial, respondent's supervisors became aware of what had occurred. Respondent's supervisors spoke with respondent during the Friday lunch break, and she then readily admitted what happened. The supervisors advised the court of respondent's misconduct. Respondent then requested that she be allowed to apologize in person on the record to the court and litigants. In open court, respondent then detailed the false statement made to the court and her conduct in inducing the advocate to write a new note to cover up her false statement. Respondent then recused herself with a single witness remaining in the trial.

10. The defense made a motion for dismissal citing prosecutorial misconduct, which the court took under advisement. Before the court issued its ruling, the Hennepin County Attorney's Office moved to dismiss the matter. Because double

jeopardy had already attached at that point in the proceeding, the dismissal occurred with prejudice.

11. Respondent's conduct in knowingly making a false statement to the court and opposing counsel about the contents of the initial note violated Rules 3.3(a)(1), 4.1, and 8.4(c) and (d), Minnesota Rules of Professional Conduct (MRPC).

12. Respondent's conduct in directing the advocate to create a second note to cover up respondent's dishonest conduct and providing that false note to opposing counsel violated Rules 4.1 and 8.4(c) and 8.4(d), MRPC.

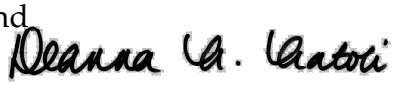
WHEREFORE, the Director respectfully prays for an order of this Court imposing appropriate discipline, awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.



Tuong, Binh
Oct 23 2023 11:26 AM

BINH T. TUONG[1]
DEPUTY DIRECTOR OF THE OFFICE OF
LAWYERS PROFESSIONAL
RESPONSIBILITY
Attorney No. 0297434
445 Minnesota Street, Suite 2400
St. Paul, MN 55101-2139
(651) 296-3952
Binh.Tuong@courts.state.mn.us

and



Natoli, Deanna
Oct 23 2023 11:31 AM

DEANNA N. NATOLI
SENIOR ASSISTANT DIRECTOR
Attorney No. 0390865
Deanna.Natoli@courts.state.mn.us

[1] Susan M. Humiston is recused from this case and has not taken part in these proceedings.