

BEFORE THE COMMISSION ON PRACTICE OF THE  
SUPREME COURT OF THE STATE OF MONTANACOMMISSION ON PRACTICE  
OF THE SUPREME COURT  
STATE OF MONTANA

JUN 15 2022

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IN THE MATTER OF JAMES MCCORMACK,	)	Supreme Court Cause No. PR 21-0354
	)	
An Inactive Attorney,	)	Commission File No. 20-132
	)	
Respondent.	)	<b>FINDINGS OF FACT, CONCLUSIONS</b>
	)	<b>OF LAW AND RECOMMENDATION</b>
	)	<b>FOR DISCIPLINE</b>

The *Amended Complaint* filed by the Office of Disciplinary Counsel (“the ODC”) came on for hearing pursuant to notice before an Adjudicatory Panel of the Commission on Practice on April 20, 2022.<sup>1</sup> The hearing was held by virtual means. Panel members participating in the hearing were Ward “Mick” Taleff, chair, Brad Belke, Andres Haladay, Jean Faure, Lori Maloney, Troy McGee, Lois Menzies, Randy Ogle and Heather Perry. The ODC was represented by Chief Disciplinary Counsel Pam Bucy. Mr. McCormack did not appear, did not request a continuance or seek other relief, and no attorney appeared on his behalf.

On January 10, 2022, the default of Mr. McCormack was entered for failure to file an *Answer* to the *Amended Complaint*. Pursuant to Rule 12C(2), MRLDE, the allegations in the *Amended Complaint* were deemed admitted. The purpose of the hearing was to determine the appropriate discipline for the misconduct, Mr. McCormack’s conviction of a felony offense,

<sup>1</sup> The delay in submitting these Findings, Conclusions and Recommendation is the result of a miscommunication regarding the status of the transcript. The Chair apologizes to the Court and the ODC for not earlier investigating the apparent lack of a transcript.

Criminal Endangerment. Ms. Bucy presented additional information to that contained in the *Amended Complaint*. Panel members posed questions to Ms. Bucy. Having considered the matter, the Commission enters its factual findings, sets forth its legal conclusions and makes its recommendation to the Montana Supreme Court for discipline.

### **FINDINGS OF FACT**

1. James McCormack was admitted to the practice of law in Montana in 2016, at which time he took the oath required for admission, agreed to abide by the Rules of Professional Conduct, the disciplinary rules adopted by the Supreme Court, and to comply with the highest standards of honesty, justice and morality, including but not limited to, those outlined in parts 3 and 4 of Chapter 61, Title 37, Montana Code Annotated.

2. The Montana Supreme Court has approved and adopted the Montana Rules of Professional Conduct ("MRPC"), governing the ethical conduct of attorneys licensed to practice in Montana, which were in effect at all times mentioned in the *Amended Complaint*. The Montana Supreme Court has also adopted the Montana Rules for Lawyer Disciplinary Enforcement ("MRLDE"), which were in effect at all times mentioned in the *Amended Complaint*.

3. On June 12, 2020, Mr. McCormack pled guilty in Montana's Eleventh Judicial District Court, Flathead County, Cause No. DC 19-179, to an amended charge of Criminal Endangerment, a felony, as set forth in the State's Information.

4. On September 18, 2020, the District Court pronounced a two-year deferred sentence, subject to certain terms and conditions of probation. However, the judgment was not reduced to writing until March 10, 2021.

5. By an *Order* filed August 3, 2021, the Montana Supreme Court, pursuant to Rule 23B, MRLDE, determined that the criminal offense for which Mr. McCormack has been convicted affects his ability to practice law, and directed the ODC to file a *Complaint* against Mr. McCormack predicated upon his criminal conviction.

6. Mr. McCormack has failed to offer any explanation of the circumstances of the felony offense and has not attempted to address in any fashion the issue of appropriate discipline. He has been disdainful of this disciplinary process and disrespectful to the personnel in the ODC in their attempts to contact him. He purposely attempted to avoid service of process, eventually being served at the office of his probation officer.

7. Mr. McCormack has no prior disciplinary record.

Based upon the foregoing factual findings, the Commission reaches the following legal conclusions.

### **CONCLUSIONS OF LAW**

1. Mr. McCormack violated Rule 8A(3), MRLDE, in that he engaged in conduct that resulted in conviction of a criminal offense.

2. Mr. McCormack violated Rule 8.4(b), MRPC, in that he committed professional misconduct by committing a criminal act that reflects adversely on his honesty, trustworthiness or fitness as a lawyer.

3. Pursuant to Rule 23C, MRLDE, and the entry of his default, the sole issue to be determined in this proceeding is the extent of the final discipline to be imposed.

## RECOMMENDATION

Although Mr. McCormack lacks a prior disciplinary record, a number of factors support a significant disciplinary outcome. He has failed to participate in these proceedings.<sup>2</sup> He defiantly stated to the ODC his intention to avoid service of process. He has refused to recognize the seriousness of these proceedings. He has shown no remorse or regret. He has displayed a lack of respect for the disciplinary process, this Commission and this Court. He has exhibited disdain and discourtesy toward the personnel in the ODC. His lack of engagement in this process is exacerbated by the fact that he has been admitted to the practice in Montana for a relatively short time. Disregard or complacency about the disciplinary process reflects disrespect for the Court and the profession.

Given these facts, it is the recommendation of the Commission that Mr. McCormack is undeserving of the privilege to continue to practice law without consequence. The Commission recommends that Mr. McCormack be suspended from the practice of law for a period of not less than one (1) year, be ordered to be in compliance with the terms of his probation in the criminal case during the period of his suspension, and that he pay the costs incurred by the ODC and the Commission in these proceedings.

Dated this 15<sup>th</sup> day of June, 2022.

COMMISSION ON PRACTICE OF THE SUPREME  
COURT OF THE STATE OF MONTANA

By: \_\_\_\_\_

  
Ward "Mick" Taleff, Chairperson

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<sup>2</sup> Mr. McCormack did attempt to respond to the initial *Complaint*, but did so in a procedurally flawed manner. Further, he claimed in that flawed filing to not be able to admit a number of obvious facts: the year in which he was admitted; that the Supreme Court has adopted the MRPC and the MRLDE; that the Court had directed the ODC to file the *Complaint*; and the language in the Rules he was alleged to have violated. When the *Amended Complaint* was filed, he failed to file an *Answer*, failed to respond to the ODC's request for entry of default, and has otherwise failed entirely to participate in any manner in these proceedings.

## **CERTIFICATE OF SERVICE**

I, Shelly Smith, hereby certify that I have served true and accurate copies of the foregoing Other  
- Other to the following on 06-15-2022:

Ward E. Taleff (Attorney)  
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Service Method: Conventional

Electronically Signed By: Shelly Smith  
Dated: 06-15-2022