

**BEFORE THE HEARING BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION**

In the Matter of:

KENNETH D. LABUDDA,

Attorney-Respondent,

No. 6277838.

Commission No. 2020PR00069

REPORT AND RECOMMENDATION OF THE HEARING BOARD

DEFAULT PROCEEDING

The hearing in this matter was held on September 8, 2021, before a Hearing Board Panel consisting of Henry T. Kelly, Chair, Jose Damian Ortiz, and Chet Epperson. The hearing was held by videoconference. Christine P. Anderson appeared on behalf of the Administrator. Respondent was not present at the hearing, and no counsel appeared on his behalf. At the conclusion of the Administrator's presentation, Counsel for the Administrator recommended that Respondent be either disbarred or suspended for two years and until further order of the Court. We agree with the recommendation of a suspension for two years and until further order of the Court.

We have considered the Administrator's two-count Complaint, a copy of which is attached as Exhibit 1. We have also considered the Orders entered on January 8, 2021 and May 5, 2021, deeming the factual allegations and charges of misconduct in the Complaint admitted. Copies of those Orders are attached as Exhibits 2 and 3.

An emergency order of protection, entered following the dissolution of Respondent's marriage, prohibited Respondent from contacting his ex-wife or entering their former home. Even though Respondent was personally served with that order, he sent his ex-wife multiple text

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September 16, 2021

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messages. After being arrested for violating the order of protection, Respondent sent his ex-wife additional text messages. Those messages included false claims, which Respondent reiterated to police and medical personnel, that he had been raped. He was arrested again. Subsequently, Respondent entered and removed property from the marital house and then drove to his ex-wife's residence, conduct for which Respondent was arrested a third time. Respondent pled guilty to violating the order of protection and was placed on probation. Probation was revoked after Respondent violated probation by continuing to use alcohol and failing to report.

In aggravation, Panel considered the fact that Respondent violated court orders knowingly, repeatedly and over time. His false claims of rape included racial slurs. Respondent's minimal participation in his own disciplinary proceedings is a serious aggravating factor. Although he participated the first prehearing, thereafter Respondent ignored these proceedings.

The only real mitigating factor is Respondent's lack of prior discipline. That factor did not cause us to recommend a lesser sanction.

Accordingly,

1. Respondent was served with the Complaint on November 17, 2020. A copy of the Affidavit of Agreed Service is attached as Exhibit 4.
2. The allegations of the Complaint were deemed admitted in Orders filed on January 8, 2021 and May 5, 2021. Copies of those Orders are attached as Exhibits 2 and 3.
3. In consideration of the Orders deeming the allegations of the Complaint admitted, this Panel finds Respondent committed the misconduct charged in the Complaint.

4. Given Respondent's misconduct, the aggravating factors present, and the case law cited by the Administrator, we recommend that Respondent, Kenneth D. Labudda, be suspended for two years and until further order of the Court.
5. The Panel has concluded this report format will adequately and appropriately communicate its recommendation to the Court.

Respectfully submitted,

Henry T. Kelly
Jose Damian Ortiz
Chet Epperson

CERTIFICATION

I, Michelle M. Thome, Clerk of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois and keeper of the records, hereby certifies that the foregoing is a true copy of the Report and Recommendation of the Hearing Board, approved by each Panel member, entered in the above entitled cause of record filed in my office on September 16, 2021.

/s/ Michelle M. Thome

Michelle M. Thome, Clerk of the
Attorney Registration and Disciplinary
Commission of the Supreme Court of Illinois

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Exhibit 1

BEFORE THE HEARING BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION

In the Matter of:

KENNETH D. LABUDDA,
Attorney-Respondent,
No. 6277838.

Commission No. 2020PR00069

COMPLAINT

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, Christine P. Anderson, pursuant to Supreme Court Rules 753 and 761, complains of Respondent, Kenneth D. Labudda, who was licensed to practice law in the State of Illinois on November 7, 2002 and alleges that Respondent has engaged in the following conduct which tends to defeat the administration of justice or to bring the courts or the legal profession into disrepute, and which subjects Respondent to discipline pursuant to Supreme Court Rule 770:

COUNT I

*(Conviction for Violation of an Order of Protection,
dishonest statements and sending racially offensive text messages)*

1. On October 25, 2018, Respondent's wife, Rosemarie Labudda ("ex-wife"), obtained a judgment of dissolution against Respondent, in the matter entitled, *In the Marriage of Rosemarie K. Labudda and Kenneth D. Labudda*, 18D39 (Cir. Ct. Lake Co.). Respondent did not answer or appear in the matter and the judgment was entered by default. Pursuant to the judgment, Respondent's ex-wife was awarded sole possession of the marital home in Lake Zurich, Illinois.

2. On December 10, 2018, the Court granted an emergency order of protection against Respondent in Lake County, Illinois, *In re Rosemarie Labudda*, 18OP2280. In the

petition for the order of protection, Respondent's ex-wife alleged that, in violation of the dissolution judgment, Respondent appeared at the marital home and removed various items from the home. She also alleged that Respondent sent her threatening and nasty messages. The order of protection provided that Respondent was prohibited from harassing, interfering with personal liberty, physical violence or stalking of his ex-wife. In addition, Respondent was ordered to have no physical, verbal, written, third party or social media contact with his ex-wife. He was also ordered to stay at least 500 feet away from his ex-wife and the former Lake Zurich marital home.

3. On December 11, 2018, Respondent was personally served with the order of protection in case number 18OP2280.

4. On December 16, 2018, beginning at or about 2:15 p.m., Respondent sent approximately nine text messages of an harassing nature to his ex-wife, in violation of the order of protection in case number 18OP2280.

5. On December 16, 2018, based on the text messages sent to his ex-wife, referenced in paragraph four above, Respondent was arrested for violating the order of protection, in the matter entitled, *People of the State of Illinois v. Kenneth Labudda*, 18CM3880 (Cir. Ct. Lake Co.).

6. On December 17, 2018, Respondent posted bond in case number 18CM3880 and was released from the Lake County Jail.

7. On December 21, 2018, beginning at approximately 8:49 p.m., Respondent sent the following string of text messages to his ex-wife:

Last Sunday night, I was arrested and sent to jail. While in prison, I was raped. Whatever love we once shared is now gone.

Thank you for making that so.

Four black guys. It was one hell of a party, and my asshole is still bleeding.

Thank you.

And the beautiful cops told them that I was a lawyer who was arrested for violating a Protection Order. Those Niggers really injured me. Good Bye.

I was released from Waukegan, and have been seeking medical treatment for a torn colon.

You have had your revenge, and I am struggling to live.

Just stay away, I will tend to myself.

Larry Sr. needs your attentions.

Fr. Julius told me all about you and your wonderful family. I did not heed his wise words.

I am at death's door. Farewell.

Just took a poop, and the toilet was full of blood. I can barely stand.

I loved you with all of my heart.

1010 N. Sterling Ave., Palatine. Please cremate my body.

An plaze (sic) my Ashesv (sic) in Bless D (sic) ground. I am not well.

Please Baby Girl. I am in Apt. 203, 1010 N. Sterling. I am dreadfully ill.

8. On December 21, 2018, based on the text messages to his ex-wife, referenced in paragraph seven above, Respondent was arrested for a second violation of the order of protection, in the matter entitled, *People of the State of Illinois v. Kenneth Labudda*, 18CM3447. During his arrest, he advised the arresting officer, Deputy Sean Werchek and Northwest Community Hospital emergency room doctor, Peter Lazzari, that he had been raped in the Lake County Jail the previous weekend when he was arrested on his first violation of the order of protection. Respondent was taken to the hospital by Deputy Werchek because he had claimed to be suffering from chest pains. Respondent was cleared and transferred to the Lake County Jail later that evening.

9. Respondent's statements to his ex-wife, Deputy Werchek and Doctor Lazzari, referenced in paragraphs seven and eight above, that he was raped in the Lake County jail and

that the cops advised other inmates that he was a lawyer arrested for violating an order of protection, were false, because Respondent was not raped by four black men, or any other inmate, in the Lake County Jail and the police officers did not advise other inmates that Respondent was a lawyer arrested for violating an order of protection.

10. At the time Respondent made the statements to his ex-wife, Deputy Werchek and Doctor Lazzari, that he was raped in the Lake County Jail and that the cops advised the other inmates that he was a lawyer arrested for violating an order of protection, as described in paragraphs seven and eight, above, he knew that his statements were false.

11. On December 27, 2018, Respondent posted bond in case number 18CM3447 and was released from the Lake County Jail.

12. On December 31, 2018, at approximately 5:45 a.m., in violation of the order of protection in case number 18OP2280, Respondent appeared and entered his former marital home in Lake Zurich. Respondent entered the home through a boarded up window well. After entering the home, Respondent proceeded to remove various items from the home.

13. In the afternoon of December 31, 2018, Respondent travelled to a Walgreens store in Lake Zurich and purchased a bottle of Jack Daniels whiskey. He drank from the bottle of Jack Daniels and then placed the remainder of the open bottle into the glove compartment of his vehicle. He then drove to a home, where he knew his wife was staying with her sister, a few blocks from the Walgreens. As he pulled away from the home where his ex-wife was staying, he was pulled over by Deputy Werchek and arrested for a third violation of the order of protection, in the matter entitled, *People of the State of Illinois v. Kenneth Labudda*, 19CM112 (Cir. Ct. Lake Co.). At the time of his arrest, Respondent had the open bottle of Jack Daniels in his

vehicle and he was also charged with the open transportation of alcohol in the matter entitled, *People of the State of Illinois v. Kenneth Labudda*, 19TR2 (Cir. Ct. Lake Co.).

14. On January 11, 2019, an Information was filed in case number 19CM112, charging Respondent with a violation of the order of protection by making prohibited contact at the Lake Zurich martial home on December 31, 2018.

15. On February 20, 2019, Respondent pled guilty to violating an order of protection, a Class A misdemeanor, in violation of Chapter 720, Section 5/12-3.4(a)(1) of the Illinois Compiled Statutes, in case number 19CM112. On that date, the Honorable Charles D. Johnson entered a judgment of conviction against Respondent for the crime of violating an order of protection. Judge Johnson sentenced Respondent to 18 months of probation, with 180 days of stayed jail time. As part of the terms of his probation, Respondent was ordered to comply with various conditions, including abstinence from alcohol, submit to random urine screens, and submit to substance abuse and domestic violence evaluation and treatment. Pursuant to Respondent's plea agreement, the State's Attorney dismissed the remaining charges pending against Respondent.

16. On May 29, 2019 and August 11, 2019, petitions to revoke probation were filed against Respondent in case number 19CM112, based on Respondent's continued alcohol usage, positive urine screens for alcohol and failing to report to probation, in violation of the terms of his probation. A warrant was issued for Respondent's arrest on August 21, 2019. On August 26, 2019, Respondent was arrested on the warrant and transferred to the Lake County Jail, where he remained until November 2, 2019.

17. On November 1, 2019, the Honorable Jacquelyn D. Melius found that Respondent violated his probation in case number 19CM112, revoked his probation and sentenced Respondent to serve 240 days in the Lake County Jail, with credit for time served.

18. On November 2, 2019, Respondent was released from the Lake County Jail after receiving credit for serving the entire 240 sentence, with good time, and his case was terminated.

19. As a result of the judgment of conviction and the conduct described above, Respondent has engaged in the following misconduct:

- a. committing criminal acts that reflects adversely on his honesty, trustworthiness or fitness as a lawyer in other respects, by engaging in the crimes of violation of an order of protection, in violation of 720 ILCS 5/12-3.4(a)(1), and in violation of Rule 8.4(b) of the Illinois Rules of Professional Conduct;
- b. conduct involving dishonesty, fraud, deceit or misrepresentation, by falsely stating to his ex-wife that he was raped by “four black guys” in the Lake County Jail and that the cops advised other inmates that he was a lawyer arrested for violating an order of protection, and by falsely stating to Deputy Werchek and Doctor Lazzari that he was raped in the Lake County Jail, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct; and
- c. engaging in conduct that is prejudicial to the administration of justice, in violation of Rule 8.4(d) of the Rules of Professional Conduct, by virtue of Respondent having sent text messages to his ex-wife containing racially offensive language, as described in paragraph 7, above.

COUNT II

(Failure to report his conviction pursuant to Supreme Court Rule 761)

1-19. The Administrator realleges the facts set forth in paragraphs one through 19, above.

20. Supreme Court Rule 761(a) provides that it is the duty of an attorney admitted in this state who is convicted in any court of a felony or misdemeanor to notify the Administrator of the conviction in writing within thirty days of the entry of the judgment of conviction.

21. A conviction for violation of an order of protection, in violation of Chapter 720, Section 5/12-3.4(a)(1) of the Illinois Compiled Statutes, is a Class A misdemeanor.

22. Pursuant to Supreme Court Rule 761(a), Respondent was required to notify the Administrator of his conviction on or before March 22, 2019.

23. At no time did Respondent notify the Administrator of his misdemeanor conviction in case number 19CM112 as required by Supreme Court Rule 761(a).

24. As a result of the order of conviction and the conduct described above Respondent has engaged in the following misconduct:

- a. failing to notify the Administrator of his conviction in writing within 30 days after the entry of the judgment of conviction in violation of Supreme Court Rule 761(a).

WHEREFORE, the Administrator respectfully requests that this matter be assigned to a panel of the Hearing Board, that a hearing be held pursuant to Supreme Court Rule 761, and that the panel make findings of fact, conclusions of fact and law, and a recommendation for such discipline as is warranted.

Respectfully submitted,

Jerome Larkin, Administrator
Illinois Attorney Registration and
Disciplinary Commission

By: /s/Christine P. Anderson
Christine P. Anderson

Christine Anderson
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Exhibit 2

**BEFORE THE HEARING BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
DISCIPLINARY COMMISSION**

FILED

January 08, 2021

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In the Matter of:

KENNETH D. LABUDDA,

Attorney-Respondent,

No. 6277838.

Commission No. 2020PR00069

ORDER

A pre-hearing conference was held in this matter on January 7, 2021, at 9:30 a.m. by telephone. Participating were Henry T. Kelly, Chair; Christine P. Anderson, Counsel for the Administrator; and Respondent *pro se*. The parties advised the Chair as to the status of the matter. Accordingly,

IT IS ORDERED:

1. The Administrator's Motion to Deem the Allegations of the Complaint Admitted Pursuant to Commission Rule 236 (Motion to Deem), to which no written response was filed, is granted in part and entered and continued in part, consistent with the discussion on the record;
2. The Motion to Deem is granted insofar as it seeks to have the factual allegations of the Complaint deemed admitted. No further proof of the factual allegations of the Complaint will be required;
3. The Motion to Deem is entered and continued insofar as it seeks to have the allegations of misconduct deemed admitted. That portion of the Motion to Deem will be addressed at the next pre-hearing conference;
4. A further telephonic pre-hearing conference shall be held via WebEx on March 11, 2021, at 10:00 a.m. Counsel for the Administrator and Respondent shall be available at that time

and are responsible for connecting to WebEx. The Clerk of the Commission shall provide the parties with WebEx access information.

CERTIFICATION

I, Kenneth G. Jablonski, Clerk of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois and keeper of the records, hereby certifies that the foregoing is a true copy of the order, approved by the Hearing Board Chair, entered in the above entitled cause of record filed in my office on January 8, 2021.

/s/ Kenneth G. Jablonski

Kenneth G. Jablonski,
Clerk of the Attorney Registration and
Disciplinary Commission of the
Supreme Court of Illinois

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Exhibit 3

**BEFORE THE HEARING BOARD
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AND
DISCIPLINARY COMMISSION**

In the Matter of:

KENNETH D. LABUDDA,

Attorney-Respondent,

No. 6277838.

Commission No. 2020P00069

ORDER

A telephonic pre-hearing conference was held in this matter on May 4, 2021, at 10:00 a.m. Participating were Henry T. Kelly, Chair and Christine P. Anderson, Counsel for the Administrator. The Clerk of the Commission provided Respondent with call-in information but Respondent did not participate. Counsel for the Administrator advised the Chair as to the status of the matter. Accordingly,

IT IS ORDERED:

1. Respondent having failed to file an answer or a response to the Administrator's Motion to Deem the Allegations of the Complaint Admitted Pursuant to Commission Rule 236 (Motion), the portion of the Motion seeking to have the allegations of misconduct deemed admitted is granted. No further proof of the factual allegations and disciplinary charges shall be required. The hearing shall be limited to the presentation of evidence of aggravating and mitigating factors and arguments regarding the form and amount of discipline to be imposed;

2. The parties shall exchange any expert witness reports on or before June 18, 2021;

3. The parties shall complete all discovery on or before July 16, 2021;

4. The parties shall exchange lists of exhibits they propose to offer and witnesses they intend to call at hearing on or before July 29, 2021;

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May 05, 2021

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5. On or before August 20, 2021, the parties shall meet and confer to determine whether they can agree to the admissibility of exhibits and evidence proposed to be offered at hearing;

6. The parties shall exchange the exhibits they intend to offer at hearing on or before September 1, 2021;

7. The hearing in this matter is scheduled for September 8, 2021, commencing at 9:30 a.m., and will be held remotely by Webex video conference. The Clerk of the Commission shall provide the parties with Webex access information; and

8. The parties shall prepare exhibits in conformance with Commission Rule 276 and the Clerk of the Commission's procedures regarding electronic exhibits.

CERTIFICATION

I, Kenneth G. Jablonski, Clerk of the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois and keeper of the records, hereby certifies that the foregoing is a true copy of the order, approved by the Hearing Board Chair, entered in the above entitled cause of record filed in my office on May 5, 2021.

/s/ Kenneth G. Jablonski

Kenneth G. Jablonski, Clerk of the
Attorney Registration and Disciplinary
Commission of the Supreme Court of Illinois

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Exhibit 4

BEFORE THE HEARING BOARD
OF THE
ILLINOIS ATTORNEY REGISTRATION
AND
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In the Matter of:

KENNETH D. LABUDDA

Attorney-Respondent,

No. 6277838.

Commission No. 2020PR0069

AFFIDAVIT OF AGREED SERVICE PURSUANT TO COMMISSION RULE 214(c)

I, Kevin P. Roach, (“Affiant”) being duly sworn, hereby state:

1. Affiant possesses firsthand knowledge of the facts presented in this Affidavit and, if called as a witness, Affiant will testify to the truth of the facts as presented in this Affidavit.
2. Affiant is a Senior Investigator for the Attorney Registration and Disciplinary Commission of the Supreme Court of Illinois (“The Commission”) and, as such, is authorized to serve process.
3. On Tuesday November 10, 2020, at approximately 2:58 p.m., Affiant sent an email to kenneth.labuda@comcast.net, Respondent’s email address, to determine whether Respondent was willing to accept electronic service of the disciplinary complaint and associated documents in this matter.
4. On Wednesday November 17, 2020, at approximately 8:20 a.m., Affiant placed a telephone call and message to Respondent at (224) 532-0660, to determine whether Respondent was willing to accept electronic service of the disciplinary complaint and associated documents in this matter

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11/18/2020 10:53 AM
ARDC Clerk

5. On Wednesday November 17, 2020, at approximately 1:46 p.m., Respondent returned my telephone message, confirming that Respondent would accept electronic service of the disciplinary complaint and associated documents.

6. On Wednesday November 17, 2020, at 2:56 p.m., Affiant sent an email to Respondent at kenneth.labudda@comcast.net that included the disciplinary complaint, a copy of 2020 Rules of the ARDC, the filing and procedures memo, a letter regarding electronic service of disciplinary complaints, and an entry of appearance letter.

7. On Wednesday November 17, 2020, at 4:12 p.m., Respondent sent Affiant an email confirming that Respondent had received the disciplinary complaint and associated documents.

8. Further Affiant sayeth not.

/s/ Kevin P. Roach
Kevin P. Roach, Senior Investigator

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

/s/ Kevin P. Roach
Kevin P. Roach