

People v. Bruce A. Logan. 17PDJ001. November 6, 2017.

On November 6, 2017, the Presiding Disciplinary Judge issued an order revoking Bruce A. Logan's (attorney registration number 14187) three-year period of probation, vacating the stay on his one-year-and-one-day suspension, and suspending him for one year and one day. The suspension took effect November 20, 2017. To be reinstated, Logan will bear the burden of proving by clear and convincing evidence that he has been rehabilitated, has complied with disciplinary orders and rules, and is fit to practice law.

On January 4, 2017, Logan was suspended from the practice of law for a period of one year and one day, all to be stayed upon the successful completion of a three-year period of probation. The terms of his probation required him to remain current on child support obligations. At a hearing held under C.R.C.P. 251.7(e), Logan agreed that he had violated the terms of his probation by continuing to fail to pay child support, thereby also violating Colo. RPC 3.4(c) (a lawyer shall not knowingly disobey an obligation under the rules of a tribunal) and Colo. RPC 8.4(d) (a lawyer shall not engage in conduct that is prejudicial to the administration of justice). Nevertheless, Logan asked to modify the sanction to which he had earlier stipulated. The Presiding Disciplinary Judge rejected Logan's request and suspended Logan in accordance with the terms of his stipulation.

<p>SUPREME COURT, STATE OF COLORADO</p> <p>ORIGINAL PROCEEDING IN DISCIPLINE BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 1300 BROADWAY, SUITE 250 DENVER, CO 80203</p>	
<p>Petitioner: THE PEOPLE OF THE STATE OF COLORADO</p> <p>Respondent: BRUCE A. LOGAN, #14187</p>	<p>Case Number: 17PDJ001</p>
<p>ORDER REVOKING PROBATION UNDER C.R.C.P. 251.7(e)</p>	

This is the second case in which the Office of Attorney Regulation Counsel (“the People”) has sought to revoke Bruce A. Logan’s (“Respondent”) probation because he violated terms of a stipulated, fully stayed suspension—namely that he remain current on child support orders.¹ Respondent agrees that his continued failure to satisfy his child support obligations violates the probationary terms of his stipulation. But he nevertheless asks for modification of the sanction to which he agreed when he negotiated the stipulation. Because Respondent’s request is neither justified by the facts nor compatible with the principles of fairness and consistency, the Presiding Disciplinary Judge (the “Court”) lifts the stay on Respondent’s sanction and suspends him in accordance with the terms of his stipulation.

I. BACKGROUND

On January 4, 2017, the Court approved a “Stipulation, Agreement and Affidavit Containing the Respondent’s Conditional Admission of Misconduct” and suspended Respondent from the practice of law for a period of one year and one day, all to be stayed upon the successful completion of a three-year period of probation.

On September 7, 2017, the parties filed a “Partial Stipulation to Revoke Respondent’s Probation.” In that submission, the parties stipulated that Respondent had violated the terms of his probation. Because they could not agree as to the appropriate consequence for his violations, however, they requested a hearing on the sanctions. The Court accepted the stipulation and held a hearing as to sanctions on October 4, 2017; Jacob M. Vos appeared for

¹ See stipulated facts and rule violations, *infra*, for a full discussion of Respondent’s disciplinary history.

the People, and Respondent attended pro se. At the hearing, Respondent testified and both parties presented argument, but no exhibits were introduced.

II. STIPULATED FACTS AND RULE VIOLATIONS

Respondent took the oath of admission and was admitted to the bar of the Colorado Supreme Court on October 30, 1984, under attorney registration number 14187. He is thus subject to the jurisdiction of the Colorado Supreme Court and this Court in this proceeding.² Where not otherwise noted, the following findings of facts are drawn from the parties' partial stipulation to revoke probation, dated September 7, 2017.

Respondent's ex-wife filed for divorce around October 2009.³ In a parenting plan dated June 16, 2010, Respondent's child support obligation was set at \$830.00 per month.⁴ The plan also required him to pay half of various child-related expenses, including therapy, uninsured medical expenses, two extra-curricular activities, and Girl Scouts.⁵ The parenting plan was adopted through the court's dissolution decree entered June 22, 2010.⁶

On February 11, 2015, Respondent entered into a memorandum of understanding, which the domestic court approved on February 17 and converted to a support order on May 11 of the same year.⁷ The order increased Respondent's child support to \$900.00 per month, allocating the additional \$70.00 per month toward his arrearages, which were at that time yet to be determined.⁸ The order also required that Respondent pay his share of his child's individual therapy expenses two sessions in advance, and it activated an income assignment against Respondent to be paid through the Family Support Registry.⁹

On April 16, 2015, this Court approved a disciplinary stipulation in case number 15PDJ026, suspending Respondent for ninety days, all stayed upon the successful completion of a three-year period of probation.¹⁰ The stipulation was premised on Respondent's failure to adhere to domestic court orders. His probationary conditions included compliance with all court orders issued in his domestic relations case.¹¹

On November 17, 2015, the domestic relations court entered a third order, establishing Respondent's arrearages at \$21,462.56.¹² That order required Respondent to continue paying \$830.00 per month toward child support obligations and \$70.00 per month

² See C.R.C.P. 251.1(b).

³ Stip. ¶(c).

⁴ Stip. ¶(c).

⁵ Stip. ¶(c).

⁶ Stip. ¶(c).

⁷ Stip. ¶(d).

⁸ Stip. ¶(d).

⁹ Stip. ¶(d).

¹⁰ Stip. ¶(a).

¹¹ Stip. ¶(a).

¹² Stip. ¶(e).

toward accumulated arrearages, mandated that Respondent pay for half of his child's medical and dental expenses, and left the remaining sections of the prior orders in place.¹³

In September 2016, the People sought to revoke Respondent's disciplinary probation in case number 15PDJ026 based on his failure, between December 2015 and August 2016, to keep up with child support payments, activity payments, and therapy payments.¹⁴ Respondent confessed the People's factual allegations but argued that mitigating factors, including his inability to maintain steady unemployment, warranted either maintaining his probation or imposing a shorter served suspension.¹⁵ The Court disagreed and revoked Respondent's probation, suspending him for ninety days effective September 23, 2016.¹⁶

On November 15, 2016, in the wake of this Court's decision to revoke his probation, Respondent moved the domestic relations court to modify his child support payments.¹⁷ His motion stated, "Since the original agreement [Respondent's] annual income has been substantially less than at the time [sic]. While adjusted in 2015 the lower income has continued and payment on the obligation has been impossible. The obligation should be changed to reflect actual income levels earned during the past seven years."¹⁸

The domestic relations court held a conference on Respondent's motion to modify on December 21, 2016.¹⁹ Respondent failed to appear, and the court dismissed the motion as abandoned.²⁰ Respondent does not know why he failed to appear for the hearing, but he guesses that he either did not receive notice of the hearing or failed to accurately calendar it.²¹

Shortly thereafter, on January 4, 2017, Respondent entered a new disciplinary stipulation in the instant matter, agreeing to a suspension of one year one day, fully stayed upon the successful completion of a three-year period of probation.²² This sanction was imposed based on Respondent's failure to stay current on child support orders between December 2015 and December 2016.²³ The primary condition of Respondent's probation was

¹³ Stip. ¶(e).

¹⁴ Stip. ¶(f).

¹⁵ Stip. ¶(f).

¹⁶ Stip. ¶¶ (a), (f).

¹⁷ Stip. ¶(g).

¹⁸ Stip. ¶(g).

¹⁹ Stip. ¶(h).

²⁰ Stip. ¶(h).

²¹ Stip. ¶(h).

²² Stip. ¶(b).

²³ Stip. ¶(b).

that he comply with child support orders.²⁴ Respondent's law license was then reinstated via affidavit in case number 15PDJo26 on January 11, 2017.²⁵

On February 20, 2017, Respondent's ex-wife filed another request for investigation with the People, claiming that Respondent had once again fallen behind on his child support payments, activity payments, and therapy payments.²⁶

Then, in March 2017, Respondent's ex-wife moved the domestic relations court to issue a citation for contempt based on Respondent's failure to comply with court orders, including failing to make child support payments and to pay child support arrearages, therapy costs, and health care expenses.²⁷ She also complained of his failure to notify her, in violation of the parenting plan, of his current address and the status of his life insurance.²⁸

Respondent filed a second motion to modify his child support payments in April 2017.²⁹ His new motion provided some detail over and above his first modification motion, including the fact that in 2016 his adjusted gross income was \$37,130.00.³⁰ Meanwhile, Respondent's ex-wife moved for a verified entry of a support judgment against him.³¹ The domestic relations court granted her motion on April 14, 2017, concluding that Respondent owed \$12,777.81 in past due child support arrearages as of March 1, 2015, and \$13,808.75 in statutory interest accruing from April 1, 2015, through March 1, 2017, for a total judgment of \$26,586.56.³² That judgment has not yet been satisfied.³³

Respondent's ex-wife also objected to his second motion to modify, and in May 2017 the domestic relations court ordered the parties to mediate.³⁴ They have not yet mediated, however; Respondent's ex-wife moved to dismiss his second motion to modify based on his failure to comply with the court's mediation order.³⁵ On July 10, 2017, Respondent asked the domestic relations court for more time to schedule mediation, stating that his current employment contract would help him to pay for the costs of the mediation.³⁶

²⁴ Stip. ¶(b). At the time the Court accepted the stipulation, the domestic relations court records in Arapahoe County District Court reflected that Respondent had filed a motion to modify his pending child support payments. Stip. ¶(b).

²⁵ Stip. ¶(a).

²⁶ Stip. ¶(j).

²⁷ Stip. ¶(l).

²⁸ Stip. ¶(l).

²⁹ Stip. ¶(m).

³⁰ Stip. ¶(m).

³¹ Stip. ¶(n).

³² Stip. ¶(n).

³³ Stip. ¶(n).

³⁴ Stip. ¶(o).

³⁵ Stip. ¶(o).

³⁶ Stip. ¶(p).

On July 13, 2017, the domestic relations court held a hearing on the contempt motion.³⁷ Though the court found that elements of punitive contempt had not been proved, it ruled that Respondent, who “does have [the] ability to pay,” was in remedial contempt as to child support arrearages and expenses.³⁸ The court held that in order to purge the contempt Respondent would have to pay \$786.16 within ten days for his portion of his child’s uninsured health expenses, and to pay \$35,271.31 within sixty days for child support payments, arrearages, medical expenses, extracurricular activity expenses, and attorney’s fees.³⁹ The court gave him sixty days to discuss a plan for recommencing therapy with his child and for paying extracurricular activity costs.⁴⁰ He was also ordered to provide updated W-2s and financial statements.⁴¹ On September 14, 2017, the domestic relations court reviewed the status of Respondent’s efforts to purge the contempt; that court concluded that Respondent had not made any effort to purge his contempt and remanded him into the custody of the Arapahoe County Sheriff’s Office, with bond set at \$5,000.00 cash.⁴²

Respondent’s failure to obey the operative court orders in his domestic relations matter, as described above, contravenes Colo. RPC 3.4(c), which provides that a lawyer shall not “knowingly disobey an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists.”⁴³ He also breached Colo. RPC 8.4(d), which proscribes conduct that is prejudicial to the administration of justice.⁴⁴ His failure to conform his conduct to the Colorado Rules of Professional Conduct and the domestic relations orders violates the terms of his probation in case number 17PDJ001.⁴⁵

III. LEGAL STANDARDS AND ANALYSIS

C.R.C.P. 251.7(e) permits the People, should they receive information indicating that a lawyer may have violated probationary conditions, to file a motion seeking an order requiring the lawyer to show cause why the lawyer’s suspension should not be activated. If either party so requests, the Court must hold a hearing on the motion.⁴⁶ At such a hearing, the People normally bear the burden of establishing any probationary violation by a preponderance of the evidence.⁴⁷ The parties agree, however, that their partial stipulation satisfies the People’s burden, which now shifts to Respondent to show why his probation should not be revoked.

³⁷ Stip. ¶(q).

³⁸ Stip. ¶(q).

³⁹ Stip. ¶(q).

⁴⁰ Stip. ¶(q).

⁴¹ Stip. ¶(q).

⁴² Status Report Exs. 1-2 (Sept. 21, 2017).

⁴³ Stip. ¶(r).

⁴⁴ Stip. ¶(r).

⁴⁵ Stip. ¶(r).

⁴⁶ C.R.C.P. 251.7(e).

⁴⁷ *Id.*

At the hearing, Respondent prefaced his arguments by noting that his legal career hit several speed bumps beginning in 2008 and that he has “foundered” at various times since then. He made clear that financial circumstances forced him to fall behind on his child support obligations, and he insisted that he takes seriously his responsibility as a father to provide for his child. He acknowledged that because he has not done so, he must serve a period of suspension.

But if and when he demonstrates that he has come into full compliance with all domestic court orders, he argued, he should be eligible for early reinstatement. He reasoned that such an outcome would serve the interests (primarily the material wellbeing) of his child, whom he can best support financially by working as a lawyer—the only career he has known and the only way he has ever earned a livelihood. Further, he asserted, the People have nothing to lose if the Court allows for early reinstatement: because the objective here is to compel his compliance with court-ordered child support, he said, no one should be more pleased than the People and this Court if he manages to purge his contempt. Respondent was not sanguine that he would be able to do so based on his current financial situation alone. He did mention, however, that with the financial assistance of his father he might be able to come into compliance with court orders. Respondent also pointed to case law supportive of his request; he noted that Colorado courts have allowed suspended lawyers to reinstate early if the lawyers could demonstrate that they had fulfilled past-due child support obligations. A similar resolution is fitting here, too, he argued: although there aren’t do-overs,” he said, there should be “start-overs.”

The People strongly disagreed. First, they observed that the disciplinary stipulation Respondent agreed to in January of this year stayed his suspension, but only if he adhered to probationary terms, chief among which was his compliance with child support orders. His request now to relitigate the question of sanctions, they contended, upends the very essence of the stipulation agreement—that having enjoyed the benefit of the bargain, Respondent must also be held to account for his failure to uphold that bargain. To permit Respondent to modify the parties’ stipulation at this point, they said, would send a message that stayed sanctions can be changed with pleas for forbearance. Second, the People maintained Respondent’s cited authorities are distinguishable because the complexion and history of this case differs markedly from those cases. They noted that in both *In re Green*⁴⁸ and *People v. Johnson*⁴⁹—the cases on which Respondent relies—early reinstatement in exchange for compliance with court-ordered child support was offered the *first* time that the lawyers ran afoul of court support orders. They contrasted those cases with this situation, where Respondent has thrice violated such orders—and negotiated significantly better deals the first two times around than the lawyers in *Green* and *Johnson*.

The Court, after careful consideration, sides with the People. In April 2015, Respondent negotiated a ninety-day stayed suspension and a three-year period of probation

⁴⁸ 982 P.2d 838 (Colo. 1999).

⁴⁹ 35 P.3d 192 (O.P.D.J. Colo. 1999).

premised on his compliance with child support orders. But he failed to adhere to those conditions, and the Court revoked his probation in October 2016. In January 2017—around the time he was reinstated from his ninety-day suspension—he negotiated yet another suspension, which was stayed on condition that he would keep current on child support obligations. He has again failed to satisfy his child support conditions. Accordingly, under the agreement that Respondent struck at the start of this year, he should be suspended for one year and one day. He has presented no compelling reason to stray from the terms of that agreement.

The Court first notes, as a factual matter, that if Respondent has financial resources available to him—whether from his father or from some other pool of funds—he should have attempted to tap those reserves before, not after, he fell out of compliance with court orders.

As a matter of policy, the Court refuses to compromise the integrity of the settlement process by conveying to Respondent (or any other lawyer) that approved stipulations to discipline are subject to reexamination as a matter of course. It is particularly important to enforce negotiated settlements resulting in stayed suspensions, where respondents receive lenient sanctions in exchange for adherence to certain requirements. Further, meddling with the agreed-upon sanction here could send the message to other lawyers that their failure to pay child support will not be met with appropriate consequences because disciplinary sanctions may affect the financial welfare of their children. As the People keenly observed, the “bitter irony” of all child support cases is that a lawyer’s suspension for failure to pay child support may further impair the lawyer’s ability to make those support payments. But to fail to pay child support and then to cite the child’s financial wellbeing as a reason to avoid or modify sanctions is disingenuous.

Respondent’s references to case law do not sway the Court. In *Green*, a lawyer who had no prior discipline knowingly failed for five years to pay over \$11,000.00 in court-ordered child support and failed to file his attorney registration statement.⁵⁰ The Colorado Supreme Court suspended *Green* for one year and one day but held that if he demonstrated within the period of suspension that he had paid his past-due child support or negotiated a payment plan approved by the appropriate court, he could be reinstated early and placed on a three-year period of probation.⁵¹ In that ruling, the *Green* court noted that “the possibility of probation is a practical and meaningful way to encourage a lawyer who is in arrears on child support to make a good-faith effort to satisfy those obligations.”⁵² Here, Respondent has twice been offered a stayed sanction with probation, yet this “carrot” approach has had no discernible effect on his conduct.

⁵⁰ *Green*, 982 P.2d at 838.

⁵¹ *Id.* at 839.

⁵² *Id.* Just as in *Green*, the lawyer in *Johnson* had not previously been sanctioned in the disciplinary system for failure to honor child support obligations. 35 P.3d at 195.

The Court considers this case more analogous instead to *People v. Hanks*, in which a lawyer who had “chronically” failed to pay child support was suspended for one year and one day.⁵³ There, Hanks had been ordered to pay \$20,000.00 in past-due child support and \$1,500.00 per month for his three children going forward.⁵⁴ Although Hanks paid some money toward child support, he made little to no financial contribution over a three-year period; at the time of the disciplinary hearing he was \$55,282.62 in arrears, and a finding of contempt against him had not been dismissed.⁵⁵ Similarly, Respondent has twice violated disciplinary orders to make court-ordered child support payments, and the domestic relations court recently held that Respondent had “not made any efforts to purge his contempt.”⁵⁶ Imposing the one-year-and-one-day suspension that Respondent agreed he would serve if he failed to comply with the domestic relations orders is thus not only in keeping with case law but also fair and reasonable. Accordingly, the Court will lift the stay on Respondent’s suspension.

IV. ORDER

The Court **REVOKES** Respondent’s probation, **VACATES** the stay on Respondent’s one-year-and-one-day suspension, and **SUSPENDS** Respondent from the practice of law for **ONE YEAR AND ONE DAY**, effective **Monday, November 20, 2017**. On that date, the Court will issue an “Order and Notice of Suspension.” Within fourteen days thereafter, Respondent **SHALL** comply with C.R.C.P. 251.28(d), requiring an lawyer to file an affidavit with the Court setting forth pending matters and attesting, inter alia, to notification of clients and of other jurisdictions where the lawyer is licensed. Should Respondent wish to resume the practice of law, Respondent will be required to petition for reinstatement under C.R.C.P. 251.29(c).

DATED THIS 6th DAY OF NOVEMBER, 2017.

WILLIAM R. LUCERO
PRESIDING DISCIPLINARY JUDGE

Copies to:

Jacob M. Vos
Office of Attorney Regulation Counsel

Via Email
j.vos@csc.state.co.us

Bruce A. Logan
Respondent

Via Email
bruceloganattorney@gmail.com

⁵³ 967 P.2d 144, 145 (Colo. 1998).

⁵⁴ *Id.*

⁵⁵ *Id.* at 145-46.

⁵⁶ Status Report Ex. 1-2 (Sept. 21, 2017).