

SUPREME COURT, STATE OF COLORADO
TWO EAST 14TH AVENUE
DENVER, COLORADO 80203

CASE NO. 02SA164

ORIGINAL PROCEEDING IN DISCIPLINE
UNAUTHORIZED PRACTICE OF LAW 01UPL63 & 02UPL127

Petitioner:

THE PEOPLE OF THE STATE OF COLORADO,

v.

Respondent:

CRYSTAL SLUYTER

RECEIVED

APR 14 2003

ATTORNEY
REGULATION

JL
411A

ORDER OF COURT

Upon consideration of the Presiding Disciplinary Judge's Report Pursuant to C.R.C.P. 53(e) Re: Findings of Fact, Conclusions of Law and Recommendation for Final Disposition, and now being sufficiently advised in the premises,

IT IS ORDERED that CRYSTAL D. SLUYTER is found GUILTY of Contempt of the Colorado Supreme Court's order dated July 12, 2002.

IT IS FURTHER ORDERED that Sluyter pay costs arising from this proceeding in the amount of \$675.67 and attorneys' fees in the amount of \$1,375.00 within 30 days of the date of this order.

IT IS FURTHER ORDERED that Sluyter pay a fine of \$200.00 for each of the thirty-five fee agreements which she failed to produce pursuant to subpoena for a total fine of \$7,000.00.

Sluyter can purge herself from the fine if she provides copies of the missing thirty-five fee agreements to the Attorney Regulation Counsel within thirty days of the date of this order. If the fee agreements are not provided within said thirty days, Sluyter is

ORDERED to pay the \$7,000.00 fine within forty-five days of the date of this order.

BY THE COURT, EN BANC, APRIL 10, 2003.
JUSTICE BENDER would impose a 60 day period of incarceration.



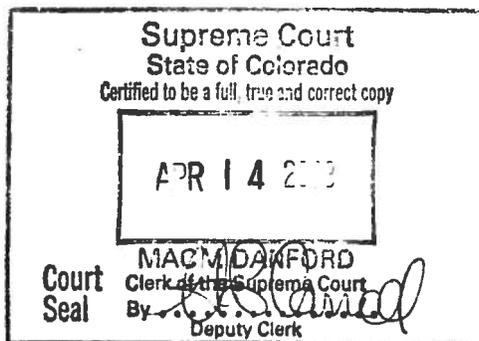
cc:

James Sudler
Assistant Attorney Regulation
Counsel

Hon. Roger Keithley
Presiding Disciplinary Judge

Crystal Sluyter
P.O. Box 786
Cortez, CO 81321

Crystal Sluyter
18685 A Main St., PMB 372
Huntington Beach, CA 92648



<p style="text-align: center;">SUPREME COURT, STATE OF COLORADO</p> <p style="text-align: center;">ORIGINAL PROCEEDING IN CONTEMPT BEFORE THE OFFICE OF THE PRESIDING DISCIPLINARY JUDGE 600 17TH STREET, SUITE 510-S DENVER, CO 80202</p>	<p style="text-align: center;">RECEIVED</p> <p style="text-align: center;">APR 04 2003</p> <p style="text-align: center;">REGULATION COUNSEL</p>
<p>Petitioner: THE PEOPLE OF THE STATE OF COLORADO,</p> <p>Respondent: CRYSTAL D. SLUYTER</p>	<p>Case Number: 02SA164</p>
<p>REPORT PURSUANT TO C.R.C.P. 53(e) RE: FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION FOR FINAL DISPOSITION</p>	

This matter is before the Presiding Disciplinary Judge ("PDJ") by Order of the Colorado Supreme Court dated July 26, 2002, remanding this matter to the PDJ to make findings of fact, conclusions of law, and a recommendation as to whether Crystal D. Sluyter ("Sluyter") should be held in contempt, and if so, a recommendation of appropriate penalties.

I. BACKGROUND

On April 3, 2002, the Office of Attorney Regulation Counsel ("petitioner") served Sluyter with a subpoena to testify and to produce documents for a May 9, 2002 deposition in Cortez, Colorado. Pursuant to C.R.C.P. 45(d)(1), Sluyter had ten days after April 3, 2002, to submit written objections to inspection or copying of any or all of the designated materials. Sluyter provided no written objections to the subpoena.

On May 8, 2002, the day before the scheduled investigation deposition, Sluyter filed a request for protective order with the Supreme Court. In that request, Sluyter argued that the subpoena was overly burdensome and oppressive and that it provided insufficient time to complete the necessary work. The Supreme Court denied the Sluyter's request for a protective order on the same day.

On May 9, 2002 Sluyter appeared for the deposition, but produced only three documents (two fee agreements and one billing statement) responsive to the subpoena and admitted that she was in possession of many others which fell within the scope of the subpoena. She produced only one billing statement.

Accordingly, on May 16, 2002, petitioner filed a Petition for Contempt Citation ("Petition") pursuant to C.R.C.P. 107 and 251.3(c)(7) with the Supreme Court requesting that the Court issue a Contempt Citation against Sluyter on the grounds that she failed to produce documents at the May 9, 2002 deposition. The Petition also requested that Sluyter be required to appear at a continued deposition on June 19, 2002 and be ordered to submit to testimony and produce the same documents previously called for by the subpoena.

On May 22, 2002, the Supreme Court granted the Petition and issued a Contempt Citation directing Sluyter to show cause why she should not be held in contempt of court,¹ and directing her to appear for a continued deposition on June 19, 2002, and produce documents. Sluyter failed to appear at the June 19, 2002 deposition, and failed to produce any documents.

On June 20, 2002, Sluyter filed a Response to the Order to Show Cause, asserting that she was unable to comply with the subpoena, and arguing that the subpoena was overburdensome, oppressive and unreasonable. Sluyter provided approximately seventy-seven billing statements and six additional fee agreements to the Court as an exhibit to her Response. Sluyter did not provide copies of the documents to petitioner, nor notice that she had provided the documents to the Court.

On June 28, 2002, petitioner filed a Reply to the Response to Order to Show Cause, again requesting that the Court hold Sluyter in contempt for failing to provide the documents and requesting that the Court order Sluyter to appear for a deposition on July 16, 2002 and produce the documents requested.

¹ The Contempt Citation stated in part:

To: Crystal D. Sluyter
P.O. Box 786
Cortez, Colorado 81321
And
18708 Highway 145
Delores, CO 81323

GREETINGS:

YOU ARE HEREBY ORDERED and directed to appear before the Colorado Supreme Court within twenty (20) days from service hereof and answer in writing and show cause, if any, you may or can have, why you should not be held in contempt of court for your failure to produce documents pursuant to subpoena at time of your investigation deposition in 01UPL63 and 02-00127.

IT IS FURTHER ORDERED that the petitioner has ten (10) days from receipt of the answer within which to reply.

A FINE OR IMPRISONMENT MAY BE IMPOSED IN THIS PROCEEDING TO VINDICATE THE DIGNITY OF THE COURT.

On July 12, 2002, the Court ordered Sluyter to appear a second time for a deposition, this time on July 16, 2002 and produce those documents that were required to be produced at the May 9, 2002 deposition.

On July 15, 2002, Sluyter produced billing statements for one client (Nancy Carlson), providing them again to the Supreme Court rather than petitioner. On July 16, 2002, Sluyter appeared as ordered for the deposition but did not produce any additional fee agreements or billing statements despite having been ordered to do so by the Court.

On July 26, 2002, the Supreme Court remanded this matter to the PDJ, who set an evidentiary hearing for October 11, 2002.

On September 17, 2002, Sluyter filed a Request for Appointment of Counsel with the Supreme Court, providing a courtesy copy to the PDJ. By order dated September 18, 2002, the PDJ denied Sluyter's request for appointment of counsel, based on Sluyter's failure to comply with Chief Justice Directive 97-01.²

On September 23, 2002, the PDJ advised Sluyter of her rights pursuant to C.R.C.P. 107(d)(1). Sluyter entered a plea of not guilty.

On October 11, 2002, an evidentiary hearing was held before the PDJ. Sluyter appeared *pro se*. James S. Sudler, Attorney Regulation Counsel appeared on behalf of petitioner. Petitioner presented testimony from James C. Coyle, Deputy Regulation Counsel. Sluyter presented testimony from her witness Fritz Sluyter, and testified on her own behalf. Petitioner's exhibits 1 through 14 were admitted into evidence. The PDJ considered the testimony and exhibits admitted, assessed the credibility of the witnesses, and made the following findings of fact, which were established beyond a reasonable doubt.

² On October 2, 2002, the Supreme Court issued an Order stating that no action was needed on respondent's Request for Appointment of Counsel in that the matter was pending before the PDJ who had acted on the request.

II. FINDINGS OF FACT

Sluyter is not licensed to practice law in the State of Colorado. At the time of this Contempt Hearing, Sluyter operated "The Law Offices of Crystal D. Sluyter" at 18708 Highway 145, Delores, Colorado 81323. Sluyter, a graduate of a California law school not accredited by the American Bar Association,³ was licensed to practice law in the State of California during all times relevant to the conduct at issue in this proceeding. Sluyter, by virtue of her licensure in California, was also licensed to practice law in the U.S. District Court for the District of Colorado, the U.S. Tenth Circuit Court of Appeals, various other federal courts and at least one tribal court.

On April 3, 2002, Sluyter was personally served with a subpoena to testify and to produce documents in these attorney regulation investigations. The information requested in the subpoena concerned two investigative matters against Sluyter, 01UPL63 and 02-00127. The underlying allegations assert that Sluyter holds herself out to be a Colorado attorney.

The attachment to the subpoena required Sluyter to produce certain documents listed in the four categories below:

1. Copies of all agreements evidencing financial agreements between Crystal D. Sluyter and/or Law Offices of Crystal D. Sluyter, and any clients from January 1, 2000 to the present;
2. Copies of all billing statements prepared by Crystal D. Sluyter and/or Law Offices of Crystal D. Sluyter, from January 1, 2000 to the present; including all names, addresses and telephone numbers of each of the clients.
3. A listing of any and all Colorado clients of Crystal D. Sluyter and/or Law Offices of Crystal D. Sluyter, from January 1, 2000 to the present; including all names, addresses and telephone numbers of each of these clients.
4. A listing of any and all employees of Crystal D. Sluyter and/or law Offices of Crystal D. Sluyter from January 1, 2000 to the present; including all names, addresses and telephone numbers of each of the clients.

See Petition for Contempt Citation with Subpoena (exhibit 1) attached hereto.

³ The law school from which Sluyter graduated, although not accredited at the time of her graduation, was later accredited by the ABA.

Although Sluyter produced those documents responsive to paragraphs 3 and 4 of the subpoena attachment, she did not produce all documents in her possession responsive to paragraphs 1 and 2 of the subpoena. At her deposition on May 9, 2002, Sluyter admitted that she maintained an attorney/client relationship with at least forty-three Colorado residents. Notwithstanding that admission, Sluyter produced only eight additional fee agreements relating to those forty-three clients in response to paragraph 1 of the subpoena attachment. Sluyter acknowledged there were additional fee agreements in her possession responsive to the subpoena attachment which had not been produced. In addition, Sluyter produced an additional seventy-seven partial billing statements in response to paragraph 2 of the subpoena attachment and acknowledged that there were many other billing statements in her possession which she had not produced.

At the evidentiary hearing, Sluyter testified to various excuses for her non-compliance with the subpoena and court orders. Sluyter attributed her non-compliance to the following factors:

1. She maintains a very busy practice and could only devote time to retrieving the requested documents when client demands abated.
2. She worked long hours and had to service her clients needs in advance of compliance.
3. She could not delegate retrieval of the documents to others.
4. The documents had been partially destroyed in paper form and could only be retrieved from computer media which had been corrupted.
5. The files maintained on computer media were not organized.
6. She maintained files in twelve filing cabinets and had only been able to search through eleven of those file cabinets in the time allowed.
7. She had hired additional staff to assist in retrieving the documents and they had not been successful in their efforts in the time allowed, and
8. She had been ill with recurring fever, nausea, joint aches and suffers from a lack of energy and concentration.

Sluyter's testimony excusing her failure to comply with the subpoena and subsequent court orders to produce the documents called for in the subpoena over a period of six months is not credible. During the course of her testimony, Sluyter admitted that she ignored the subpoena and court orders in order to meet perceived need of her clients. Moreover, Sluyter admitted that at some point prior to the evidentiary hearing she had unilaterally decided to do no further work in attempting to comply.

Sluyter contended that she made that decision to do no further research or production responsive to the subpoena because she was involved in a case in the federal district of Utah which required her to file approximately ten thousand or more documents which she would have to draft before November 25.

As of the date of the contempt hearing, Sluyter had not fully complied with the subpoena duces tecum.⁴

At the conclusion of the contempt hearing, the PDJ informed the parties that, based on the evidence presented, Sluyter had engaged in contempt of the Supreme Court's Orders which ordered Sluyter to fully produce the documents set forth in the attachment to the subpoena duces tecum. The PDJ ordered Sluyter to produce the remaining fee agreements and billing statements on or before October 31, 2002. Sluyter was informed that if the documents were produced on or before October 30, 2002, that production would be considered in recommending a sanction to the Supreme Court.

Following the contempt hearing, petitioner filed a Second Supplemental Status Report on November 5, 2002, stating that on October 30, 2002, Sluyter submitted a one-sentence letter to Deputy Regulation Counsel James C. Coyle stating "Responsive to your subpoena, enclosed are the rest of the billings and retainers which are in my custody and control." No billing statements or fee agreements were attached to the letter; rather, Sluyter provided two unmarked compact discs, with no written information what they contained, and no assurance that they were not those discs Sluyter had stated contained viruses.

On November 13, 2002, the PDJ held a status conference in another matter pending against Sluyter, *People v. Sluyter*, Case No. 02SA286. James C. Coyle appeared on behalf of petitioner, and Sluyter appeared *pro se* by telephone. In the course of the proceeding, petitioner brought the letter and two discs referenced above to the PDJ's attention. By Order dated November 13, 2002, amended by Order dated November 15, 2002, the PDJ ordered:

The People shall have copies made of the compact discs provided to them by Sluyter within twenty-four hours. The People shall then send the original discs via federal express to Sluyter immediately thereafter. Sluyter shall then provide a listing of the contents on the compact discs to the People no later than Wednesday, November 20, 2002. Sluyter shall transmit via facsimile the information to the People. Sluyter shall provide hard copies of all the documents contained on the compact discs forthwith.

⁴ Upon petitioner's motion, the PDJ took judicial notice of the documents filed in the within matter, Case No. 02SA164, which contain petitioner's attempt to obtain the requested documents and respondent's failure to comply with the subpoena.

The PDJ further stated:

Sluyter has failed to meet the deadline imposed by this court and the Supreme Court. The present Order in no way extends those deadlines that have been previously imposed.

Sluyter has not complied with this order.

Petitioner requests punitive sanctions including a fine or imprisonment, and remedial sanctions, requiring Sluyter to produce the documents by a certain date, and pay costs in the amount of \$675.67 and attorney fees in the amount of \$1,375.

III. CONCLUSIONS OF LAW

C.R.C.P. 232(d) provides:

Any person subpoenaed to appear and give testimony or to produce books or records, or any person having been sworn to testify and refuses to answer any proper questions, may be cited for contempt as provided by Rule 107 C.R.C.P.

The Motion for Contempt Citation filed by petitioner requested the Supreme Court to issue a Contempt Citation to Sluyter to show cause why she should not be held in contempt of the Supreme Court's Order dated July 12, 2002 and the subpoena *duces tecum* issued April 3, 2003 by the Office of Attorney Regulation Counsel. The Contempt Citation notified Sluyter that a finding of contempt could subject her to remedial sanctions, fine or imprisonment pursuant to C.R.C.P. 107. The Petition for Issuance of Contempt Citation alleges that Sluyter failed to produce documents requested in the subpoena *duces tecum* personally served on Sluyter on April 3, 2002. The evidence introduced at the hearing established beyond a reasonable doubt that Sluyter is in contempt by virtue of her failure to provide the subpoenaed documents and the court orders requiring her to do so.

The Supreme Court's holding in *In re Boyer*, 988 P.2d 625 (Colo. 1999) clearly sets forth the four elements necessary for a finding of punitive contempt under C.R.C.P. 107. A movant must allege and a trial court must find:

- (1) the existence of a lawful order of the court;
- (2) contemnor's knowledge of the order;
- (3) contemnor's ability to comply with the order, and
- (4) contemnor's willful refusal to comply with the order.

Id. at 627, citing *In re Marriage of Nussbeck*, 974 P.2d 493, 497 (Colo.1999).

The definition of "knowingly" is found in § 18-1-501(6), 18 C.R.S.(1998):

"Knowingly" or "willfully". . . A person acts "knowingly" or "willfully" with respect to conduct or to a circumstance described by a statute defining an offense when he is aware that his conduct is of such nature or that such circumstance exists. A person acts "knowingly" or "willfully", with respect to a result of his conduct, when he is aware that his conduct is practically certain to cause the result.

Sluyter failed to produce documents she was subpoenaed to produce on April 3, 2003 and subsequently ordered to produce by the Supreme Court in its Order dated July 12, 2002, requiring her to produce documents. Sluyter failed to produce the subpoenaed documents which were in her possession.

Sluyter was aware of the Court's July 12, 2002 order. Sluyter appeared as ordered on July 16, 2002 for the deposition, having received notice of the deposition in the Court's Order.

Sluyter had the ability to comply with the Court's July 12, 2002 Order. The documents Sluyter was ordered to produce had initially been subpoenaed on April 3, 2002. At the time of the Court's Order, Sluyter had over four months to produce the documents. To date, Sluyter has failed to produce the documents requested.

Sluyter's refusal to comply with the Court's Order is willful. The grounds for Sluyter's failure to produce presented in the pleadings and the evidentiary hearing were not credible.

IV. RECOMMENDATION REGARDING GUILT

It is recommended that the Supreme Court of the State of Colorado enter an Order finding that Crystal D. Sluyter is GUILTY of contempt of the Supreme Court's Order of Court dated July 12, 2002.

V. RECOMMENDATION REGARDING PENALTY

By order dated March 11, 2003, the PDJ ordered Sluyter to submit a written statement in mitigation regarding sanction as provided for in C.R.C.P. 107(d)(1) to this court on or before March 22, 2003, and further advising Sluyter that following the expiration of the ten (10) day period, the PDJ would submit a recommendation to the Supreme Court regarding the appropriate sanction.⁵ Sluyter failed to file a written statement in mitigation. Accordingly,

⁵ The order was mailed to Sluyter's most recent address, 18685 A. Main Street, PMB 372, Huntington Beach, CA 92648.

the PDJ submits the following recommendation regarding the appropriate penalty.

A. Punitive Sanctions

Sluyter's conduct was contemptuous of the Supreme Court's Order dated July 12, 2002 and the April 3, 2002 subpoena *duces tecum*, and the imposition of a fine and/or a period of confinement is necessary to vindicate the dignity of the Court and to protect the public. Colorado law suggests that confinement should only be imposed where there is evidence of continuing contemptuous conduct following a finding of contempt. See *Unauthorized Practice of Law Committee v. Grimes*, 654 P.2d 822, 826 (Colo. 1982)(holding that an imposition of a sentence of imprisonment was warranted where respondent ignored the order enjoining him from practicing law and continued to engage in the active practice of law). The facts giving rise to this contempt matter constitute continuous contemptuous conduct. Petitioner subpoenaed the documents on April 3, 2002, nearly one year ago. Sluyter's reasons for her failure to produce the documents were not credible. The evidentiary hearing, the PDJ ordered Sluyter to produce the documents by October 31, 2002. Sluyter failed to comply with the PDJ's order. Further, Sluyter has demonstrated unwillingness to participate in this proceeding. Compare *People v. Koransky*, 844 P.2d 668, 669 (Colo. 1993)(holding that where respondent demonstrated a cooperative attitude during the contempt proceedings a sentence of imprisonment was not warranted). Sluyter demonstrated no remorse or willingness to produce the requested documents. She has caused a significant expenditure of time and expense attempting to acquire the documents at issue.

Accordingly, given the gravity of the contempt demonstrated by Sluyter, the PDJ recommends that the Court issue a bench warrant for her arrest, and recommends that Sluyter serve a sixty day period of incarceration to vindicate the dignity of the Court.

B. Remedial Sanctions

The PDJ recommends that the Supreme Court order Sluyter to pay costs arising from this proceeding in the amount of \$675.67 and attorneys' fees in the amount of \$1,375 for a total of \$2,050.67 within thirty (30) days of the date of the Supreme Court's Order. Further, Sluyter should be ordered to produce all remaining documents within her control which fall within the scope of the subpoena within thirty (30) days of the date of the Supreme Court's Order.

