



State of Nevada Commission on Judicial Discipline



BEFORE THE COMMISSION ON JUDICIAL DISCIPLINE STATE OF NEVADA

In the Matter of the)
)
 HONORABLE PETER LAPORTA,)
)
 Judge Pro Tempore, Henderson)
)
 Municipal)
)
 Court and Henderson Justice)
)
 Court,) Case Nos. 0401-1016/0402-1016
)
 County of Clark, State of Nevada,)
)
 Respondent.

ORDER

The clerk of the Commission is hereby directed to serve this order on attorney Patrick McDonald by first-class mail, on attorney Mary Boetsch by first-class mail, and on respondent Peter LaPorta by first-class mail. The Executive Director of the Commission shall also take the necessary steps to: (1) serve this order personally on respondent Peter LaPorta; and (2) he shall deliver a subpoena to attorney Boetsch, who shall cause it to be served on respondent LaPorta, requiring his appearance as a witness at the next scheduled Commission meeting on September 22, 2005, in northern Nevada.

On June 7, 2005, the Chairman of the Commission, upon a vote of the full Commission, issued an Order to Appear directed to the respondent and his counsel, Patrick McDonald. It was served by mail on Mr. McDonald the same day. By then, respondent had also been served personally on May 9, 2005 with an Order to Show Cause as to why he should not be sanctioned for having failed to comply with the Commission's previous order to pay a total of \$10,000 in fines payable to the Clark County Law Library. The Order to Appear required attorney McDonald and the respondent to appear at the Commission's June 29, 2005 public hearing.

On June 15, 2005, the Clerk of the Commission filed a June 13, 2005 letter from Mr. McDonald acknowledging receipt of the aforementioned Order to Appear. Rather than restate the entire content of the letter, suffice it to say that Mr. McDonald posed a series of questions to the chairman regarding its legal authority to order him or his client to appear and regarding the Commission's legal authority to subpoena his client as a witness, as if it were incumbent on the Chairman or the Commission as a whole to answer his inquiries. The Commission did not respond.

On June 27, 2005, the clerk of the Commission filed a letter authored by attorney McDonald on June 23, 2005, which read as follows: "Mr. LaPorta has advised me that he is going to be out of the jurisdiction on June 29, 2005. I send this letter to you,

simply out of common courtesy, to advise that Mr. LaPorta will not be in attendance at the hearing on June 29, 2005 at the hour of 9:00 a.m." The letter was silent as to whether attorney McDonald would attend.

On June 29, 2005, the Commission commenced a public hearing in Las Vegas. Judge Richard Wagner, an alternate Commissioner who replaced Commissioner Judge Mark Denton at the initial hearing and at the show cause hearing due to Judge Denton's self-recusal, called the case in his role as the presiding officer. Neither attorney McDonald nor respondent LaPorta appeared. Commissioner Wagner noted the presence of attorney Mary Boetsch, the Special Counsel who had acted as the special prosecutor in the merits proceeding. She was present to participate in another public case but she did not participate in the instant proceeding.

Following deliberations in private, the participating Commissioners (Wagner, Polaha, Chappell, Nave, Ferraro, Armstrong, and Beasley) voted unanimously to take several steps to enforce the Commission's orders requiring the respondent (1) to pay the aforesaid fine; and (2) to appear before the Commission to show cause why he should not be held in contempt for not paying the aforesaid fine. Alternate Commissioner Wagner announced the result of the deliberations on the record, noting that the oral pronouncement was subject to correction or amendment by a subsequent and forthcoming written order. This order will serve to document the decision. It is noted that subsequent to the hearing, attorney McDonald notified the Commission in writing that he is no longer the attorney of record for the respondent, Peter LaPorta.

First, pursuant to Supreme Court Rule 202, the Executive Director shall, on behalf of the Commission, forthwith submit a report with supporting documentation to the State Bar of Nevada regarding attorney McDonald's failure to appear on June 29, 2005, despite being ordered in writing to do so, an arguable violation of Supreme Court Rules 151, 173(3) and 203(4).

Second, Ms. Boetsch is hereby directed to resume her duties as the Special Counsel in this case by entering an appearance in writing following receipt of this order.

Third, on behalf of the Commission, Ms. Boetsch will take the necessary steps to file a legal action against the respondent in the Eighth Judicial District Court, the design of which is to reduce the fine imposed by the Commission to a legal judgment against the respondent; and to collect on said judgment as allowed by law.

Fourth, on behalf of the Commission, Ms. Boetsch will take the necessary steps to file a legal action against the respondent in the Eighth Judicial District Court, the design of which is to seek a contempt finding and enforcement order directing respondent LaPorta to show cause why he should not be held in contempt for his failure to abide by the Commission's Order to Show Cause and its Order to Appear, filed on March 30, 2005 and June 7, 2005, respectively.

Fifth, the Executive Director shall issue a subpoena pursuant to NRS 1.466 directed to respondent LaPorta, requiring respondent LaPorta to appear before the Commission on September 22, 2005. The Executive Director shall deliver said subpoena to Ms. Boetsch so that she can take the necessary reasonable steps to effectuate personal service of the subpoena on respondent LaPorta. Respondent LaPorta is hereby notified that if he fails to comply after having been served, the Commission likely will seek enforcement via contempt proceedings, as contemplated by NRS 1.466(3).

Sixth, pursuant to NRS 1.466(2), the Commission hereby imposes an additional \$500.00 fine on respondent LaPorta, deeming the amount a reasonable one to enforce the subpoena served on the respondent via attorney McDonald, who acknowledged receipt thereof on behalf of his client in his June 13, 2005 letter.

It should be noted that the Commission unanimously voted to hold respondent LaPorta in contempt and also voted unanimously to take additional steps to enforce its prior order imposing a sizeable monetary sanction. It is the opinion of the Commission that this particular respondent has been totally unresponsive to the Commission, having failed to appear at the hearing on the merits despite having been under subpoena to do so. Lest this respondent and others act with the mistaken impression that the Commission will allow judges and former judges to ignore its directives with impunity, the steps outlined above are deemed minimally necessary to ensure the disciplinary scheme in Nevada works as contemplated by both the constitutional provisions enacted by Nevada's voters and the statutory provisions enacted by the Legislature. The Commission suggests that it would be wise for the respondent to comply with its prior and future orders. It hereby notifies respondent that the Commission takes a dim view of the respondent's insolent behavior. The respondent should not act under the mistaken assumption that this case will merely go away. The Commission will continue to take all reasonable and necessary actions to enforce its orders and it may well be forced to ask a court to incarcerate the respondent until he complies or shows legal and factual cause why he cannot do so.

The Chairman is authorized to sign the instant order on behalf of the entire Commission, and the record will show that it has been reviewed by each of the participating Commissioners.

IT IS SO ORDERED.

DATED this 14th of July, 2005.

NEVADA COMMISSION ON
JUDICIAL DISCIPLINE
P.O. Box 48
Carson City, NV 89702

By:

/S/

Steve Chappell, Chairman

