

SUPREME COURT OF WISCONSIN  
OFFICE OF LAWYER REGULATION

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Public Reprimand With Consent

2022-OLR-7

Cheryl Marie Gill,  
Attorney at Law

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Attorney Cheryl Marie Gill (Gill) was admitted to the practice of law in Wisconsin on April 15, 1997, State Bar No. 1029503.

On February 7, 2020, the State Public Defender (SPD) appointed Gill to represent a man (the client) in two criminal cases pending in the La Crosse County Circuit Court.

On February 10, 2020, Gill sent the client a letter notifying him that she had been appointed to represent him in the two cases. Other than her February 10, 2020 letter, Gill did not send the client any other written communications. Gill also never contacted the correctional institution at which the client was held to set up a telephone call or video visit with the client.

The client sent Gill letters dated February 17, 2020, April 27, 2020, May 19, 2020, September 1, 2020, September 2, 2020, September 7, 2020, and October 11, 2020. In his letters, the client provided information to Gill that he believed was relevant to his defense. The client also asked Gill to take specific actions regarding his defense, to provide the client with information and documents related to his cases, and to set up a telephone call with him to discuss his cases.

While Gill doesn't remember receiving any of the client's letters, he provided OLR with copies of his letters to Gill and with carbon copies of Department of Corrections (DOC) Disbursement Request forms that documented his mailings to Gill on April 27, 2020 and May

19, 2020. The client told OLR that DOC staff were trying to locate the Disbursement Request forms for his other correspondence to Gill. The Disbursement Request forms show that the client's letters were sent to Gill at her office address. None of the client's letters were returned to him as undeliverable or unclaimed. Gill did not respond to any of the client's letters.

Between February 17, 2020 and September 1, 2020, the client attempted to call Gill, but his calls would not go through. The client believed that Gill needed to contact the institution to authorize the client to call her. In his September 1, 2020 letter, the client explained to Gill his efforts to call her. The client also expressed frustration that Gill hadn't called the institution to set up a telephone call with him and that Gill had not responded to his prior letters.

On approximately September 29, 2020 Gill told the court that it could schedule a plea hearing in the client's cases. The court scheduled a plea/sentencing hearing for November 18, 2020. On November 16, 2020, the plea/sentencing hearing was rescheduled for January 25, 2021.

Between January 25, 2021 and September 27, 2021, Gill attended five hearings or calendar calls in the client's cases. The client was not produced for any of the court dates. Gill did not communicate with the client after any of the court dates to explain the status of his cases.

During a January 25, 2021 hearing, Gill told the court that she could not remember which institution the client was in or whether the State had made a plea offer to resolve the client's cases. Gill asked the court to set the cases out for 30 days. The court set the client's cases for a calendar call on March 2, 2021.

On January 25, 2021, after the hearing, the assistant district attorney prosecuting the client's cases sent Gill an email communicating a plea offer to resolve the client's cases. The assistant district attorney had at least one additional discussion with Gill about the plea offer, during which Gill was attempting to persuade him to dismiss the client's cases. The assistant

district attorney told Gill that he did not intend to dismiss the cases and that the offer he made on January 25, 2021 was the best offer the State would make to resolve the client's cases. Gill never communicated the State's plea offer to the client, or the assistant district attorney's statements that it was the best offer the State would make.

During a March 2, 2021 calendar call, Gill asked the court to schedule another calendar call or status conference in 30 days. The court scheduled a calendar call for April 13, 2021. During the April 13, 2021 calendar call, Gill told the court that it could schedule a plea hearing. The court scheduled a plea hearing for May 26, 2021. On May 24, 2021, the plea hearing was rescheduled for June 25, 2021.

During the June 25, 2021 hearing, the court stated, "Miss Gill, you have indicated it has been difficult to talk to [the client]. Has that changed at all in the last couple months?" Gill responded, "It's just difficult sometimes to schedule inmate calls, but I will call [the institution] today and make another appointment to speak to him." Gill's statement misrepresented that she had made one or more prior appointments to speak with the client. Gill asked the court to set the cases for a calendar call. After Gill explained that she had many trials scheduled in July, August, and September 2021, the court scheduled a calendar call for September 27, 2021.

On July 4, 2021, the client wrote a letter to the regional attorney manager for the SPD's La Crosse Trial Division. In that letter, the client told the SPD that Gill hadn't communicated with him since her February 10, 2020 letter, Gill hadn't responded to his letters, and Gill hadn't contacted the institution to set up a telephone call with him. The client asked the SPD for documents related to his two criminal cases and he asked the regional attorney manager to contact Gill to find out why Gill wasn't communicating with him.

On July 12, 2021, the regional office administrator for the SPD's La Crosse Trial Division, sent an email to Gill, attached to which was a copy of the client's July 4, 2021 letter. In her email, the office administrator told Gill that the client seemed to be asking for a copy of all of his discovery materials and that the client would like Gill to set up a call with him. Gill did not respond to the office administrator's email or to the client's July 4, 2021 letter. Gill also did not schedule a telephone call with the client.

The client filed a grievance with OLR against Gill. On August 10, 2021, OLR contacted Gill regarding the client's grievance. OLR provided Gill with a copy of the client's grievance, which included copies of his letters to Gill.

During the September 27, 2021 plea hearing in the client's cases, Gill told the court that she intended to file a motion to withdraw because the client was "not happy with her performance." After the court stated that the client "had a similar reaction to his prior attorney" and that "it's going to be very, very difficult for a new attorney to be found for [the client], having rejected two public defender attorneys," Gill failed to explain to the court that Gill hadn't communicated with the client since February 10, 2020.

On September 28, 2021, the client sent a letter to the SPD regional attorney manager, in which he asked for copies of documents related to several of his cases, including the two cases for which Gill was appointed to represent him. The client also asked, "Where is Attorney C. Gill?", whether Gill was still representing him in the two cases and the location of Gill's files for representing him.

On October 4, 2021, the regional attorney manager forwarded a copy of the client's September 28, 2021 letter to Gill via email. In the email, the regional attorney manager

referenced the SPD's understanding that Gill might be filing a motion to withdraw. She also asked Gill about the status of the client's cases and the status of his files.

On October 6, 2021, legal counsel for the SPD sent Gill an email, attached to which was a copy of the client's September 28, 2021 letter and a copy of an October 6, 2021 letter from the SPD's legal counsel to the client. In her email, SPD's legal counsel told Gill that the client was requesting copies of his files. Gill never sent the client a copy of his file materials. Gill also did not respond to the SPD staff's and legal counsel's October 2021 emails or send the client's file or a copy of his file materials to the SPD.

On October 27, 2021, the SPD regional attorney manager sent Gill an email asking if Gill still intended to file a motion to withdraw from her representation of the client. On October 29, 2021, Gill filed a written motion to withdraw with the court. In her motion, Gill told the court that the client had asked her to withdraw. The client had not asked Gill to withdraw. Gill did not send the client a copy of the motion to withdraw or notify him that she had filed or intended to file a motion to withdraw. The court granted Gill's motion on October 29, 2021. Gill did not send a copy of the court's order to the client.

By failing to communicate with the client after February 10, 2020, Gill violated SCR 20:1.4(a)(2), which states, "A lawyer shall...reasonably consult with the client about the means by which the client's objectives are to be accomplished" and SCR 20:1.4(a)(3) which states, "A lawyer shall...keep the client reasonably informed about the status of the matter."

By failing to respond to the client's correspondence requesting information and documents related to the two La Crosse County Circuit Court cases, Gill violated SCR 20:1.4(a)(4), which states, "A lawyer shall... promptly comply with reasonable requests by the client for information."

By failing to communicate to the client the State's plea offer to resolve his criminal cases and the State's comments about the unlikelihood of further plea negotiations, Gill violated SCR 20:1.2(a), which states, "(a) Subject to pars. (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by SCR 20:1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case or any proceeding that could result in deprivation of liberty, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify." and SCR 20:1.4(b), which states, "A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation."

By failing to take reasonable steps to advance the client's interests in the two La Crosse County Circuit Court cases, Gill violated SCR 20:1.3, which states, "A lawyer shall act with reasonable diligence and promptness in representing a client."

By failing to send the client a copy of her motion to withdraw or notice that she intended to file a motion to withdraw, and by failing to provide the client with a copy of his file materials, in each instance Gill violated SCR 20:1.16(d), which states, "Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law."

By telling the La Crosse County Circuit Court on June 25, 2021 that she would call the client's correctional institution and make "another appointment" to speak to the client, and by advising the court in her motion to withdraw that the client had asked her to withdraw, in each instance Gill violated SCR 20:3.3(a)(1), which states, "A lawyer shall not knowingly...make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer."

In 2016, Gill was privately reprimanded for violating SCR 20:8.4(b).

In accordance with SCR 22.09(3), Attorney Cheryl Marie Gill is hereby publicly reprimanded.

Dated this 12th day of October, 2022.

SUPREME COURT OF WISCONSIN

/s/ Edward Leineweber

Edward Leineweber, Referee