

SUPREME COURT OF WISCONSIN
OFFICE OF LAWYER REGULATION

Public Reprimand With Consent

2016-OLR-3

Mary A. Harper
Attorney at Law

The Respondent, Attorney Mary A. Harper (“Harper”), age 51, was admitted to the practice of law in Wisconsin on January 16, 1990, and practices in Beaver Dam, Wisconsin.

On October 7, 2014, at approximately 4:53 p.m., a woman made a 911 call regarding a vehicle that she had been following that had gone into a field and almost rolled over. The woman followed the vehicle into the City of Beaver Dam and observed the female driver drop a child off at a school. The woman gave the 911 dispatcher the license plate number of the vehicle and the address where the vehicle ultimately arrived in the Town of Beaver Dam.

Dodge County Sheriff’s Deputies went to the address to meet with the driver of the vehicle. A woman, later identified as Harper, answered the door. A Deputy observed that Harper’s speech appeared to be very slurred and she appeared to be unsteady and walking very slowly.

The Deputy asked Harper if her vehicle had gone off the road and she replied yes. The Deputy then asked Harper if she had dropped a child off at school and she replied yes. The Deputy observed that Harper’s mannerisms were all very slow and deliberate and her eyes were very glossy.

After performing field sobriety tests, Harper provided the Deputy a preliminary breath test (“PBT”) with a result of .133. Thereafter, the Deputy informed Harper that she was under arrest for operating a motor vehicle while intoxicated.

On December 3, 2015, due to a no contest plea, Harper was convicted of misdemeanor OWI (4th) in *State of Wisconsin v. Mary A. Harper*, Dodge County case no. 2014CF000323. The charge of Operating with PAC – Passenger < 16 years (3rd) was dismissed on prosecutor’s motion. Harper’s sentence included 3 years probation, 60 days in jail with work release, driver’s license revocation for 2 years, and a fine. A condition of Harper’s probation is that she must attend and comply with the terms of Alcohol Court. Harper was originally charged with OWI (3rd) with regard to her October 7, 2014 arrest, but because of a subsequent OWI offense on October 20, 2014, which resulted in an OWI (3rd) conviction, she was convicted of OWI (4th).

The facts with respect to Harper’s OWI (3rd) conviction are as follows. On October 20, 2014, at approximately 12:55 p.m., a Juneau Police Department Sergeant was dispatched to the Dodge County Courthouse. Upon the Sergeant’s arrival at the courthouse, a Court Security Officer informed the Sergeant that Harper had arrived at the courthouse around 12:45 p.m. and that the Officer believed Harper may have been under the influence of an intoxicant. The Officer stated that Harper’s eyes were bloodshot and glossy, her speech was slurred, and she was having difficulty walking. The Sergeant was advised that Harper was an attorney and was in court representing a client.

The Sergeant was aware of Harper’s October 7, 2014 arrest for OWI. The Sergeant learned that a vehicle Harper may have operated was in the courthouse parking lot and that Harper had open felony conditions of her bond resulting from her October 7, 2014 arrest, including that she was required to maintain absolute sobriety.

At approximately 1:35 p.m., the Sergeant made contact with Harper in the court lobby and requested to speak with her in a private conference room. While walking with Harper to the private conference room, the Sergeant obtained confirmation from Harper as to the identity and presence of her vehicle in the courthouse parking lot. Thereafter, Harper confirmed that she drove from Beaver Dam to the courthouse.

After conducting field sobriety tests, the Sergeant asked Harper to submit to a PBT. Harper submitted to a PBT and the result was .179. At that time, the Sergeant advised Harper that she was under arrest for OWI and bail jumping. Harper was transported to the hospital for a legal blood draw. The result of the blood test was .194 % blood alcohol concentration.

On December 3, 2015, due to a no contest plea, Harper was convicted of misdemeanor OWI (3rd) in *State of Wisconsin v. Mary A. Harper*, Dodge County case no. 2014CF000343. The charge of Operating with PAC (3rd) was dismissed on prosecutor's motion. Harper's sentence included 3 years probation, 14 days in jail with work release, driver's license revocation for 2 years, and a fine.

On December 3, 2015, due to a no contest plea Harper was found guilty of Bail Jumping-Felony and entered into a Plea Diversion Agreement for Deferred Judgment. No sentence was imposed.

Harper has received treatment at a recovery center and is actively involved in her treatment program.

By engaging in conduct leading to a criminal conviction of OWI (4th) in *State of Wisconsin v. Mary A. Harper*, Dodge County case no. 2014CF000323, Harper violated SCR 20:8.4(b), which states, "It is professional misconduct for a lawyer to...commit a criminal act

that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects.”

By engaging in conduct leading to a criminal conviction of OWI (3rd) in *State of Wisconsin v. Mary A. Harper*, Dodge County case no. 2014CF000343, Harper violated SCR 20:8.4(b).

By engaging in conduct leading to a guilty finding of Bail Jumping-Felony resulting in a deferred judgment in *State of Wisconsin v. Mary A. Harper*, Dodge County case no. 2014CF000343, Harper violated SCR 20:8.4(b).

As described above, Harper arrived at the Dodge County Courthouse on October 20, 2014 in a state of intoxication. At 1:00 p.m. on that day, Harper appeared with a client at a sentencing hearing. An Assistant District Attorney (“ADA”) appeared for the State of Wisconsin at the sentencing hearing. Previously, at a jury trial, the jury had found the client guilty of Felony Prisoner Throw/Expel Bodily Substances with a charge modifier of repeater.

The ADA and the court did not suspect that Harper was intoxicated during the sentencing hearing. The court imposed a sentence against the client.

With respect to her consumption of alcohol prior to the sentencing hearing, Harper stated, “The alcohol I consumed was a continuation of alcoholic beverages that I was consuming on the evening of October 19, 2014 which carried into the mid-morning hours of October 20, 2014. Once I fell asleep, and later awakened, I consumed no additional alcohol.”

In a Public Defender Order Appointing Counsel, successor counsel was appointed for the client. At a hearing, the court heard successor counsel and the ADA with regard to reopening the sentencing due to Harper's condition at the October 20, 2014 sentencing hearing. The client did not wish to be re-sentenced. The court ordered a competency evaluation of the client.

