

**SUPREME COURT OF WISCONSIN**  
**OFFICE OF LAWYER REGULATION**

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Public Reprimand with Consent

2019-OLR 2

Sallie L. Rubenzer, Respondent

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Sallie L. Rubenzer is a Wisconsin-licensed attorney, admitted to practice in 1987. She practices in West Bend, Wisconsin.

In May of 2016, Rubenzer was charged with felony Operating While Intoxicated, 5<sup>th</sup> or 6<sup>th</sup> offense, and driving with a prohibited alcohol concentration, 5<sup>th</sup> or 6<sup>th</sup> offense. The charges arose from an incident on May 5, 2016. A witness called police on that day to report that she had observed a woman who appeared to be impaired purchase a bottle of liquor at a retail outlet in West Bend. The woman drove from the store after making her purchase. The witness followed the woman and provided the police with the license plate number of the car. The police identified the car as Rubenzer's. An officer was dispatched and arrived at Rubenzer's home. The car was in the driveway when the officer arrived, but then proceeded into the garage. As the officer approached on foot the overhead garage door closed. As the officer observed the car through the service door of the garage, the overhead door reopened and the brake lights of the car engaged. The officer entered the garage to prevent Rubenzer from backing the car out of the garage. The officer instructed Rubenzer to put the car in park and turn off the engine. Rubenzer had difficulty performing the task. Rubenzer smelled of alcohol, had slurred speech and swayed as she stood. Rubenzer refused to perform field sobriety tests. She was arrested and taken to a hospital. The police obtained a warrant for a blood draw. The analysis showed Rubenzer's blood alcohol concentration to be .246.

Rubenzer's constitutional challenge to the officer's warrantless entry into her garage was unsuccessful. On May 9, 2017, Rubenzer pleaded no contest to one felony count of operating while intoxicated, 5<sup>th</sup> Offense. The trial court withheld sentence and ordered Rubenzer to serve twelve months in jail, with Huber privileges, as a condition of three years of probation. The court ordered Rubenzer to participate in counseling and treatment programs as directed by her probation agent, imposed a fine and court costs totaling \$5175.00, and revoked Rubenzer's driving privileges for three years. Notwithstanding her plea, Rubenzer appealed the conviction, challenging the circuit court's ruling on her suppression motion. On October 4, 2018, the Court of Appeals affirmed the conviction, ruling that the evidence obtained by the officer after entry into Rubenzer's garage was admissible under the community caretaker exception to the warrant requirement.

By engaging in conduct leading to her conviction for 5<sup>th</sup> offense OWI, Rubenzer 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."

Rubenzer has prior discipline. In 2003, Rubenzer received a private reprimand for non-alcohol-related violations of SCR 20.1.1 and SCR 20:1.16(d). In 2004, Rubenzer received a private reprimand for violating SCR 20:8.4(b), following her convictions of a third Operating While Intoxicated (OWI) offense and for bail-jumping, due to her failure to maintain absolute sobriety while the OWI charge was pending. In 2007, Rubenzer was publicly reprimanded for a fourth OWI offense, contrary to SCR 20:8.4(b). Rubenzer also violated SCR 21.15(5) by failing to report her conviction to the Clerk of the Wisconsin Supreme Court and to OLR. Finally, in

