

FILE NO. A12-326

OFFICE OF
APPELLATE COURTS

STATE OF MINNESOTA

JAN 7 2013

IN SUPREME COURT

FILED

In Re Petition for Disciplinary
Action against JILL ELEANOR CLARK,
a Minnesota Attorney,
Registration No. 196988.

**DIRECTOR'S MEMORANDUM
IN RESPONSE TO RESPONDENT'S
MOTIONS**

INTRODUCTION

On December 20, 2012, Referee Gerald Seibel issued his findings and recommendations, recommending that "because Respondent Jill Eleanor Clark **cannot presently represent clients**, that she be **immediately transferred to disability inactive status** pursuant to RLPR 28." (Emphasis added.) On December 26, 2012, respondent filed with this Court a motion entitled, "Respondent's Motion to File Referee Seibel's 12/20/12 Order Under Seal, and for Further Proceedings if Needed." On December 26, 2012, the Court issued its order placing the referee's findings and recommendations under seal and ordering that they "not be made available to the public while the court considers Clark's motion." Respondent also filed a motion entitled, "Objection to the Referee's 12/20/12/ Order, and Order for Transcript." The Director files this memorandum in response to respondent's motions.

For the reasons set out in greater detail below, it is the Director's position that the referee's recommendation that respondent be placed on disability inactive status should not be sealed. However, assuming that the Court follows the referee's recommendation and immediately places respondent on disability inactive status, the Director submits that those portions of the referee's findings concerning respondent's medical records could be sealed.

to make findings and recommendations to the court regarding the nature of Clark's disability, whether Clark was able to assist in her defense in this matter, and whether Clark was able to competently represent clients.

On December 20, 2012, the referee filed his findings and recommendations with the court. The referee found that Clark is disabled based on serious mental health issues she experienced during 2012, and as of December 7, 2012, and continuing into the foreseeable future, Clark cannot competently represent clients. The referee further recommended that: (1) Clark be transferred to disability inactive status because she cannot presently competently represent clients; (2) the underlying disciplinary action be stayed; and (3) if Clark is not placed on disability inactive status, that her ability to practice law be subject to several conditions.

Based upon all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that within seven days of the date of filing of this order, the parties shall serve and file memoranda of law, not to exceed ten pages, showing cause, if any there be, why respondent should not be temporarily suspended until the court issues its decision on the referee's findings and recommendations.

Dated: January 4, 2013

BY THE COURT:



Alan C. Page
Associate Justice

GILDEA, C.J., took no part in the consideration or decision of this case.