PUBLIC MATTER—NOT DESIGNATED FOR PUBLICATION

Filed July 5, 2018

STATE BAR COURT OF CALIFORNIA

REVIEW DEPARTMENT

In the Matter of	)	Case No. 15-O-12907
	)	
DELIA MARIE METOYER,	)	OPINION AND ORDER
	)	
A Member of the State Bar, No. 207251	)	
	)	

I. INTRODUCTION

Delia Marie Metoyer, a veteran public defender, answered ready for trial in a felony matter. During pretrial discussions, Metoyer requested time off the next day for a medical appointment. When the judge initially denied her request, Metoyer became emotionally distressed. After receiving permission to use the restroom, she did not return to the courtroom. Instead, she sought assistance from her supervisor, who removed her from the case and reassigned the matter to another public defender. The judge later sanctioned Metoyer $1,500 for failure to obey a court order and for client abandonment, which the Court of Appeal affirmed. Metoyer paid the sanctions, but failed to report them to the State Bar.

In this, her first disciplinary proceeding, Metoyer stipulated that she failed to report judicial sanctions. The hearing judge further found her culpable of violating a court order and improperly withdrawing from representation; he recommended a 30-day actual suspension.

Metoyer appeals. She challenges the hearing judge's culpability findings, although she admits she could have handled the situation better. She argues that the disciplinary recommendation is excessive, and seeks an admonition or reproval for her stipulated misconduct.

The Office of Chief Trial Counsel of the State Bar (OCTC) did not cross-appeal and requests that we affirm the disciplinary recommendation.

After independently reviewing the record (Cal. Rules of Court, rule 9.12), and giving due weight to our disciplinary law, the findings of the courts of record, and the hearing judge, we find Metoyer culpable of violating a court order, but not for improperly withdrawing from employment. We find that her misconduct, precipitated by an unexpected and severe emotional episode, warrants a departure from the presumed sanction of actual suspension given Metoyer's dedicated, lengthy, and, thus far, blemish-free career with the public defender's office and the lack of client harm. We find that a public reproval with conditions, rather than the 30-day actual suspension recommended by the hearing judge, is appropriate discipline that protects the public, the profession, and the courts.

II. PROCEDURAL HISTORY

On December 29, 2016, OCTC filed a three-count Notice of Disciplinary Charges (NDC), charging Metoyer with violations of rule 3-700(A)(2) of the Rules of Professional Conduct (improper withdrawal from employment)[1] and of sections 6068, subdivision (o)(3) (failure to report judicial sanctions), and 6103 (failure to obey court order) of the Business and Professions Code.[2] Following a two-day trial on April 27–28, 2017, and posttrial briefing, the matter was submitted for decision. Metoyer subsequently filed a motion to augment the record to introduce additional superior court transcripts, which was granted. The case was re-submitted on June 26, 2017. On September 15, 2017, the hearing judge issued his decision finding Metoyer culpable as charged and recommending a 30-day actual suspension.

[1] All further references to rules are to the Rules of Professional Conduct unless otherwise noted.

[2] All further references to sections are to the Business and Professions Code.

III. FACTUAL DISCUSSION[3]

Metoyer has been a member of the State Bar since June 2000 and has no prior record of discipline. She has worked as a deputy public defender with the Los Angeles County Public Defender's Office since 2005, and was assigned to the Compton Division from 2010 to 2015. She has successfully litigated numerous trials involving serious crimes and is considered by many to be an accomplished criminal defense attorney.

On January 15, 2015, at 8:30 a.m., Metoyer answered ready for trial in *People v. Ghebrehiwot*, a felony matter alleging the sexual molestation of a child.[4] The supervising superior court judge in Department D assigned the matter for trial, as reflected in a minute order entry—"Jury trial is transferred to Department H forthwith." A jury panel had been called and was waiting outside the courtroom.

At 9:00 a.m., Judge Eleanor Hunter called the matter for trial. She invited Metoyer and the prosecutor into chambers for an informal, pretrial discussion about witnesses, motions, and trial estimates. When the approximately 20- to 30-minute conversation concluded, Metoyer informed the judge that she had a scheduled MRI the next day for a back injury she had sustained at work a week earlier. Since Judge Hunter saw no signs of physical distress and Metoyer had not previously mentioned this appointment, the judge told her to reschedule the MRI. On review, Metoyer acknowledges she had no physical discomfort that day, but emphasizes that she was anxious about the possibility of an unexpected recurrence of her back pain. Metoyer became emotionally distraught about delaying her scheduled MRI appointment as she had a hectic work schedule, including an impending murder trial. After Judge Hunter expressed her intent to

[3] The facts are based on the record of the Hearing Department, which includes the parties' joint Stipulation as to Facts and Admission of Documents (Stipulation), trial testimony, and the documentary evidence produced at trial. (Rules Proc. of State Bar, rule 5.156(A).)

[4] Los Angeles County Superior Court Case No. TA133184.

proceed as scheduled, Metoyer began to cry. She told the judge that she had children to provide for and could not understand why her job was being placed above her health.

Judge Hunter directed the parties to return to the courtroom for formal discussions on the record. Metoyer then asked to use the back hallway restroom, which the judge permitted. While there, she called her supervisor, Rhonda May-Rucker. Metoyer did not tell Rucker where she was, other than to say she was in a restroom. Rucker had no idea Metoyer was still in the judge's chambers area and believed she was calling from the public restroom outside of Metoyer's office—located in the same building as the court, but on another floor. According to Rucker, Metoyer was upset, nearly incomprehensible, and said something to the effect, "They're out to get me." On this basis, and coupled with the fact that Metoyer sounded like she was crying, Rucker advised her to report to Rucker's office.

Judge Hunter resumed the bench and awaited Metoyer's return. Metoyer's client and the prosecutor sat in the courtroom, and the jury panel remained in the hallway. Metoyer did not return. Unbeknownst to anyone in the courtroom, she had exited the restroom and departed through an adjacent, empty courtroom to avoid being seen. She testified that she did this in order to protect her client; she thought she might prejudice the case if her client, the judge, or potential jurors saw her distraught and crying.

When Metoyer did not return to court, Judge Hunter had her staff check the restroom and then try to reach Metoyer by phone. Approximately 45 minutes after she last saw Metoyer, Judge Hunter received a call from Rucker, who reported that Metoyer was in her office. Rucker asked the judge, as an accommodation, to allow Metoyer to attend her MRI appointment the next morning. The judge tentatively agreed, but told Rucker that Metoyer needed to return to court to place the matter on the record.

Metoyer and Thomas Tyler, the Deputy Public Defender in Charge, were in Rucker's office and heard her part of the conversation with Judge Hunter. After the call ended, Rucker told Metoyer that the judge approved the time off and was expecting her back in court. Metoyer did not respond. When Rucker asked her if she was going to return to court, Metoyer said "No, I'm not." When Rucker asked her why not, Metoyer responded, "I just can't take this anymore." Rucker tried to get Metoyer to explain what she meant and told her that if she did not return to court it would appear as if she were abandoning her client. Metoyer stated she was upset about her credibility being called into question and thought "everyone" was "out to get [her]." Metoyer then stopped participating in the conversation, saying, "I need to see a doctor." Rucker then terminated the meeting and called her supervisor and Human Resources (HR) for advice, and they decided to remove Metoyer from the *Ghebrehiwot* case, and all other cases too. Rucker instructed Tyler to go to Department H and request a continuance from Judge Hunter. Rucker then went to Metoyer's office, notified her of management's decision, and left with the case files.

Shortly thereafter, Metoyer left the building for a medical appointment she had just scheduled with HR's assistance. However, before leaving, Metoyer called her friend and coworker, Rhonda Haymon, crying and saying she had no idea why she had been removed from all her cases. Metoyer explained to Haymon what had happened with Judge Hunter and said that when she was in Rucker's office, Rucker told her "not to go back up to the court [in the *Ghebrehiwot* matter] because she was in no condition." The hearing judge found this statement to Haymon to be a "complete fabrication." We find this statement inaccurate, but stop short of calling it a fabrication. (See *In the Matter of Respondent H* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234, 241 [hearing judge's credibility findings afforded great weight].) The evidence shows that *Metoyer* was the one who indicated that she could not return to court, resulting in Rucker removing her from the case—not the other way around.

Although Metoyer disappeared from Department H between 9:20 and 9:30 a.m., she did not attempt to contact Ghebrehiwot until 10:50 a.m., when she sent him a text message writing, "Mati it's delia I can't start ur trial today. R u okay if we continue it?" Ghebrehiwot was sitting in the courtroom with his cellphone off, and did not receive the message until 11:42 a.m. By then, Tyler had already secured a continuance and informed the court that Metoyer would not be returning. In reply to Metoyer's text, Ghebrehiwot asked her to call him. Metoyer wrote back, "Can I call u tomorrow? I'm really not well right now." Ghebrehiwot responded that he hoped everything was "ok" and that he would pray for her. Metoyer wrote, "Thank u, I'm so sorry."

As a result of Metoyer's actions, Judge Hunter excused the prospective jury panel, and set an in-camera hearing for that afternoon. During the hearing, the judge indicated she would be initiating a sanctions proceeding against Metoyer, which she did in a written minute order entered later that day. Metoyer and her counsel were present at the sanctions hearing held on April 2, 2015. Metoyer did not call any witnesses or introduce any evidence other than her own declaration, wherein she denied any misconduct. Judge Hunter invited an apology from Metoyer at least twice during the hearing, but Metoyer declined to offer one, relying on her attorney's instruction not to say anything.

On April 10, 2015, Judge Hunter issued an order finding that Metoyer violated a court order and abandoned her client. She sanctioned Metoyer $1,500 and indicated she would refer the matter to the State Bar, which she subsequently did. Metoyer filed an immediate writ, which was denied, and thereafter an appeal. The Court of Appeal affirmed Judge Hunter's sanctions order and findings in an unpublished decision on July 27, 2016. Metoyer timely paid the sanctions, but did not report it to the State Bar as required by section 6068, subdivision (o)(3).

IV. STANDARD OF REVIEW

We independently review the record, giving great weight to the factual findings of the hearing judge. (Rules Proc. of State Bar, rule 5.155(A).) We also rely on the findings of the courts of record, which come to us bearing a strong presumption of validity and prima facie weight. (*Maltaman v. State Bar* (1987) 43 Cal.3d 924, 947 [findings of other tribunals made under preponderance of evidence standard given strong presumption of validity in State Bar proceedings if supported by substantial evidence]; *In the Matter of Lais* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112, 117–118 [court of appeal opinion to which attorney was party is, at minimum, considered prima facie determination of matters bearing strong similarity, if not identity, to charged disciplinary conduct].) An attorney has the right to present evidence to controvert, temper, or explain the prior findings, but the State Bar Court will not retry the matter based upon the same evidence produced in the prior proceedings. (*In the Matter of Kittrell* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195, 206.)

V. CULPABILITY

A. Count One: Rule 3-700(A)(2) (Improper Withdrawal from Employment)

The hearing judge found Metoyer culpable of violating rule 3-700(A)(2) because he concluded that she abandoned her client in the courtroom, without notice, knowledge, or consent of the court or her client, and after affirming that she was ready to commence trial. Metoyer challenges this culpability finding. She contends that she suffered severe emotional distress; she left the courtroom to compose herself during a brief restroom break; she did not return because she did not want her client and the courtroom participants to see her crying; and, after she sought guidance from her supervisor, she was removed from her client's case, and another public defender was immediately assigned. The gravamen of her argument is that she did not intend to withdraw from representation and no foreseeable prejudice to her client existed because he

remained a client, without interruption, of the public defender's office. OCTC argues that Metoyer is culpable because the judge found that she "abandoned" her client, a finding that Judge Hunter also made and that the Court of Appeal upheld when it found that Judge Hunter did not abuse her discretion in sanctioning Metoyer pursuant to Code of Civil Procedure section 177.5.

In determining Metoyer's culpability in these disciplinary proceedings, we are required to decide if Metoyer violated all of the elements of rule 3-700(A)(2).[5] We agree with Metoyer and find that all elements of rule 3-700(A)(2) have not been met by clear and convincing evidence.[6] Particularly, we find no foreseeable prejudice to her client. Metoyer's brief absence from the courtroom prior to trial starting and before another public defender was substituted into the case, even if it resulted in "unnecessary delay," is insufficient to establish that Ghebrehiwot was placed in a position that could have prejudiced his case. At all times, he was represented by the public defender's office, and the record fails to show any evidence that Judge Hunter would have denied a continuance for Metoyer's replacement to become prepared for this serious criminal case; in fact, a continuance was granted. Ghebrehiwot, facing a potential six-year sentence, ultimately entered into a plea deal with probation—an outcome which we have no evidence to conclude was unfavorable to him.

The hearing judge relied on *In the Matter of Doran* (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871 to support his culpability finding. We find that the present situation, where no foreseeable or actual client harm was proved, is distinguishable. In *Doran*, the attorney represented a client in a claim for Social Security benefits. At the hearing before an

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[5] Rule 3-700(A)(2) provides that "A member shall not withdraw from employment until the member has taken reasonable steps to avoid reasonably foreseeable prejudice to the rights of the client, including giving due notice to the client, allowing time for employment of other counsel, complying with rule 3-700(D), and complying with applicable laws and rules."

[6] Clear and convincing evidence leaves no substantial doubt and is sufficiently strong to command the unhesitating assent of every reasonable mind. (*Conservatorship of Wendland* (2001) 26 Cal.4th 519, 552.)

administrative law judge (ALJ), Doran requested a 15-day continuance in order to produce essential medical records that had been ordered but not yet received. The ALJ denied the request on the grounds that Doran had represented the client for over a year with ample opportunity to obtain the records. (*Id.* at p. 875.) Doran believed that the case would be lost without those medical records. (*Id.* at p. 878.) He sought and obtained a five-minute recess. After informing a clerk, he left the premises and did not return to the hearing. Doran did not tell the ALJ or his client he was leaving, nor did he give his client any instructions as to how to proceed. The hearing then continued without Doran, and his client's claim for benefits was denied. (*Ibid.*) Unlike in *Doran*, Metoyer's client was continuously and ably represented by the public defender's office. Thus, we find insufficient evidence to support OCTC's allegation that Metoyer violated rule 3-700(A)(2), and we dismiss this charge with prejudice.

B. Count Two: Section 6068, subd. (o)(3) (Failure to Report Judicial Sanctions)[7]

Metoyer stipulated, and the hearing judge found, that she violated section 6068, subdivision (o)(3), by failing to report the $1,500 judicial sanctions against her to the State Bar. We adopt and affirm this culpability finding, as supported by the record and the law. Although Judge Hunter had a duty to, and did, report the sanctions to the State Bar (§ 6086.7, subd. (a)(3)), Metoyer had a separate and independent obligation to do so as well (§ 6068, subd. (o)(10)), her failure of which is a basis for discipline. (*In the Matter of Varakin* (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179 [both court imposing sanctions and attorney receiving sanctions are statutorily required to make reports to State Bar; "[t]he duties are not in the alternative"].

[7] Section 6068, subdivision (o)(3), requires an attorney to report judicial sanctions of $1,000 or more to the State Bar within 30 days of the attorney's knowledge of such sanctions.

C. Count Three: Section 6103 (Failure to Obey Court Order)[8]

As did Judge Hunter and the Court of Appeal, the hearing judge found that Metoyer's departure from court and subsequent failure to return violated a court order. Metoyer maintains no lawful, written court order existed that she violated. We agree with the hearing judge and affirm culpability.

After answering that she was ready to proceed to trial, Metoyer was directed by the supervising judge to report to Department H for trial, as reflected in a January 15, 2015 *written* minute order. In her testimony in this proceeding, Metoyer acknowledged and affirmatively stated that she "had an obligation" to go to Department H for that purpose. However, once there, and after in-chamber discussions, Metoyer left the courtroom and failed to reappear in open court after being verbally told to do so by Judge Hunter. The court's order was not vague or ambiguous. Metoyer was directed, both in writing and orally, to appear and proceed with the *Ghebrehiwot* trial, which she failed to do. Like the hearing judge, we find that Metoyer's actions constituted a clear violation of a court order and a willful breach of section 6103. (*In the Matter of Wolff* (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1, 11 [attorney's failure to attend court-scheduled hearings as ordered and verbally directed at hearing was violation of § 6103].)

VI. AGGRAVATION AND MITIGATION

Standard 1.5 requires OCTC to establish aggravating circumstances by clear and convincing evidence; standard 1.6 requires Metoyer to meet the same burden to prove mitigation.[9] The hearing judge found two factors in aggravation: significant harm, to which he did not assign a specific weight, and lack of insight. He further found five factors in mitigation:

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[8] Section 6103 provides that an attorney may be disbarred or suspended for any "willful disobedience or violation of an order of the court order requiring [an attorney] to do or forbear an act connected with or in the course of [the attorney's] profession, which [the attorney] ought in good faith to do or forbear."

[9] Rules of Procedure of the State Bar, title IV, Standards for Attorney Sanctions for Professional Misconduct. All further references to standards are to this source.

no prior discipline, cooperation, character evidence, community service, and good faith failure to report sanctions.

On review, Metoyer seeks increased mitigation, and argues there should be no aggravation. OCTC, on the other hand, disputes many of the judge's mitigation findings, despite the fact that, at the conclusion of trial and on the record, OCTC conceded mitigation for no prior discipline, cooperation, good character, and community service. OCTC also seeks increased aggravation and urges us to find two more factors—multiple acts of wrongdoing and lack of candor. As discussed below, we affirm the findings of the hearing judge, with modifications to the weight of certain factors, and find an additional mitigating factor of extreme emotional difficulties.

A. Aggravation

1. Multiple Acts of Wrongdoing

OCTC argues that Metoyer committed multiple (i.e., three) acts of wrongdoing under standard 1.5(b). However, we find her culpable of only two counts of misconduct (failure to report judicial sanctions and violation of a court order), which does not amount to "multiple" acts. (See *In the Matter of Bach* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631, 646–647 [three wrongful acts considered multiple acts].)

2. Significant Harm

The hearing judge found Metoyer's misconduct was aggravated by the significant harm she caused to the administration of justice. (Std. 1.5(j) [significant harm to administration of justice is aggravating circumstance].) Metoyer argues she aided her client by not returning to court when she was emotionally unfit to continue, and asks for mitigation for lack of harm.

While Metoyer's misconduct did not harm her client, the record establishes that her actions nonetheless adversely impacted the efficient administration of justice. Judge Hunter testified that a 35-member jury pool was discharged because of Metoyer's misconduct, costing

the county "a lot" in terms of "the goodwill to the citizens" and "potentially to the other trials." Judge Hunter further testified that Metoyer's disappearance delayed a scheduled criminal trial, prompted sanctions proceedings, and unnecessarily taxed court time and resources.

In light of the foregoing, we affirm the hearing judge's finding of harm, assign it limited aggravating weight, and decline Metoyer's request for mitigation for lack of harm. (See and compare *In the Matter of Moriarty* (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 511, 526 [moderate aggravating weight for significant harm to administration of justice where respondent's "last-minute continuance request due to a medical emergency was without merit, frivolous and solely intended to cause unnecessary delay," and his misrepresentations, one of which was intentional, also undermined ability of tribunal to rely on him and resulted in sanctions].)

3. Lack of Remorse and Insight

The hearing judge found Metoyer's misconduct was significantly aggravated by her lack of remorse and insight. (Std. 1.5(k) [indifference toward rectification or atonement for consequences of misconduct is aggravating circumstance].) Specifically, the judge found that Metoyer remains "defiant," fails to demonstrate any "realistic recognition" of wrongdoing, and, instead, continues to assert that others are responsible for her misconduct. On review, Metoyer challenges this finding and highlights that she apologized to her client.

We affirm the hearing judge's finding of aggravation, but reduce its weight. We find Metoyer's text message apology to her client on January 15, 2015, demonstrates some remorse, though she has yet to exhibit full remorse to Judge Hunter and to Rucker. Despite invitations by Judge Hunter for an apology during the sanctions proceeding, Metoyer did not provide one, relying on her attorney's instruction. When asked during this disciplinary proceeding if she was sorry for her misconduct now, Metoyer articulated inconsistent positions, thus demonstrating some lack of insight. Initially, she testified that she owed "everyone" an apology, including her

client, the prosecutor, the judge, the court system, and the court staff. However, later she testified that she was still "not 100 percent clear" why Judge Hunter sanctioned her and that she believed Rucker was responsible for the situation, even though Metoyer herself refused to return to court after Rucker ended her telephone call with Judge Hunter. She also testified that the outcome would have been different if Rucker had come to the courtroom immediately to address the situation, but she never told Rucker where she was when she called.

Metoyer, "like any attorney accused of misconduct, ha[s] the right to defend [herself] vigorously." (*In re Morse* (1995) 11 Cal.4th 184, 209.) However, her continued deflection demonstrates that she has not fully come to terms with and accepted her own acts of wrongdoing. (*In the Matter of Katz* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502, 511 ["The law does not require false penitence . . . . But it does require that the respondent accept responsibility . . . and come to grips with . . . culpability"]; *In the Matter of Gadda* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416, 444 [blaming others demonstrates indifference and aggravates misconduct].) Accordingly, we assign some aggravation for lack of remorse and insight.

4. Lack of Candor

On review, OCTC seeks significant aggravation for Metoyer's lack of candor under standard 1.5(l). OCTC cites to alleged misrepresentations in Metoyer's declaration submitted during her superior court sanctions hearing and other unspecified "issues identified by Judge Hunter and the Hearing Judge." We decline OCTC's request and note the hearing judge did not find lack of candor. Metoyer's declaration was filed in a different proceeding, and OCTC's vague reference to other issues is insufficient to establish lack of candor by clear and convincing evidence.

B. Mitigation

1. Lack of Prior Discipline

The absence of prior discipline over many years of practice, coupled with present misconduct that is not likely to recur, is a mitigating circumstance. (Std. 1.6(a).) The hearing judge declined to afford full mitigating weight to Metoyer's 15 years of misconduct-free law practice, finding that her indifference suggested her misconduct may recur. OCTC agrees with this finding, while Metoyer seeks increased weight, citing her lengthy and accomplished career.

As discussed previously above, we found less aggravating weight than the hearing judge did regarding indifference, and that conclusion also leads us to disagree with the judge's conclusion that Metoyer's misconduct is likely to recur. Unlike the judge, we find no evidence suggesting that her behavior in the *Ghebrehiwot* case is other than an isolated occurrence. From all accounts, Metoyer is a dedicated public servant who exercised poor professional judgment in court on one occasion. Additionally, she was ordered to pay monetary sanctions, which she timely did. Based on this record, we find that her misconduct is not likely to recur. Accordingly, we assign substantial mitigating weight to Metoyer's extensive and, thus far, blemish-free legal career. (See *Hawes v. State Bar* (1990) 51 Cal. 3d 587, 596 [more than 10 years of discipline-free practice entitled to significant mitigation].)

2. Extreme Emotional Difficulties

We find that mitigation should be provided for Metoyer's severe and unexpected emotional episode on January 15, 2015. Standard 1.6(d) provides that mitigation may be afforded for extreme emotional difficulties if (1) the attorney suffered from them at the time of the misconduct, (2) they are established by expert testimony as being directly responsible for the misconduct, and (3) they no longer pose a risk of future misconduct. The Stipulation, along with Metoyer's and Rucker's testimony, establish that Metoyer became emotionally distraught to the

extent that she did not return to the courtroom for her client's trial, thus violating the order from the supervising judge in Department D. While Metoyer did not provide expert testimony that her emotional state was directly responsible for her misconduct, she did convincingly testify that it was. (*In the Matter of Ward* (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47, 59–60 ["some mitigating weight" assigned to personal stress factors established by lay testimony].) Finally, as we have considered her emotional distress to be an isolated occurrence, we find it unlikely to recur and cause Metoyer to commit future misconduct. Thus, we find mitigation under this circumstance, but assign only moderate weight.[10]

3. Good Character Evidence

Extraordinary good character, established by a wide range of references in the legal and general communities who are aware of the full extent of the misconduct, is a mitigation circumstance. (Std. 1.6(f).) Metoyer presented character evidence from five witnesses: a former client and four fellow public defenders. Two testified at trial and the remaining three submitted declarations.

OCTC argues that Metoyer's five witnesses do not constitute a wide range of references under the standard. We agree. (See *In the Matter of Myrdall* (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 363, 387 [three attorneys and three clients did not constitute broad range of references].) Nonetheless, we find these testimonials to be very persuasive in determining the proper weight to assign to this circumstance. Each of the four attorneys has had a strong working relationship with Metoyer and is familiar with her reputation and professional skills. One witness testified that Metoyer is one of a small group of attorneys in the public defender's office who regularly receives the highest ratings on her employee reviews, which was

[10] Our finding moderate weight for extreme emotional difficulties also takes into consideration that no additional mitigating weight was given for her failure to report the judicial sanction, as this misconduct occurred well after her emotional distress on January 15, 2015.

corroborated by Metoyer's impressive, and multiple, annual performance evaluations and her nomination for her office's misdemeanor attorney of the year award. All of the witnesses testified unequivocally that Metoyer is a compassionate and zealous advocate who works tirelessly and cares deeply about her clients and her job. Finally, all of the witnesses were aware of the disciplinary charges against Metoyer, and they continue to maintain a high opinion of her character and legal abilities.

The hearing judge afforded Metoyer substantial mitigation for this evidence. While we acknowledge that she did not provide a wide range of references, we do assign moderate weight based on the quality of testimony from her five witnesses and their backgrounds. (See *In the Matter of Davis* (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576, 591–592 [less than full weight given to testimony of only three character witnesses, two attorneys and retired fire chief/reserve sheriff's deputy, who had long-standing familiarity with attorney and broad knowledge of attorney's good character, work habits, and professional skills]; *In the Matter of Brown* (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 319 [members of legal community have strong interest in maintaining honest administration of justice].)

4. Community Service

The hearing judge assigned Metoyer considerable mitigation for her community service. However, OCTC argues that the nature and extent of her activities is "not clear." We disagree with OCTC about the evidence and affirm the hearing judge.

Metoyer provided testimony and documentary evidence of extensive volunteer work. Since joining the public defender's office in 2005, she has volunteered *annually* to be a judge in the Mock Trial Program by the Constitutional Rights Foundation, except for one or two years. More recently, in 2015, she participated in the Los Angeles County Bar Association's Dialogues on Freedom Program, where she led classroom discussions about the criminal justice system at

least three times. She received glowing feedback and was invited to return. She visits high schools and middle schools to speak with students about the practice of law and her role as a public defender. In March 2016, she received numerous handwritten letters from students thanking her for her time and expressing their appreciation. She also coaches her daughters in soccer. We find Metoyer's contributions to the community are commendable and entitled to substantial mitigating weight. (See *Calvert v. State Bar* (1991) 54 Cal.3d 765, 785 ["service to the community is a mitigating factor . . . entitled to 'considerable weight'"].)

5. Cooperation

We affirm the hearing judge's unchallenged finding that Metoyer is entitled to some mitigating weight for her cooperation in this proceeding. (Std. 1.6(e) [mitigation for spontaneous cooperation to State Bar].) Metoyer entered into a pretrial factual stipulation, and stipulated at the beginning of trial to culpability for failing to report judicial sanctions. Although trial proceeded on the two remaining counts, and one has now been dismissed, Metoyer's initial cooperation helped conserve judicial time and resources. (See *In the Matter of Johnson* (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179, 190 ["more extensive weight in mitigation is accorded those who, where appropriate, willingly admit their culpability as well as the facts"].) Because she stipulated to facts and culpability on one of two counts, we assign moderate weight to this factor.

6. Good Faith

At trial, Metoyer testified that she failed to timely report her judicial sanctions to the State Bar on the advice of her counsel, who erroneously advised her that she did not need to report until her appeal of the judicial sanctions was over, and because Judge Hunter's order indicated that the court would report the sanctions to the State Bar. The hearing judge afforded

Metoyer some mitigating credit for her good faith beliefs (std. 1.6(b) [good faith beliefs honestly held and objectively reasonable are mitigating]), which OCTC contests on review.

We find the judge's mitigation assessment amply supported by case law, and we affirm. (See *Sheffield v. State Bar* (1943) 22 Cal. 2d 627, 632 [relying on counsel is no defense to wrongdoing, but may be considered in leniency of disciplinary recommendation]; *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41, 47–48 [attorney's awareness that court notified State Bar of sanctions does not absolve attorney of independent duty to also report, but may be considered in mitigation].)

VII. LEVEL OF DISCIPLINE

The purpose of attorney discipline is not to punish the attorney, but to protect the public, the courts and the legal profession; to preserve public confidence in the profession; and to maintain high standards for attorneys. (Std. 1.1.) Our analysis begins with the standards, which "promote the consistent and uniform application of disciplinary measures," and are entitled to great weight. (*In re Silverton* (2005) 36 Cal.4th 81, 91 [Supreme Court will not reject recommendation arising from standards unless there are grave doubts as to propriety of recommended discipline].) We also look to comparable case law for guidance, when appropriate. (*Snyder v. State Bar* (1990) 49 Cal.3d 1302, 1310–1311.) Ultimately, we balance all relevant factors, including mitigating and aggravating circumstances, on a case-by-case basis to ensure that the discipline imposed is consistent with its purpose. (*In re Young* (1989) 49 Cal.3d 257, 266.) If we deviate from the standards, we must clearly articulate the reasons for doing so. (*Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

Standard 1.7(a) provides that the most severe sanction must be imposed when a member commits two or more acts of misconduct. Here, the hearing judge properly cited to standard 2.12(a), which calls for disbarment or actual suspension for violation of a court order

related to the practice of law.[11] The judge's recommended 30-day actual suspension is within the specified disciplinary range, and, we note, at the lowest end of the scale set forth in standard 1.2(c)(1).[12]

OCTC supports the disciplinary recommendation. Metoyer contends it is excessive and urges us to depart from the standard and impose an admonition or reproval. She highlights her proven track record as a public defender and her challenging and demanding schedule in the Compton courts, and contends that an aberrant emotional breakdown caused her to make the decisions that escalated into the case we now have before us.

We find it appropriate that a more lenient sanction be imposed than the one recommended by the hearing judge and called for under standard 2.12(a). First, we have found less culpability than the judge did. Second, we have also found less aggravation and more mitigation than the judge did, and Metoyer's mitigation is significant overall when balanced with her aggravation. She is a veteran public defender, with 15 years of dedicated public service and no previous discipline, who had one emotional episode that delayed court proceedings. She has engaged in community and volunteer work for well over a decade. Finally, her witnesses testified to her extraordinarily good character and exceptional advocacy and lawyering skills, and she cooperated during these proceedings.

Standard 1.7(c) provides that, where the net effect of the aggravation and mitigation evidence demonstrates that a lesser sanction is needed to fulfill the primary purpose of discipline, a lesser sanction than one specified in a given standard is appropriate. Given that we have found limited harm to the legal system and none to her client, and that she is willing and able to comply

[11] Standard 2.12(b), related to Metoyer's misconduct for her failure to report judicial sanctions, provides for reproval as the presumed sanction.

[12] Standard 1.2(c)(1) states, in relevant part, that "Actual suspension is generally for a period of thirty days, sixty days, ninety days, six months, one year, eighteen months, two years, or three years . . . ."

with her ethical responsibilities in the future, a sanction less than an actual suspension is appropriate. For these reasons, we find that a public reproval, with the requirement that she attend the State Bar's Ethics School, is sufficient discipline to impress upon Metoyer the gravity of her misconduct and duly serves to protect the public, the courts, and the legal profession.

VIII. ORDER

Delia Marie Metoyer is ordered publicly reproved, to be effective 15 days after service of this opinion and order. (Rule 5.127(A).) She must comply with the specified condition attached to the public reproval. (Rule 5.128; Cal. Rules of Court, rule 9.19.) Failure to comply with this condition may constitute cause for a separate proceeding for willful breach of rule 1-110 of the Rules of Professional Conduct. She is ordered to comply with the following condition:

Within one year of the effective date of this public reproval, she must submit to the Office of Probation satisfactory evidence of completion of State Bar's Ethics School and passage of the test given at the end of that session. This requirement is separate from any Minimum Continuing Legal Education (MCLE) requirement, and she shall not receive MCLE credit for attending Ethics School. (Rule 3201.)

IX. COSTS

We further order that costs be awarded to the State Bar in accordance with section 6086.10, such costs being enforceable both as provided in section 6140.7 and as a money judgment.

McGILL, J.

WE CONCUR:

PURCELL, P. J.

HONN, J.