

RUSTY B. HANSEN

(Suspension; Withheld Suspension; Probation)

On February 16, 2017, the Idaho Supreme Court issued a Disciplinary Order suspending Pocatello attorney, Rusty B. Hansen, from the practice of law for a period of 3 years and 9 months, with 21 months of that suspension withheld. The Disciplinary Order also provided that if reinstated following his suspension, Mr. Hansen will be placed on probation for a period of three years. Mr. Hansen's two-year suspension from practicing law in Idaho will be from August 25, 2016, when he closed his law office in anticipation of being suspended, through August 25, 2018.

The Idaho Supreme Court found that Mr. Hansen violated I.R.P.C. 1.2(a) [Failure to Abide by Client's Decisions Concerning the Objectives of Representation]; I.R.P.C. 1.3 [Diligence]; I.R.P.C. 1.4 [Communication]; and I.R.P.C. 3.4(c) [Knowingly Disobeying an Obligation under the Rules of a Tribunal]. The Idaho Supreme Court's Disciplinary Order followed a stipulated resolution of an Idaho State Bar discipline case in which Mr. Hansen admitted that he violated those Idaho Rules of Professional Conduct.

Mr. Hansen's conduct related to his representation of a client charged with aggravated DUI. The State served discovery responses identifying the State's expert witnesses, including lab personnel. Mr. Hansen sought additional information from an out-of-state laboratory and following hearing, the Court determined that the information sought was beyond the State's obligation to produce in discovery, but that Mr. Hansen's client could order the information, pay for it and it would be subject to reimbursement if she prevailed at trial.

Shortly thereafter, the prosecutor and the laboratory provided the instructions and information necessary to order the laboratory information to Mr. Hansen. However, Mr. Hansen failed to timely request that information.

When Mr. Hansen disclosed defendant's expert witnesses, he did not provide the substance of the experts' testimony as requested by the discovery. At a pre-trial hearing two weeks before trial, Mr. Hansen advised the Court that a defense expert witness would not be available to testify. The expert witness had advised Mr. Hansen 17 days earlier that he declined to appear. Mr. Hansen advised the Court that he had a potential substitute expert witness; however, that expert witness had not yet been retained and had not provided a report related to his potential testimony. The Court excluded the defense expert witnesses because Mr. Hansen had no adequate reason or just cause to excuse his failure to comply with the criminal rule governing discovery and the disclosure of expert witnesses. Shortly thereafter, Mr. Hansen's client pled guilty to aggravated DUI pursuant to a plea agreement.

The Disciplinary Order provided that 15 months of the suspension will be imposed and served by Mr. Hansen, since Mr. Hansen's conduct occurred during the period of a three-year disciplinary probation that had terminated in August 2015. The Disciplinary Order provided Mr. Hansen will serve an additional 9 months of suspension. Following any reinstatement, Mr. Hansen will serve a three-year probation upon the conditions of probation specified in the Order. Those conditions include that Mr. Hansen will serve the 21-month withheld suspension if he admits or is found to violated any of the Idaho Rules of Professional Conduct for which a public sanction is imposed for any conduct during the period of probation; Mr. Hansen must remain under his physician's care; Mr. Hansen must, at his own expense, enroll in a program of random

urinalysis testing; practice under a supervising attorney; and provide monthly reports to Bar Counsel attesting that he is representing his clients consistent with his responsibilities under the Idaho Rules of Professional Conduct.

Inquiries about this matter may be directed to: Bar Counsel, Idaho State Bar, P.O. Box 895, Boise, Idaho 83701, (208) 334-4500.