

The Supreme Court of the State of Louisiana

IN RE: MICHELLE ANDRICA CHARLES

No. 2024-B-01263

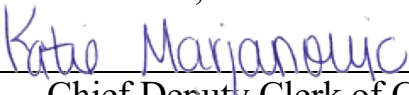
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IN RE: Office of Disciplinary Counsel - Applicant Other; Rule to Revoke Probation;  
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December 11, 2024

Probation revoked. See per curiam.

JLW  
SJC  
JTK  
WJC  
JBM

Hughes, J., dissents.  
Griffin, J., dissents.

Supreme Court of Louisiana  
December 11, 2024  
  
\_\_\_\_\_  
Chief Deputy Clerk of Court  
For the Court

SUPREME COURT OF LOUISIANA

NO. 2024-B-1263

IN RE: MICHELLE ANDRICA CHARLES

ATTORNEY DISCIPLINARY PROCEEDING

PER CURIAM

The instant disciplinary proceeding arises from a motion to revoke probation and make deferred suspension executory filed by the Office of Disciplinary Counsel (“ODC”) against respondent, Michelle Andrica Charles, for her alleged failure to comply with the conditions of probation imposed in *In re: Charles*, 21-1853 (La. 5/13/22), 340 So. 3d 901 (“*Charles I*”).

**UNDERLYING FACTS AND PROCEDURAL HISTORY**

In *Charles I*, respondent failed to file her state income tax return for 2015, which resulted in her disqualification as a judicial candidate. She also neglected a legal matter, failed to communicate with a client, and engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation. For this misconduct, we suspended respondent from the practice of law for nine months, with six months deferred, followed by a two-year period of supervised probation with certain conditions. We further ordered that respondent’s failure to comply with the conditions of probation, “or any misconduct during the deferral or probationary periods, will be grounds for making the deferred suspension executory, or for imposing additional discipline, as appropriate.” Respondent was also assessed all costs and expenses in accordance with Supreme Court Rule XIX, § 10.1, with legal interest to commence thirty days after the finality of the court’s judgment in *Charles I* until paid.

After serving the three-month actual period of suspension, respondent was reinstated to the practice of law effective August 29, 2022.

## **DISCIPLINARY PROCEEDINGS**

### *Motion to Revoke Probation and Make Deferred Suspension Executory*

On September 6, 2024, the ODC filed the instant “Motion to Revoke Probation and to Impose Previously Deferred Suspension Pursuant to Rule XIX, Appendix C, Rule 6C” with the disciplinary board, submitting that sufficient evidence existed that respondent has failed to comply with her probation conditions and has engaged in ethical misconduct during the probationary period. Specifically, it is alleged that respondent was hired to represent Quanittia Dennis in a pending criminal matter in DeSoto Parish. The matter was set for trial on October 25, 2022. Respondent received discovery and subpoenaed 21 witnesses to appear at trial. Despite the trial court previously denying respondent’s request to withdraw from the matter, two days before trial was scheduled, respondent emailed the judge’s office writing: “I will not try this case on Tuesday without being properly prepared for trial.” On the morning of trial, Ms. Dennis and the subpoenaed witnesses were present in court; however, respondent failed to appear. Ms. Dennis was questioned by the court and testified that respondent contacted her the day before and asked Ms. Dennis to terminate her legal representation. Ms. Dennis declined to do so. The state successfully moved for a writ of attachment and filed a rule for contempt.

After the subpoenaed witnesses had been released, respondent appeared at the DeSoto Parish courthouse, where she was detained and brought before the trial court

on the writ of attachment. Following a hearing, respondent was found in constructive contempt of court and sentenced to 22 hours of incarceration.<sup>1</sup>

The ODC's instant motion also alleged respondent violated her probation by failing to keep current on the promissory note for costs and expenses due as ordered in *Charles I* and payable to the board.

### *Hearing on Revocation of Probation*

This matter proceeded to a hearing before an adjudicative panel of the disciplinary board on October 3, 2024. The ODC introduced documentary evidence and called Deputy Disciplinary Counsel Brianne Hemmans to testify at the hearing. Ms. Hemmans, an attorney employed by the ODC, investigates and prosecutes disciplinary complaints, drafts probation agreements, and monitors attorney compliance with probation agreements.

Ms. Hemmans testified that sometime in 2023, she learned through this court's news release alert that respondent had been involved in a matter related to a contempt proceeding. Following her normal practice as probation monitor, she referred the matter to the ODC attorney in charge of investigating and prosecuting allegations of misconduct by respondent.

Ms. Hemmans further testified that respondent's probation was expected to end on September 19, 2024. Prior to that, Ms. Hemmans learned that the board sent respondent a Notice of Delinquency on August 29, 2024, which she also referred to the ODC counsel.

On cross examination, Ms. Hemmans was asked whether it was customary that the ODC moves to revoke the probation every time a payment to the board has

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<sup>1</sup> Respondent filed a writ application in this court after she was held in contempt. That application has been denied. See *State of Louisiana v. Quanittia Dennis (In re: Michelle A. Charles Contempt Proceedings)*, 24-0213 (La. 12/11/24), \_\_\_ So. 3d \_\_\_\_.

not been made. Ms. Hemmans testified that each case is handled based upon its own facts and circumstances, but, traditionally, failure to pay costs alone would not result in a motion to revoke probation. However, she explained that when there are bases to revoke probation other than failure to pay costs, the failure to pay costs is included with the more substantive basis for revocation.

Respondent testified at the hearing. As to the cost issue, respondent admitted that she is not current on her promissory note with the board, explaining that 2024 has been a difficult year financially and personally. Respondent expressed that she faced the decision this year whether to pay her promissory note or pay for basic needs like food. Per questioning by the board, respondent admitted that she had not made any attempt to secure assistance or a loan from any source to pay her disciplinary costs to maintain her license to practice law.

Regarding the contempt proceeding, respondent testified that she met Ms. Dennis, whom respondent only knew as Breka Peoples, in 2019 through community activism events. Ms. Dennis had been charged with standing too close to a polling location wearing campaign paraphernalia in 2020. Respondent enrolled as Ms. Dennis's counsel in mid-2022; however, within days of enrolling, respondent was suspended from the practice of law in *Charles I*. Due to her suspension, respondent relocated home to south Louisiana from her previous position as a public defender for Caddo Parish.

Respondent received over three hundred pages of discovery for Ms. Dennis's case mid-September 2022 and realized the matter was more complicated than she originally believed. She stated that she would not have time or resources to prepare for the October 25, 2022 trial date, especially considering the trial was scheduled in north Louisiana. Nonetheless, respondent participated in pre-trial conferences and subpoenaed 22 witnesses to testify at trial.

Respondent acknowledged she filed a motion to withdraw which was denied in open court on or about October 11, 2022; however, even after confronted with court minutes, she claimed she had not learned of the denial until October 20, 2022. Respondent identified the email in evidence she wrote to the trial court before trial, explaining it was her “cry for help” as she was dealing with an uncooperative, uncommunicative client as well as challenges in preparing the matter for trial.

On the morning of Ms. Dennis’s trial, respondent testified that she left her home in New Orleans between 4:00 and 5:00 a.m. to travel to DeSoto Parish, which she believed was enough time to arrive to courthouse timely. A friend rode with her. While traveling, they encountered severe rain which required respondent to reduce speed. The pair also stopped for gas and snacks. Respondent testified she was not consciously looking at the time and was solely focused on getting to the courthouse. While she stated that she used a GPS system, she could not recall whether the system provided her an estimated arrival time. At no time did she contact the court, opposing counsel, or her client to advise she would be tardy. When respondent arrived at the courthouse at approximately 10:00 a.m., she was detained and placed in jail.

#### *Disciplinary Board Recommendation*

After considering the evidence and testimony presented at the hearing, the record, and the applicable law, the disciplinary board found that the ODC presented sufficient evidence to demonstrate that respondent failed to comply with the terms and conditions of her probation. On October 14, 2024, the disciplinary board filed its report with this court, recommending that the ODC’s motion be granted. The board made additional findings, stating that through respondent’s testimony and the exhibits in evidence, the evidence showed that on the morning of Ms. Dennis’s trial, the assistant district attorneys, Ms. Dennis, and numerous subpoenaed witnesses

appeared for trial; however, respondent did not appear. Ms. Dennis was placed under oath and questioned by the trial court. Ms. Dennis testified that she called and texted with respondent two days before trial wherein respondent asked Ms. Dennis to fire respondent. Ms. Dennis declined to do so. After her testimony, the state moved to file a notice of constructive contempt against respondent.

Specifically, the board found that respondent violated Rule 1.1(a) (failure to provide competent representation) as respondent was not prepared for trial in the *Dennis* matter. Additionally, respondent violated Rule 1.3 (failure to act with reasonable diligence and promptness in representing a client) as she failed to timely appear and made no effort to contact the court, opposing counsel, or her client to advise about the tardiness. Respondent further violated Rule 8.4(d) (engaging in conduct prejudicial to the administration of justice) by disrupting the business of the court by inconveniencing the trial court, opposing counsel, and numerous subpoenaed witnesses without making any attempt to inform anyone of her tardiness.

The board's recommendation also noted that the ODC's allegation that respondent violated Rule 3.4(c) (knowing disobedience of an obligation under the rules of a tribunal) first appeared in a memorandum filed in mid-September, not in the ODC's motion to revoke probation. The board went on to discuss relevant jurisprudence which provides that all is required for a respondent's procedural due process is that the charges against respondent be "so specific as to fairly inform him of the misconduct of which he is accused." *See Louisiana State Bar Ass'n v. Martin*, 451 So.2d 561 (La. 1984). The board found that while the ODC did not specifically address Rule 3.4(c), it factually asserted respondent knowingly failed to timely appear for trial in violation of Rule 3.4(c). The board also noted that the ODC memorandum referencing Rule 3.4(c) was filed only twelve days after the ODC filed its motion to revoke probation. Under those circumstances, the board found it was appropriate to consider the Rule 3.4(c) allegations.

Lastly, the board discussed Rule 8.4(b) (commission of a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer). Here, respondent was charged with and determined to have committed constructive contempt. However, given the posture of respondent's criminal writ application at the time the board drafted its recommendation, the board declined to make a determination regarding whether respondent had violated Rule 8.4(b), finding it "unnecessary in light of the other findings and recommendations made by the [b]oard herein."

Accordingly, the board recommended that respondent's probation be revoked and that the deferred nine-month suspension in *Charles I* be made executory. The board also recommended that she be assessed with all costs and expenses of these proceedings.

### **DISCUSSION**

A review of the record reveals that respondent has not complied with the requirements set forth in her probation agreement. She failed to prepare for and timely appear for a scheduled trial date, resulting in her being held in contempt. She also failed to pay the costs associated with her prior discipline in *Charles I*. Under the circumstances, we feel it is necessary to revoke respondent's probation and impose the previously-deferred portion of the *Charles I* suspension.

Accordingly, we will accept the disciplinary board's recommendation and grant the motion to revoke respondent's probation, making the deferred portion of the nine-month suspension imposed in *Charles I* immediately executory.

### **DECREE**

For the reasons assigned, respondent's probation is revoked and the deferred portion of the nine-month suspension imposed in *In re: Charles*, 21-1853 (La.



5/13/22), 340 So. 3d 901, is hereby made immediately executory. All costs and expenses in the matter are assessed against respondent, Michelle Andrica Charles, Louisiana Bar Roll number 30872, in accordance with Supreme Court Rule XIX, § 10.1, with legal interest to commence thirty days from the date of finality of this court's judgment until paid.