

APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK, THIRD DEPARTMENT

Matter of Wittman

2026 NY Slip Op 02195 (N.Y. Ct. App. 2026) · No. PM-67-26 · Decided April 9, 2026

SUMMARY

The Appellate Division, Third Department granted a joint motion for discipline upon consent concerning Rebecca L. Wittman's representation of a criminal defendant on appeal. The court found that the parties satisfied the procedural requirements and censured Wittman for admitted violations involving inadequate communication, neglect, lack of diligence, and failure to pursue the client's objectives.

CASE DETAILS

COURT	Appellate Division of the Supreme Court of the State of New York, Third Department
WRITING FOR THE COURT	Clark, J.P.; Pritzker, J.; Ceresia, J.; McShan, J.; Mackey, J.
JURISDICTION	New York Supreme Court, Appellate Division, Third Department
DECIDED	April 9, 2026
DOCKET	PM-67-26
DISPOSITION	other
PROCEDURAL POSTURE	Attorney disciplinary proceeding in which the Attorney Grievance Committee and respondent jointly moved for the imposition of discipline upon consent.
STANDARD OF REVIEW	The court independently considered whether the agreed-upon sanction was appropriate and commensurate with similar disciplinary cases and whether it would protect the public, preserve the profession's honor and integrity, or deter similar misconduct.
PRECEDENTIAL VALUE	Published opinion; precedential disciplinary decision of the New York Appellate Division, Third Department.
PARTIES	Attorney Grievance Committee for the Third Judicial Department v. Rebecca L. Wittman

TOPICS

appellate procedure

criminal procedure

PRACTICE AREAS

legal ethics

attorney discipline

criminal appellate representation

QUESTIONS PRESENTED

1. Whether the parties satisfied the procedural requirements for a joint motion seeking discipline upon consent.
2. Whether censure was an appropriate sanction for respondent's negligent representation and related professional misconduct in light of the mitigating and aggravating circumstances.

HOLDINGS

1. The parties satisfied the procedural requirements for imposing discipline upon consent because their submission included the required stipulation of facts, aggravating and mitigating factors, agreed sanction, and respondent's knowing, voluntary, and uncoerced consent.
2. Censure was an appropriate sanction for respondent's admitted misconduct because, considering the totality of the circumstances and particularly the mitigating factors, it was commensurate with similar cases and served the purposes of attorney discipline.

KEY QUOTATIONS

*“Given the totality of the circumstances, and in specific consideration of the mitigating circumstances presented, including but not limited to her admission of the underlying misconduct, we grant the parties’ motion and censure respondent” (*2)*

FACTUAL BACKGROUND

Rebecca L. Wittman represented a criminal defendant on an appeal before the Appellate Division, Fourth Department. She admitted failing to pursue the client's objectives, prejudicing or damaging the client, failing to act with reasonable diligence and promptness, and neglecting a legal matter entrusted to her, among other violations. The parties stipulated to the facts, aggravating and mitigating circumstances, and an agreed-upon censure.

PROCEDURAL HISTORY

The Attorney Grievance Committee filed a verified petition of charges alleging professional misconduct arising from respondent's representation of a criminal defendant on appeal. Respondent answered, and the parties filed Statements of Disputed/Undisputed Facts. They then jointly moved for discipline upon consent, agreeing to a censure, which the court granted.

DISPOSITION

other

CASES CITED

- Matter of Chukwu, 2026 NY Slip Op 01266, *1-2 (3d Dept 2026)
- Matter of Orseck, 227 AD3d 1222, 1224 (3d Dept 2024)
- Matter of Cruikshank, 246 AD3d 1215, 1218 (3d Dept 2026)
- Matter of D'Amico, 166 AD3d 1375, 1376 (3d Dept 2018)
- Matter of Shaw, 137 AD3d 19, 20-21 (1st Dept 2016)
- Matter of Hoover, 196 AD3d 994, 995-996 (3d Dept 2021)
- Matter of Swayze, 230 AD3d 906, 907 (3d Dept 2024)
- Matter of Ezeala, 163 AD3d 1348, 1349 (3d Dept 2018)
- Matter of Sutton, 232 AD3d 985, 986-987, 987 (3d Dept 2024)
- Matter of Hogan, 143 AD3d 1044, 1045 (3d Dept 2016)
- Matter of White, 243 AD3d 1112, 1114 (3d Dept 2025)

OPINION

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PER CURIAM.

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2026 NY Slip Op 02195

April 9, 2026

Appellate Division, Third Department

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This decision is uncorrected and subject to revision before publication in the Official Reports.

In the Matter of Rebecca L. Wittman, an Attorney. Attorney Grievance Committee for the Third Judicial Department, Petitioner; Rebecca L. Wittman, Respondent. (Attorney Registration No. 2389229.)

Decided and Entered: April 9, 2026

PM-67-26

Calendar Date: March 23, 2026

Before: Clark, J.P., Pritzker, Ceresia, Mcshan And Mackey, JJ.

Monica A. Duffy, Attorney Grievance Committee for the Third Judicial Department, Albany (Lauren S. Cousineau of counsel), for petitioner.

Robert F. Julian, PC, Utica (Robert F. Julian of counsel), for respondent.

[*1]

Per Curiam.

Respondent was admitted to practice by the Fourth Department in 1991 and maintains a business address in Madison County (*see* Rules for Atty Disciplinary Matters [22 NYCRR] § 1240.7 [a] [2]). By petition of charges verified August 29, 2025, petitioner seeks to impose discipline upon respondent, alleging various violations of the Rules of Professional Conduct

arising out of her representation of a criminal defendant on his appeal before the Appellate Division, Fourth Department. Respondent was heard in answer on September 30, 2025 and the parties have since filed their respective Statements of Disputed/Undisputed Facts. By joint motion marked returnable March 23, 2026, the parties have now moved for the imposition of discipline upon consent (*see* Rules for Atty Disciplinary Matters [22 NYCRR] § 1240.8 [a] [5]).

The parties' joint motion includes a stipulation of facts, aggravating and mitigating factors and an agreement as to the ultimate sanction (*see* Rules for Atty Disciplinary Matters [22 NYCRR] § 1240.8 [a] [5] [i] [a], [c], [d]). Moreover, respondent has provided an affidavit, wherein she admits to several rule violations regarding her representation of her client on his criminal appeal, including her failure to pursue the objectives of the client, her prejudice or damage to the client during the course of the representation, her failure to act with reasonable diligence and promptness in representing the client and her neglect of a legal matter entrusted to her (*see* Rules for Atty Disciplinary Matters [22 NYCRR 1200.00] rules 1.1 [c] [1], [2]; 1.3 [a], [b]), among other misconduct (*see* Atty Disciplinary Matters [22 NYCRR] 1200.00 rules 1.4 [a] [2], [3], [4]; 1.4 [b]; 1.16 [e]). Respondent's submissions also reveal that she freely, voluntarily and without duress or coercion consents to the joint motion and the agreed-upon sanction and that she is fully aware of the consequences of entering into such a stipulation (*see* Rules for Atty Disciplinary Matters [22 NYCRR] § 1240.8 [a] [5] [iii]). Given that the parties have satisfied the procedural requirements, we turn to the consideration of the appropriate sanction for the underlying misconduct (*see* *Matter of Chukwu*, __ AD3d __, __, 2026 NY Slip Op 01266, *1 [3d Dept 2026]; *Matter of Orseck*, 227 AD3d 1222, 1224 [3d Dept 2024]).

While the parties agree to the imposition of a censure, such a sanction must nonetheless be commensurate with similar cases, and such sanction must protect the public, maintain the honor and integrity of the profession, or deter others from committing similar misconduct (*see* Rules for Atty Disciplinary Matters [22 NYCRR] § 1240.8 [b] [2]). We have generally imposed a censure in cases involving negligent representation — including in the criminal context — after consideration of the relevant mitigating evidence (*see* *Matter of Cruikshank*, 246 AD3d 1215, 1218 [3d Dept 2026]; *Matter of D'Amico*, 166 AD3d 1375, 1376 [3d Dept 2018]; *Matter of Shaw*, 137 AD3d 19, 20-21 [1st Dept 2016] [*2]; *see* also *Matter of Hoover*, __ AD3d 994, 995-996 [3d Dept 2021]; *compare* *Matter of Swayze*, 230 AD3d 906, 907 [3d Dept 2024]; *Matter of Ezeala*, 163 AD3d 1348, 1349 [3d Dept 2018]).

In mitigation, respondent has admitted to the facts underlying the misconduct without attempting to excuse her conduct (*see* generally ABA Standards for Imposing Lawyer Sanctions standard 9.32 [l]), she did not have a selfish or dishonest motive (*see* ABA Standards for Imposing Lawyer Sanctions standard 9.32 [b]), and some of her conduct can be attributed to certain medical and personal issues that arose amidst her representation of the client (*see* ABA Standards for Imposing Lawyer Sanctions standard 9.32 [c], [h]). Conversely, in aggravation, petitioner cites respondent's prior disciplinary history for

similar misconduct (*see* ABA Standards for Imposing Lawyer Sanctions standard 9.22 [a], [c]; *see also* *Matter of Chukwu*, ___ AD3d at ___, 2026 NY Slip Op 01266, *1-2 [3d Dept 2026]; *Matter of Sutton*, 232 AD3d 985, 986-987 [3d Dept 2024]; *Matter of Hogan*, 143 AD3d 1044, 1045 [3d Dept 2016]), as well as her substantial experience in the practice of law (*see* ABA Standards for Imposing Lawyer Sanctions standard 9.22 [i]; *see also* *Matter of White*, 243 AD3d 1112, 1114 [3d Dept 2025]). Given the totality of the circumstances, and in specific consideration of the mitigating circumstances presented, including but not limited to her admission of the underlying misconduct, we grant the parties' motion and censure respondent (*see* *Matter of Sutton*, 232 AD3d 985, 987 [3d Dept 2024]).

Clark, J.P., Pritzker, Ceresia, McShan and Mackey, JJ., concur.

ORDERED that the joint motion by the parties is granted; and it is further

ORDERED that respondent is censured.

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