

S15Y0827. IN THE MATTER OF WILSON R. SMITH.

PER CURIAM.

This disciplinary matter is before the Court on the Petition for Indefinite Suspension Pending the Outcome of Criminal Charges filed by Respondent Wilson R. Smith (State Bar No. 665025). Smith was arrested in Toombs County for theft by conversion and first and third degree forgery based on allegations clients made in a civil case they filed against him. The district attorney for the Middle Judicial Circuit has advised Smith's attorney that the State will proceed by indictment or accusation in that case, as well as in two other cases of alleged theft, one in Toombs County and another in Emanuel County. Smith is currently incarcerated.

In his petition, Smith acknowledges that Rule 8.4 (a) (2) of the Georgia Rules of Professional Conduct, see Bar Rule 4-102 (d), provides that a lawyer shall not be convicted of a felony, and the maximum punishment is disbarment. He states that until he pleads or is found guilty, he cannot admit that he violated Rule 8.4 (a) (2) without waiving his constitutional rights, including his right

against self-incrimination and his rights to the presumption of innocence, to due process, to counsel, and to confront and cross-examine witnesses. Thus, he asks the Court to accept his petition for an indefinite suspension pending the outcome of his criminal charges.

The State Bar responds that while there is no specific rule that contemplates a suspension in this context, Smith's request strikes a reasonable balance between the need for public protection and Smith's right to defend against the criminal charges, see In the Matter of Swank, 288 Ga. 479 (704 SE2d 807) (2011), so it has no objection to the Court's granting his petition.

Having reviewed the record, the Court agrees that Smith's request should be granted. Therefore, it is hereby ordered that Wilson R. Smith be suspended from the practice of law in this State during the pendency of the criminal charges against him and until further order of this Court. Smith is directed to notify the State Bar's Office of General Counsel in writing within seven days of any disposition of the criminal charges, whether by plea, verdict, dismissal, first offender adjudication, or otherwise. Smith is reminded of his duties under Bar Rule 4-219 (c).

Suspension until further order of the Court. All the Justices concur.

Decided April 20, 2015.

Suspension.

Paula J. Frederick, General Counsel State Bar, Jenny K. Mittelman,
Assistant General Counsel State Bar, for State Bar of Georgia.

Dubberly & McGovern, Joseph D. McGovern, for Smith.