

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: July 16, 2015

D-52-15

In the Matter of MICHAEL EDWARD
MONTAGUE, a Disbarred Attorney.

MEMORANDUM AND ORDER

(Attorney Registration No. 4732707)

Calendar Date: June 29, 2015

Before: Lahtinen, J.P., McCarthy, Garry and Clark, JJ.

Monica A. Duffy, Committee on Professional Standards,
Albany (Alison M. Coan of counsel), for Committee on Professional
Standards.

Michael Edward Montague, Clifton Park, pro se.

Per Curiam.

Michael Edward Montague was admitted to practice by this
Court in 2009 and presently resides in the Town of Clifton Park,
Saratoga County.

On April 25, 2014, Montague pleaded guilty before Albany
County Court (Herrick, J.) to two felony counts of possessing a
sexual performance by a child (see Penal Law § 263.16). He
failed to report his felony conviction to this Court as required
by Judiciary Law § 90 (4) (c).

The Committee on Professional Standards now moves pursuant
to Judiciary Law § 90 (4) (a) and (b) to strike Montague's name
from the roll of attorneys.

Montague was automatically disbarred and ceased to be an
attorney by operation of law in April 2014 when he entered his
guilty plea to a felony, which, for attorney discipline purposes,

served as the equivalent of a conviction (see Judiciary Law § 90 [4]; Matter of Sanderson, 119 AD3d 1318, 1318 [2014]; Matter of Reidy, 77 AD3d 1276, 1276 [2010]). Consequently, "[the Committee's] motion to strike [Montague's] name from the [roll] of attorneys [is] a formality which merely confirms [Montague]'s disbarred status" (Matter of Brunet, 106 AD3d 1443, 1443 [2013]; see Matter of Sanderson, 119 AD3d at 1318). This Court's recent reversal of Montague's conviction based upon preindictment delay (___ AD3d ___, 2015 NY Slip Op 05721 [July 2, 2015]) does not change the result since "[r]eversal of the conviction does not automatically restore the attorney to the [b]ar [and, t]o attain such relief, the attorney must make a motion for reinstatement" (Matter of Toro v Malcolm, 44 NY2d 146, 152 [1978] [citations omitted]).

Therefore, we grant the Committee's motion and strike Montague's name from the roll of attorneys.

Lahtinen, J.P., McCarthy, Garry and Clark, JJ., concur.

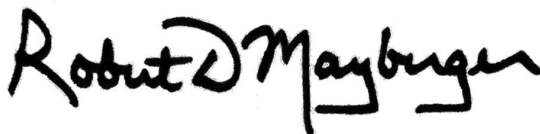
ORDERED that the motion of the Committee on Professional Standards is granted; and it is further

ORDERED that Michael Edward Montague's name is hereby stricken from the roll of attorneys and counselors-at-law of the State of New York, effective immediately; and it is further

ORDERED that Michael Edward Montague is commanded to desist and refrain from the practice of law in any form, either as principal or as agent, clerk or employee of another; and Montague is hereby forbidden to appear as an attorney or counselor-at-law before any court, judge, justice, board, commission or other public authority, or to give to another an opinion as to the law or its application, or any advice in relation thereto; and it is further

ORDERED that Michael Edward Montague shall comply with the provisions of this Court's rules regulating the conduct of disbarred attorneys (see Rules of App Div, 3d Dept [22 NYCRR] § 806.9).

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger
Clerk of the Court