



FILED
Jun 27 2024

**BEFORE THE BOARD OF DISCIPLINARY APPEALS
APPOINTED BY
THE SUPREME COURT OF TEXAS**

THE BOARD of DISCIPLINARY APPEALS
Appointed by the Supreme Court of Texas

IN THE MATTER OF §
MASON WILLIAM HERRING § CAUSE NO. 69030
STATE BAR CARD NO. 24071746 §

RESPONDENT’S SUPPLEMENTAL MOTION FOR CONTINUANCE – OPPOSED

TO THE BOARD OF DISCIPLINARY APPEALS:

1. Petitioner files this Supplemental Motion for Continuance in response to the Petitioner’s Response to Respondent’s Motion for Continuance.
2. Petitioner asserts that the Respondent’s motion for continuance is not supported because the motion was unverified or supported by an affidavit or unsworn declaration. To the contrary, exhibits 3 and 4 attached to the First Amended Disciplinary Petition states that Mr. Herring is to serve “180 days of confinement in the Harris County Jail or otherwise directed by the court beginning 03/01/2024.”
3. Petitioner also alleges in its response that it was delayed in serving Respondent. This was due to his incarceration, which is evidenced by the Proof of Service filed in this matter showing that Respondent was served on May 15, 2024 at 701 N. San Jacinto St., Houston, TX 77002. This is the address for the Harris County Jail.
4. To remove any doubt, attached is an unsworn declaration by undersigned counsel under penalty of perjury pursuant to Tex. Civ. Prac. & Rem. Code Ann. § 132.001.
5. Petitioner also alleges that “Respondent’s presence at the hearing will not change the finality of his conviction.” This is not the only consideration in a compulsory discipline hearing. The Board of Disciplinary Appeals has the discretion to suspend a lawyer

convicted of a serious and/or intentional crime under Rule 8.06 of the Texas Rules of Disciplinary Procedure. Under the Board's precedent, numerous factors are considered in determining suspension rather than disbarment. *See Filippov* (BODA Case No. 30611, Jan. 22, 2004) and *Isassi* (BODA Case No. 57699, May 8, 2017).

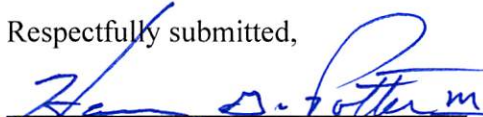
6. Respondent respectfully requests this continuance so that Respondent may adequately assist undersigned counsel in the presentation of evidence and be present at his Compulsory Discipline hearing, which is set before his release date.
7. Respondent respectfully requests that the Board of Disciplinary Appeals continue the hearing on Compulsory Discipline.
8. This is the first motion for continuance for extension of time filed by either Respondent or Petitioner.

CONCLUSION AND PRAYER

Respondent believes that a continuance of the hearing and rescheduling for the next quarterly meeting of the Board is warranted. The relief requested is sought not for the purpose of delay but so justice may be done.

For the foregoing reasons, Respondent respectfully requests that the Board of Disciplinary Appeals continue the hearing on this matter to the next quarterly meeting.

Respectfully submitted,



Harry G. Potter III

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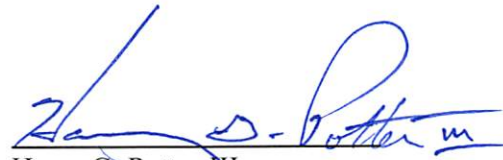
hpotter@thepotterlawfirm.com

ATTORNEY FOR RESPONDENT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument has been sent via electronic service on June 27, 2024 to the following:

Amanda M. Kates
Assistant Disciplinary Counsel
amanda.kates@texasbar.com


Harry G. Potter III


UNSWORN DECLARATION OF HARRY G. POTTER III

My name is Harry Grant Potter III, my date of birth is April 29, 1963, and my office address is 8441 Gulf Freeway, Suite 302, Houston, Texas 77017.

I represent Respondent Mason Herring in a compulsory discipline matter styled In the Matter of Mason William Herring State Bar Card No. 24071746, Cause No. 69030. Exhibits 3 and 4 attached to the First Amended Disciplinary Petition states that Mr. Herring is to serve “180 days of confinement in the Harris County Jail or otherwise directed by the court beginning 03/01/2024.” See Conditions of Community Supervision (#22) at page 6 of 8 to Exhibits 3 and 4. On June 18, 2024, I visited Mr. Herring in the Harris County Jail located at 701 N. San Jacinto St., Houston, Texas 77002. I confirmed that he has been incarcerated there since March 1, 2024 and is scheduled to be released on August 27, 2024.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Galveston County, State of Texas, on June 27, 2024.


Harry G. Potter III