



**BEFORE 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 OBJECTION AND MOTION TO STRIKE

Respondent Mason William Herring files this Objection and Motion to Strike exhibits attached to Petitioner’s original Petition for Compulsory Discipline, First Amended Petition for Compulsory Discipline (“Petitions”), and in Petitioner’s Brief in Support of Compulsory Discipline (“Brief”) and respectfully show the Board of Disciplinary Appeals (the “Board”) as follows:

I. BACKGROUND

Petitioner filed its original Petition for Compulsory Discipline on March 4, 2024, and its First Amended Petition for Compulsory Discipline on June 14, 2024. Attached to both the Petitions were the following exhibits:

- Exhibit 1: Indictment for Cause No. 177210601010, Assault of Pregnant Person
- Exhibit 2: Indictment for Cause No. 179893201010, Attempted Injury to Child SBI
- Exhibit 3: Judgment of Conviction in Cause No. 177210601010, Assault of Pregnant Person
- Exhibit 4: Judgment of Conviction in Cause No. 179893201010, Injury Child Under 15 B/Injury
- Exhibit 5: Affidavit of Amanda M. Kates
- Unnumbered: Internal Procedural Rules

On July 31, 2024, Petitioner filed Petitioner’s Brief in Support of Compulsory Discipline and attached the following exhibits:

- Exhibit 1: Indictment for Cause No. 177210601010, Assault of Pregnant Person
- Exhibit 2: Indictment for Cause No. 179893201010, Attempted Injury to Child SBI
- Exhibit 3: Judgment of Conviction in Cause No. 177210601010, Assault of Pregnant Person

Exhibit 4: Judgment of Conviction in Cause No. 179893201010, Injury Child Under 15
B/Injury
Exhibit 6: Complaint

In its Petitions, Petitioner states that it “expects to offer certified copies of Exhibits 1 through 4 at the time of hearing of this case.”

II. ARGUMENT AND AUTHORITIES

Respondent objects to the inclusion of Exhibits 1 and 2 attached to the Petitions and to Exhibits 1, 2 and 6 in Petitioner’s Brief. Additionally, Respondent objects to all references to the above designated exhibits and moves to strike all references to the exhibits and what they purport to contain from the Petitions and Brief.

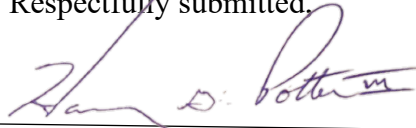
Part VIII of the Texas Rules of Disciplinary Procedure provides that only the judgment of conviction or order of deferred adjudication is required to prove that an attorney is subject to compulsory discipline. Tex. R. Disciplinary P. 8.04. Compulsory Discipline must, therefore, be based solely on the record of conviction and the criminal sentence imposed. *Duncan v. Board of Disciplinary Appeals*, 898 S.W.2d 759, 762 (Tex. 1995), *In re Lock*, 54 S.W.3d 305, 306-07 (Tex. 2001). Petitioner’s attempt to insert the extraneous exhibits and statements contained therein into this matter is inappropriate as they contain *only* allegations and do not constitute proof of any offense for which Respondent pled guilty. Therefore, Exhibits 1 and 2 to the Petitions and Exhibits 1, 2, and 6 to Petitioner’s Brief, and all references to such exhibits, citations to the exhibits and the statements contained therein, and quotations contained in Petitioner’s pleadings should be stricken from the pleadings.

III. CONCLUSION

Because the Indictments (Exhibits 1 and 2 to the Petitions and the Brief) and the Complaint (Exhibit 6 to the Brief) do not contain any proof that the Board may consider in a

Compulsory Discipline matter, Respondent prays that the Board sustain Respondent's objections and strike the offensive exhibits and all citations to allegations contained therein recited in Petitioner's pleadings.

Respectfully submitted,



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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 September 5, 2024 to the following:

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



Harry G. Potter III