

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



FILED  
Jan 17 2024

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

**IN THE MATTER OF,  
LONDON STEPHON KEATING  
STATE BAR CARD NO. 24086647,**

§  
§  
§

**CAUSE NO. 68536**

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**PETITIONER’S RESPONSE TO RESPONDENT’S PLEA TO THE JURISDICTION  
AND ORIGINAL ANSWER TO THE COMMISSION FOR LAWYER DISCIPLINE’S  
PETITION FOR COMPULSORY DISCIPLINE**

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Petitioner, the Commission for Lawyer Discipline (“CFLD”), by and through the Office of the Chief Disciplinary Counsel of the State Bar of Texas, files the instant Response to Respondent, Landon Stephon Keating’s (“Respondent”), Plea to the Jurisdiction and Original Answer to the Commission for Lawyer Discipline’s Petition for Compulsory Discipline.

**I. INTRODUCTION**

The CFLD filed its Petition for Compulsory Discipline in the instant matter on November 15, 2023. This proceeding is predicated on five separate Orders of Deferred Adjudication filed on April 4, 2023, in Cause Nos. 169208701010, 169208801010, 169208901010, 169209001010, and 169209101010, all styled *The State of Texas v. Keating, Landon Stephon*, in the 208th District Court Harris County, Texas, wherein Respondent pleaded guilty to five separate charges of Felony Level –S offense of INVASIVE VISUAL RECORDING BATH/DRESS RM. (CITE) Respondent was placed on deferred adjudication community supervision for five (5) years with terms. *See generally Petitioner’s Petition for Compulsory Discipline*. Respondent accepted service of the Petition through his attorney of record on November 16, 2023.

On January 8, 2024, Respondent filed a Plea to the Jurisdiction, and in the alternative, Answer to the Commission for Lawyer Discipline’s Compulsory Petition. A hearing on

*In the matter of Landon Stephon Keating*

Plaintiff’s Response to Respondent’s Plea to the Jurisdiction

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Petitioner's Petition for Compulsory Discipline is currently scheduled to occur before the Board of Disciplinary Appeals on January 26, 2024.

## **II. BACKGROUND**

On or about February 26, 2021, Respondent was charged with five separate counts of Felony Invasive Visual Recording. *See generally Petitioner's Compulsory Petition; see also Petitioner's Exhibits 1- 5.* Each of the Indictments stated that on or about April 22, 2020, Respondent, Landon Stephon Keating, unlawfully, with the intent to invade the privacy of Complainant "A.V.," without the consent of Complainant recorded a visual image of Complainant in the bathroom by electronic means. *See generally Petitioner's Exhibits 1-5.* Subsequently, on April 4, 2023, Respondent pleaded guilty in five separate Orders of Deferred Adjudication for Felony Invasive Visual Recording in the five cause numbers. *See Petitioner's Exhibits 6 – 10.*

Respondent was ultimately placed on deferred adjudication community supervision for five years in all five matters. Additionally, in all five matters, Respondent was ordered the following Terms of the community supervision:

- 1) Commit no offense against the laws of this or any other State or of the United States. You are to report any arrests within 24 hours.
- 2) Not use, possess, or consume any illegal drug or prescription drug not currently prescribed to you by a medical professional. You shall bring all current prescription containers to your Community Supervision Officer. If new medication is prescribed, you must bring the new prescription containers by your next scheduled report date.
- 3) Report to the Community Supervision Officer as directed for the remainder of the supervision term unless so ordered differently by the Court.
- 4) Permit a Community Supervision Officer to visit you at your home, place of employment or elsewhere.
- 5) Work at suitable employment and/or attend school full-time. Present either verification of employment or provide a log of all attempts to secure employment to your Community Supervision Officer as directed. You must notify HCCSCD of any change in your employment status by your next scheduled reporting date.

- 6) Abide by the rules and regulations of the Harris County Community Supervision and Corrections Department (hereinafter referred to as HCCSCD).
- 7) Remain within Harris County, Texas or any counties directly touching Harris County, Texas. You may not travel outside these locations unless you receive prior written permission from the Court through your Community Supervision Officer.
- 8) Notify HCCSCD by your next report date of any change in residence.
- 9) Submit a non-diluted, valid, unaltered sample for the purpose of alcohol/drug monitoring at the request of the HCCSCD.
- 10) Participate in the HCCSCD Community Service Restitution Program (CSRП). You shall perform 100 hours as directed by HCCSCD CSRП policy. Hours must be completed 60 days prior to termination.
- 11) Support your dependents as required by law. Provide your Community Supervision Officer with proof that you are in compliance with all court ordered support of dependents.
- 12) Submit to an evaluation of your Educational skill level by 07/04/2023. If it is determined that you have not attained the average skill of students who have completed the sixth grade in public schools in this State, you shall participate in a program that teaches functionally illiterate persons to read. If you are non-English speaking, you will participate in English as a Second Language (ESL) program, if it is determined there is a need in order for you to meet the state mandate beginning upon referral until successfully discharged or released by further order of the Court.
- 13) Not ship, transport, possess, receive, or purchase a firearm, altered firearm, or ammunition, or attempt to ship, transport, possess, receive, or purchase a firearm, altered firearm, or ammunition.
- 14) Pay all fees through HCCSCD. All payments MUST be in the form of a Money Order, Cashier's Check or credit card. Online payments may be made with a credit card at PAYCSCD.COM. A \$2.00 transaction fee will be charged by HCCSCD to process each payment.
- 15) Pay a \$.00 fee for a Client Card by 05/01/2023 to HCCSCD if the client does not have a valid state issued Driver's License or Texas ID Card.
- 16) Pay a fine of \$.00 and Court Costs at the rate of \$100.00 per month beginning 05/01/2023 to Harris County through HCCSCD. Court grants credit for 0 days served.
- 17) Submit to an assessment through HCCSCD Assessment Unit as directed. Participate and successfully complete any program(s) as indicated by the assessment or until further order of the court.
- 18) Pay a donation of \$1,000.00 to HOUSTON AREA WOMENS SHELTER by 05/01/2023 through HCCSCD.
- 19) Report in person to HCCSCD to provide a DNA sample to the Department of Public Safety at the direction of and through HCCSCD

for the purpose of creating a DNA Record by 05/04/2023 unless a sample has already been submitted under other state law and pay a \$.00 fee.

- 20) Submit to any program of psychological and physiological assessment at the direction of your Community Supervision Officer, including the plethysmograph and/or polygraph, to assist in treatment, planning and case monitoring.
- 21) Not have access to the Internet through any manner or method, unless it is equipped with an approved tracking software beginning 04/04/2023 for any reason unless specifically ordered by the Court.
- 22) Not supervise or participate in any program that includes participants or recipients persons who are seventeen (17) years of age or younger and that regularly provides athletic, civic or cultural activities beginning 04/04/2023 for any reason except as specifically permitted by the Court.
- 23) Have no contact with any minor under the age of seventeen (17) beginning 04/04/2023 for any reason except as specifically permitted by the Court.
- 24) Not accept or maintain employment which will bring you into direct contact with minor children unless approved by the Court.
- 25) Not view own or possess pornographic materials. In addition you may not frequent sexually oriented establishments.
- 26) Report in person to the HCCSCD Sex Offender Unit within 24 hours or the following business day by 10:00 a.m. for the purpose of completing your sex offender registration and completing the Static 99 risk assessment.
- 27) Not enter or remain within a sexually oriented business. A sexually oriented business is a commercial enterprise, the primary business of which is the offering of a service or the selling, renting or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to a patron including, but not limited to: massage parlors sex parlors nude studios modeling studios love parlors adult bookstores adult movie theaters adult video arcades adult motels cabarets escort agencies and sexual encounter centers.
- 28) Participate in Sex Offender Treatment beginning immediately upon referral. Attend treatment and aftercare with a State of Texas registered Sex Offender Provider as recommended. Comply with all program rules regulations and guidelines until successfully discharged or released by further order of the Court.
- 29) Participate in the HCCSCD Sex Offender Caseload beginning 04/04/2023. Comply with all program rules regulations and guidelines until successfully discharged or released by further order of the Court.
- 30) PARTICIPATE IN SEX OFFENDER TREATMENT. ATTEND TREATMENT AND AFTERCARE WITH A STATE OF TEXAS

REGISTERED SEX OFFENDER PROVIDER AS RECOMMENDED. COMPLY WITH ALL PROGRAM RULES REGULATIONS AND GUIDELINES UNTIL SUCCESSFULLY DISCHARGED OR RELEASED BY FURTHER ORDER OF THE COURT. THERAPY TO CONTINUE WITH DR. MCDANIEL.

31) IT IS ORDERED THAT THE STATE BAR OF TEXAS BE NOTIFIED OF DISPOSITION OF CASES IMMEDIATELY.

32) Have no contact with CW: ANGELA ANDREA SALAZAR OR ANYONE IN CW'S FAMILY in person, in writing, by telephone, via the internet, a third party or any other means for any reason except as specifically permitted by the Court.

33) Not use, consume, or possess alcoholic beverages.

*See Generally Petitioner's Petition for Compulsory Discipline*

### **III. Arguments and Authorities**

#### **A. The Board of Disciplinary Appeals has sole jurisdiction over Compulsory Discipline matters.**

Under Texas Rules of Disciplinary Procedure Section 7.08(G), the Board of Disciplinary Appeals has the power and duty to hear and determine actions for compulsory discipline for attorneys licensed in Texas under Part VIII. Tex. Rules Disciplinary P. R. 7.08(G), *reprinted in* Tex. Gov't Code Ann., tit. 2, subtit. G, app. A-1 (West 2013) Part VIII, Section 8.03 of the procedural rules states the following,

A Disciplinary Action under this part must be initiated by the filing of a petition with the Board of Disciplinary Appeals. The petition must allege the adjudication of guilt (or probation without an adjudication of guilt) of an Intentional Crime; allege that the Respondent is the same person as the party adjudicated guilty or who received probation with or without an adjudication of guilt for such Intentional Crime; and seek the appropriate discipline

Tex. Rules Disciplinary P. R. 8.03.

Because Respondent is an attorney licensed in Texas with an adjudication of guilt of five Intentional Crimes, Petitioner filed the appropriate pleading with the Board of Disciplinary Appeals on November 15, 2023.

Section 8.04 further states that during a Compulsory Disciplinary Proceeding,

**The Board of Disciplinary Appeals shall hear and determine all questions of law and fact.** When an attorney has been convicted of an Intentional Crime or has been placed on probation for an Intentional Crime without an adjudication of guilt, he or she shall be suspended as an attorney licensed to practice law in Texas during the appeal of the conviction or the order of deferred adjudication. Upon introduction into evidence of a certified copy of the judgment of conviction or order of deferred adjudication and a certificate of the Clerk of the Supreme Court that the attorney is licensed to practice law in Texas, **the Board of Disciplinary Appeals shall immediately determine whether the attorney has been convicted of an Intentional Crime or granted probation without an adjudication of guilt for an Intentional Crime.** Uncontroverted affidavits that the attorney is the same person as the person convicted or granted probation without an adjudication of guilt are competent and sufficient evidence of those facts. Nothing in these rules prohibits proof of the necessary elements in such Disciplinary Action by competent evidence in any other manner permitted by law. The Board of Disciplinary Appeals shall sit, hear and determine whether the attorney should be disciplined and enter judgment accordingly within forty-five days of the answer day; however, any failure to do so within the time limit will not affect its jurisdiction to act. Any suspension ordered during the appeal of a criminal conviction or probation without an adjudication of guilt is interlocutory and immediately terminates if the conviction or probation is set aside or reversed.

Tex. Rules Disciplinary P. R. 8.04 (*emphasis added*).

It appears that Respondent has intended his Plea to the Jurisdiction to equate to a motion to dismiss. Respondent seemingly argues that if there is a question as to whether a specific crime qualifies as an Intentional Crime, then this Board somehow loses the entirety of its jurisdiction over a compulsory matter. Respondent argues that his convictions are not for Intentional Crimes, which amounts to an argument that Petitioner has not met its burden of proof. That kind of argument is one concerning the merits of the case, not whether BODA has jurisdiction to consider the issue.

As argued above, this Board retains sole jurisdiction of Compulsory Discipline matters throughout the entirety of the analysis. The question of whether a crime is an Intentional Crime is

a question of law. *Duncan v. Bd. of Disciplinary Appeals*, 898 S.W.2d 759, 761 (Tex. 1995) ; *See also United States v. Tuttle*, 46 F.2d 342, 345 (E.D.La.1930); *In re McAllister*, 14 Cal.2d 602, 95 P.2d 932, 933 (1939) (in bank). A question of law that must be determined by the Board of Disciplinary Appeals. Tex. Rules Disciplinary P. R. 8.04. Accordingly, Respondent’s Plea to the Jurisdiction should be denied.

**B. Respondent has pleaded guilty to five separate Intentional Crimes and is subject to discipline.**

Respondent would have you believe that if a specific crime—here, Respondent’s conviction of Invasive Visual Recording—is not one of moral turpitude *per se*, then that crime cannot be considered as an Intentional Crime as defined by Texas Rule of Disciplinary Procedure. However, Respondent has willfully ignored the second part of the analysis. Pursuant to case law, “[i]f an attorney is convicted of a crime that is not *per se* a crime involving moral turpitude, then the Board of Disciplinary Appeals *must* determine whether the particular conviction involved an Intentional Crime.” *Turton v. State Bar of Tex.*, 775 S.W.2d 712, 715–17 (Tex.App.—San Antonio 1989, writ denied) (emphasis added). *See also, Matter of Humphreys*, 880 S.W.2d 402, 409 (Tex. 1994).

As previously stated, upon the commencement of a Compulsory Disciplinary proceeding, “the Board of Disciplinary Appeals shall immediately determine whether the attorney has been convicted of an Intentional Crime or granted probation without an adjudication of guilt for an Intentional Crime.” Tex. Rules Disciplinary P. R. 8.04. Accordingly, the Board of Disciplinary Appeals is now tasked with determining whether a conviction of “Invasive Visual Recording” is an “Intentional Crime” and therefore subject to Compulsory Discipline.

- i. Respondent’s convictions of Invasive Visual Recording constitute Intentional Crimes

Texas Rule of Disciplinary Procedure 1.06(V) defines an “Intentional Crime” as any “Serious Crime” that requires proof of knowledge or intent as an essential element or any crime involving misapplication of money or other property held as a fiduciary. Tex. Rules Disciplinary P. R. 1.06(V).

On April 4, 2023, Respondent pleaded guilty to five felony counts of Invasive Visual Recording. *See Petitioner’s Exhibits 6-10*. The elements of the crime of Invasive Recording are as follows:

A person commits an offense if, ***without the other person's consent and with intent to invade the privacy of the other person, the person:***

(1) photographs or by videotape or other electronic means records, broadcasts, or transmits a visual image of an intimate area of another person if the other person has a reasonable expectation that the intimate area is not subject to public view;

(2) photographs or by videotape or other electronic means records, broadcasts, or transmits a visual image of another in a bathroom or changing room; or

(3) knowing the character and content of the photograph, recording, broadcast, or transmission, promotes a photograph, recording, broadcast, or transmission described by Subdivision (1) or (2).

Tex. Penal Code §24.15 (1994).

ii. The crime of Invasive Recording is a Serious Crime

As stated above, in order for this Board to find that the crime of Invasive Recording is an “Intentional Crime,” the Board must first determine if the crime of Invasive Recording is a “Serious Crime” as defined by Texas Rule of Disciplinary Procedure 1.06(GG). Tex. Rules Disciplinary P. R. 1.06(V). Texas Rule of Disciplinary Procedure 1.06(GG) defines a “Serious Crime” as barratry; *any felony involving moral turpitude*; any misdemeanor involving theft, embezzlement, or fraudulent or reckless misappropriation of money or other property; or any attempt, conspiracy, or solicitation of another to commit any of the foregoing crimes. Tex. Rules Disciplinary P. R. 1.06(GG) (*emphasis added*).



As previously argued, the determination of whether a particular crime involves moral turpitude is a question of law. *Duncan v. Bd. of Disciplinary Appeals*, 898 S.W.2d 759 at 761. Courts have repeatedly held that a crime of moral turpitude is one that involves dishonesty, fraud, deceit, misrepresentation, deliberate violence, or that reflect adversely on a lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects. *Duncan v. Bd. of Disciplinary Appeals*, 898 S.W.2d 759 at 761. *See also State Bar of Tex. v. Heard*, 603 S.W.2d 829, 835 (Tex. 1980) (holding [i]t is clear from our cases that the term “moral turpitude” connotes a fraudulent or dishonest intent, and that a crime in which an intent to defraud is an element is a crime involving moral turpitude).

In the case of Invasive Visual Recording, we need look no further than the actual language of the penal code for conclusive evidence of a crime of moral turpitude. When we examine the language of the elements for the crime of Invasive Visual Recording, we immediately see that the elements of the crime involve deceit. The statute states that the crime only occurs “without the other person's consent and with intent to invade the privacy of the other person, the person.” Tex. Penal Code §24.15. It logically follows that if you are committing a crime without a person’s consent, you are guilty of a deceitful action. The statutory language also specifically includes “intent” by stating that you must have intent to invade the privacy of another person.<sup>1</sup> Tex. Penal Code §24.15. The previous arguments prove that Respondent’s Plea to the Jurisdiction inaccurately concludes that the crime of Invasive Recording does not include involve deceit. *Respondent’s Plea at 5-8*. Consequently, Respondent’s subsequent argument that Respondent’s

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<sup>1</sup> In his Plea to the Jurisdiction Respondent cites *In re Locke*, a case which reiterates that a crime involving deceit would constitute a crime of moral turpitude. However, the bulk of this portion of Respondent’s argument contemplates why a possession of cocaine does not involve deceit and therefore does not constitute a crime of moral turpitude and is therefore not a “Serious Crime.” To the best of Petitioner’s knowledge, the case at hand has nothing to do with possession or usage of cocaine and Petitioner will not be arguing any such involvement at the January 26, 2024, hearing.

actions which led to his five felony convictions do not reflect adversely on a lawyer's fitness inherently or categorically should be taken as moot. *Id.* However, inasmuch as this court wishes to delve into whether Invasive Visual Recording reflects adversely on all attorneys' fitness to practice law, Petitioner maintains that this crime does in fact reflect adversely on all attorneys' fitness to practice law.

Respondent points to the comments of Rule 8.04 of the American Bar Association's Model Rules to argue that not all illegal conduct reflects adversely on an attorney's fitness to practice law." *Respondent's Plea* at 4. However, Respondent fails to divulge that case law has expanded that analysis to say that, "[a] pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligations that legitimately could call a lawyer's overall fitness to practice into question. *In re Lock*, 54 S.W.3d 305, 308 (Tex. 2001). Respondent is not solely guilty for one count of Invasive Visual Recording. Respondent pleaded guilty to five separate felonies. By any definition, any attorney that pleads guilty to five separate repeated felony offenses should indicate indifference to legal obligations that legitimately call into question an attorney's overall fitness to practice law.

For these reasons, it is clear that Respondent's convictions of Invasive Visual Recording are Serious and Intentional crimes which also reflect adversely on Respondent's overall fitness to practice law and Respondent is therefore subject to Compulsory Discipline.

**C. The Board of Disciplinary Appeals should disbar Respondent.**

Petitioner concedes that, because Respondent accepted deferred adjudication for his crimes, it is within this Board's discretion to place Respondent on active suspension rather than

disbarring him, during the five years of Respondent's probation. However, it is also within this Board's discretion to disbar Respondent and should do so.

The Board in *In re Mercier* held that,

Rather than prohibiting BODA from disbarring an attorney who has received a fully probated criminal sentence, TRDP 8.06 merely prohibits an attorney placed on probation from practicing during that probation. TRDP 8.05 provides BODA with clear discretion to disbar or suspend an attorney whose criminal sentence is probated, and TRDP 8.06 cannot be interpreted in a manner that would conflict with TRDP 8.05. Instead, principles of statutory construction should be employed to harmonize the two provisions. In determining whether to disbar or suspend an attorney who has received a fully probated criminal sentence, BODA may consider aggravating or mitigating evidence, although BODA cannot examine the underlying facts or circumstances of the conviction to reassess guilt or to determine whether the crime is one involving moral turpitude.

*In re Mercier*, BODA No. 38020 (November 3, 2006). The ruling clearly states that this Board can consider aggravating or mitigating evidence in determining whether to disbar or suspend. The number of crimes which Respondent pleaded guilty should weigh heavily into this Board's consideration. Five separate counts should be considered far more grievous than a singular conviction and therefore worthy of disbarment.

Additionally, pursuant to the indictments, all of Respondent's convictions involved recording the Complainant while they were in the bathroom without Complainant's knowledge. *See Petitioner's Exhibits 1 – 5*. An attorney is entrusted with confidentiality of his clients, and a Respondent willing to unlawfully invade the privacy of another is of great concern given the responsibilities and confidences entrusted to lawyers by their clients.

#### **IV. Conclusion**

On April 4, 2023, Respondent pleaded guilty to five separate counts of Invasive Recording. *See Petitioner's Exhibits 6 – 10*. Respondent's convictions are final and they crimes themselves constitute Serious and Intentional Crimes. Therefore, Respondent is subject to

Compulsory Discipline. Accordingly, and subject to all of Petitioner's arguments, Petitioner asks that Respondent be disbarred.

Respectfully submitted,

**SEANA WILLING**  
Chief Disciplinary Counsel

**Amanda M. Kates**  
Assistant Disciplinary Counsel

Office of the Chief Disciplinary Counsel  
STATE BAR OF TEXAS  
P.O. Box 12487  
Austin, Texas 78711-2487  
512.427.1350 Phone  
512.427.4167 Fax  
[akates@texasbar.com](mailto:akates@texasbar.com) Email

*/s/ Amanda M. Kates*

**Amanda M. Kates**  
State Bar Card No. 24075987

**ATTORNEYS FOR PETITIONER**

**CERTIFICATE OF SERVICE**

I, **AMANDA M. KATES**, certify that a true copy of the above **PETITIONER'S RESPONSE TO RESPONDENT'S PLEA TO THE JURISDICTION, AND IN THE ALTERNATIVE, ORIGINAL ANSWER TO THE COMMISSION FOR LAWYER DISCIPLINE'S PETITION FOR COMPULSORY DISCIPLINE** has been served via electronic mail on this \_\_\_ day of January, 2024, to the following:

**Landon Stephon Keating**  
c/o Gaines West  
West, Webb, Allbritton & Gentry, P.C.  
1515 Emerald Plaza  
College Station, Texas 77845-1515  
Telephone: (979) 694-7000  
Facsimile: (979) 694-8000

*Via email: [gaines.west@westwebblaw.com](mailto:gaines.west@westwebblaw.com)*

*/s/ Amanda M. Kates*  
**AMANDA M. KATES**