

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

§§

ANSWER TO PETITION FOR RECRIPROCAL DISCIPLINE

GENERAL DENIAL

ANSWER

Respondent, Sean P. Mount, whose Texas bar number is #24068950, was born on September 26, 1975. Respondent was admitted to the practice of law in the State of Texas on September 24, 2009, and, upon information and belief, is a member of the State Bar of Texas and is currently eligible to practice law in the State of Texas. Respondent has no prior disciplinary history in the State of Texas.

The incident in question pertains to an occurrence on January 25, 2017, wherein Respondent was charged with operating a vehicle while intoxicated (1st offense) and a violation of La. Rev. Stat. § 32:72 (driving on roadway landed for traffic). The incident caused no accident,

injury, or property damage. On March 14, 2018, Respondent pled guilty to a misdemeanor DWI offense under La. Rev. Stat. § 14:98.1, pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970), and La. Code Crim. Proc. art. 894.

III.

Respondent was given a suspended, three-month sentence and placed on unsupervised probation for three months. Respondent also was ordered to perform community service, participate in counseling (which had already been completed when the plea was entered), and pay court costs. Respondent fully complied with the terms of his plea.

IV.

Thereafter, the conviction was set aside by the criminal court and prosecution dismissed. *See Exhibit “I”*.

V.

The Office of Disciplinary Counsel (the “ODC”) for the Louisiana Attorney Disciplinary Board opened an investigation concerning the circumstances of Respondent’s arrest and plea for which Respondent fully responded and cooperated in said investigation.

VI.

In that regard, Respondent agreed to go through an evaluation by the Judges and Lawyers Assistance Program (“JLAP”). After an initial evaluation required by JLAP in Covington, Louisiana (the results of which were inconclusive), Respondent was required to then undergo a one-day outpatient multidisciplinary evaluation at Pine Grove Behavioral Health and Addiction Services (“Pine Grove”) in Hattiesburg, Mississippi, on June 11, 2018. Dr. Craig H. Paterson, Ph.D. (psychologist) and Dr. Peter Kamp, MD (psychiatrist/addictionologist) of Pine Grove served as evaluators for Respondent and issued an Evaluation Report (the “Report”) on July 11, 2018. In the Report, the evaluators stated: “It appears that [the Respondent’s] getting intoxicated on January

25, 2017 was an isolated case of excessive drinking”. The evaluators at Pine Grove did “not recommend formal treatment,” but recommended that Respondent be monitored by JLAP for two years to assure abstinence from alcohol and other mood-altering substances. The evaluators at Pine Grove further stated in the Report that they “do not have concerns about [the Respondent’s] ability to meet the professional responsibilities of a practicing attorney”.

VII.

On July 23, 2018, Respondent entered into a two-year Diagnostic Monitoring Agreement with JLAP, per Pine Grove’s recommendation, and fully complied with all conditions set forth as par the agreement. That agreement included daily check-ins for random testing for the entire two years, meeting monthly with a JLAP monitor, and \$50 monthly monitoring fees to JLAP, as well as all costs and fees associated with all testing.

VIII.

The Joint Petition for Consent Discipline Pursuant to Rule XIX, Section 20 (the “Joint Petition”). The Joint Petition was filed Pursuant to Rule XIX, Section 20 and executed by the ODC, Respondent, and Respondent’s then counsel consenting to violation of Louisiana Rule of Professional Conduct 8.4(b) which provides “*It is professional misconduct for a lawyer to commit a criminal act* especially one that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects.” Nothing in the Joint Petition reflects a finding or agreement that Respondent’s conduct reflected adversely on his honesty, trustworthiness, or fitness as a lawyer.

IX.

The Supreme Court of Louisiana accepted the findings and recommendations of the Office of Disciplinary Counsel for the Louisiana Attorney Disciplinary Board as set forth in the Joint Petition for Consent Discipline Pursuant to Rule XIX, Section 20, wherein pursuant to a Per

Curiam Order by the Supreme Court of Louisiana dated January 8, 2019, Respondent was issued a suspension for one year and one day, *fully deferred*, subject to a probationary period to coincide with Respondent's July 23, 2018 JLAP Diagnostic Monitoring Agreement, with the condition that should Respondent violate the terms of his JLAP contract, his probation may be summarily revoked and the deferred portion of his suspension made executory.

X.

Respondent completed the probationary period coinciding with the terms and conditions of the July 23, 2018, JLAP Diagnostic Monitoring Agreement, and therefore, complied with the terms of his fully deferred suspension in the State of Louisiana. *See Exhibit "2"*. The ODC likewise issued a letter, dated July 24, 2020, confirming that Respondent had satisfactorily completed his two-year period of probation and complied with all conditions of the probation, and thus, the ODC was closing its file. *See Exhibit "3"*.

XI.

The misconduct for which Respondent was disciplined in Louisiana does not constitute Professional Misconduct in Texas.¹ As discussed above, Respondent was disciplined by the Louisiana Attorney Disciplinary Board for violating Louisiana Rule of Professional Conduct 8.4(b), which states that the commission of *any* criminal act to be professional misconduct.²

Texas Disciplinary Rule of Professional Conduct 8.04(a)(2) substantially differs from Louisiana Rule of Professional Conduct 8.4(b). Unlike Louisiana Rule 8.4(b), Texas Disciplinary Rule 8.04(a)(2) has a higher burden prohibiting a lawyer from committing "a serious crime, or . .

¹ See Texas Rule of Disciplinary Procedure 9.04E (it is a defense to the imposition of reciprocal discipline if "the misconduct for which the attorney was disciplined in the other jurisdiction does not constitute Professional Misconduct in this state.").

² See Louisiana Rule of Professional Conduct 8.4(b) ("*It is professional misconduct for a lawyer to commit a criminal act especially one that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects.*")(emphasis added).

. any other criminal act that reflects adversely on the lawyer’s honesty, trustworthiness, or fitness as a lawyer in other respects”³. Driving while intoxicated does not meet the definition of “serious crime” set out in Rule 8.04(b):

“As used in subsection (a)(2) of this Rule, ‘serious crime’ means barratry; any felony involving moral turpitude; any misdemeanor involving theft, embezzlement, or fraudulent or reckless misappropriation of money or other properties; or any attempt, conspiracy, or solicitation of another to commit any of the foregoing crimes.”

Furthermore, comment 5 to Rule 8.04 sets forth in pertinent part that “[a]lthough a lawyer is personally answerable to the entire criminal law, *a lawyer should be professionally answerable only for criminal acts that indicate a lack of those characteristics relevant to the lawyer’s fitness for the practice of law.*”⁴

There is absolutely no evidence, nor any facts, that the conduct for which Respondent was disciplined by the Louisiana Attorney Disciplinary Board relates to the practice of law or his honesty, trustworthiness, or fitness as a lawyer.

XII.

The Board of Disciplinary Appeals (“BODA”) recently held that Louisiana Rule of Professional Conduct 8.4(b) and Texas Disciplinary Rule of Professional Conduct 8.04(a)(2) are “substantially different.”⁵ Specifically, on November 2, 2021, *In the Matter of Carl B. Duke, Jr.*, Board of Disciplinary Appeals Cause No. 65570, BODA denied a petition for reciprocal discipline against Carl Duke, Jr. finding that he had proven “one or more of the defenses listed in Texas Rule

³ See Texas Disc. Rule Prof’l Conduct 8.04(a)(2)(“A lawyer shall not commit a serious crime or commit any other criminal act that reflects adversely on the lawyer’s honesty, trustworthiness, or fitness as a lawyer in other respects.”)

⁴ Texas Disc. Rule Prof’l Conduct 8.04 cmt. 5 (emphasis added).

⁵ Judgment Denying Reciprocal Discipline, *In the Matter of Carl B. Duke, Jr.*, Cause No. 65570, before the Board of Disciplinary Appeals (11/2/21). See also *In re Cardenas*, Cause No. 48983, p. 3, before the Board of Disciplinary Appeals (4/25/12) (holding that “Louisiana Rule of Professional Conduct 8.4(b) and Texas Disciplinary Rule of Professional Conduct (“TDRPC”) 8.04(a)(2) are substantially different.”)

of Disciplinary procedure 9.04” and that “[n]o reciprocal discipline is warranted.”⁶ *See Exhibit “4”*.

Mr. Duke had been disciplined in Louisiana for violating Rules 8.4(b) and 8.4(a) of the Louisiana Rule of Professional Conduct arising out of multiple criminal violations, including driving while intoxicated, speeding, resisting an officer, flight from an officer, and aggravated criminal damage to property, as well as a domestic abuse.⁷

BODA held that Louisiana Rule of Professional Conduct 8.4(b) and Texas Disciplinary Rule of Professional Conduct 8.04(a)(2) are “substantially different.”⁸ BODA also found that there was “no evidence that the conduct for which Respondent [Mr. Duke] was disciplined in any way relates to his practice of law.”⁹ BODA denied the Petition for Reciprocal Discipline, concluding that Mr. Duke had proven by clear and convincing evidence one or more of the offenses listed in the Texas Rules of Disciplinary Procedure 9.04.¹⁰

XIII.

Additionally, the imposition of reciprocal discipline on Respondent identical, to the extent practical, with that imposed by Louisiana would result in grave injustice.¹¹

⁶ *See* Judgment Denying Reciprocal Discipline, *In the Matter of Carl B. Duke, Jr.*, Cause No. 65570, before the Board of Disciplinary Appeals (11/2/21).

⁷ *See id.* at pp. 1-2.

⁸ Judgment Denying Reciprocal Discipline, *In the Matter of Carl B. Duke, Jr.*, Cause No. 65570, before the Board of Disciplinary Appeals (11/2/21). *See also In re Cardenas*, Cause No. 48983, p. 3, before the Board of Disciplinary Appeals (4/25/12) (holding that “Louisiana Rule of Professional Conduct 8.4(b) and Texas Disciplinary Rule of Professional Conduct (“TDRPC”) 8.04(a)(2) are substantially different.”)

⁹ Judgment Denying Reciprocal Discipline, *In the Matter of Carl B. Duke, Jr.*, Cause No. 65570, before the Board of Disciplinary Appeals (November 2, 2021) at p. 3 (Findings of Fact ¶ (13)).

¹⁰ *Id.*

¹¹ *See* Texas Rule of Disciplinary Procedure 9.04C (it is a defense to the imposition of reciprocal discipline if the imposition “of discipline identical, to the extent practicable, with that imposed by the other jurisdiction would result in a grave injustice.”).

XIV.

As set forth in the attached exhibits and in the instant Answer, it would result in grave injustice if further discipline if BODA imposed further discipline on Respondent. Specifically, Respondent complied with all requirements of his discipline in Louisiana, including, undergoing a two-year monitoring agreement with JLAP, and to incur significant legal fees and other costs associated with the JLAP program, and the Louisiana ODC's investigation.

XV.

Respondent has already completed any and all probationary periods, including the JLAP monitoring agreement.

XVI.

The driving while intoxicated charge and plea, which has been dismissed and set aside, do not constitute a violation of Texas Disciplinary Rule of Professional Conduct 8.04.

XVII.

Respondent has no prior disciplinary complaints or issues in any jurisdiction for which he has been authorized to practice law before the discipline at issue, nor has Respondent been subject to any additional disciplinary complaints or issues.

XVIII.

Overall, Respondent has already been subjected to significant punishment, repercussions, and consequences .

XIX.

Respondent has and continues to strive to provide the most efficient, professional, and ethical conduct in the representation of his clients.

WHEREFORE, Respondent, Sean Patrick Mount, respectfully requests the Board of Disciplinary Appeals to consider all of the aforementioned evidence and statements and implores the Board not to permit any grave injustice that would result in any further discipline and deny the Petition for Reciprocal Discipline.

Respectfully Submitted:

BY: 

SEAN P. MOUNT, #24068950
smount@deutschkerrigan.com
755 Magazine Street
New Orleans, LA 70130
Telephone: 504-581-5141
PRO SE RESPONDENT

CERTIFICATE OF SERVICE

I do hereby certify that I have on this 17 March 2022 served a copy of the foregoing pleading on counsel for the following parties to this proceeding either by e-mailing, faxing or by mailing the same by United States mail, properly addressed and first-class postage prepaid:

Amanda M. Kates, Esq.
Assistant Disciplinary Counsel
Office of the Chief Disciplinary Counsel
State Bar of Texas
P.O. Box 12487
Capitol Station
Austin, TX 78711-2487
akates@texasbar.com

Jenny Hodgkins
Board of Disciplinary Appeals
Supreme Court of Texas
P.O. Box 12426
Austin, TX 78711
filing@txboda.org


SEAN P. MOUNT

STATE OF LOUISIANA

NO. 532-554 DIV M1

VERSUS

Criminal JUDICIAL DISTRICT COURT

PARISH OF Orleans

Sean Mount

STATE OF LOUISIANA

ORDER

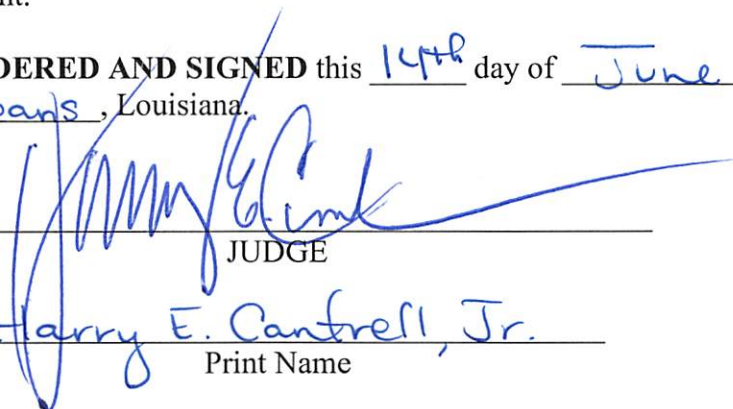
IT IS HEREBY ORDERED,

If there is an objection to the Motion for Expungement/Interim Expungement, the district attorney and the arresting law enforcement agency shall file a motion to object within 60 days of the service of this Order.

If the Louisiana Bureau of Criminal Identification and Information objects to the Motion for Expungement/Interim Expungement, they shall file a motion within 60 days of service of this Order.

NO CONTRADICTIONARY HEARING SHALL BE REQUIRED as evidenced by the "Affidavit of No Opposition" executed by each agency named herein and attached to the Motion for Expungement/Interim Expungement.

THUS ORDERED AND SIGNED this 14th day of June, 20 18 at New Orleans, Louisiana.



JUDGE
Harry E. Cantrell, Jr.
Print Name

PLEASE SERVE THE FOLLOWING:

- 1) District Attorney: Leon Cannizzaro
(Name and Address)
- 2) LA Bureau of Criminal Identification and Information: Louisiana State Police, Superintendent of Records, 7919 Independence Blvd., Baton Rouge, LA 70806
- 3) Arresting Agency: NOPD
(Name and Address)

CERTIFICATE OF SERVICE

Pursuant to LA CCrP Article 979, I hereby certify that I have served the foregoing Motion for Expungement/Interim Expungement, Affidavit of Response and Order to the named entities as listed above on this _____ day of _____, 20_____, by:

- ☐ Placing in U.S. Mail
- ☐ Electronic Transmission

Deputy Clerk of Court

Parish of _____

STATE OF LOUISIANA

NO. 532-54

DIV 1

VERSUS

Criminal JUDICIAL DISTRICT COURT

PARISH OF Orleans

SEAN MOUNT

STATE OF LOUISIANA

ORDER OF DISMISSAL

Considering the Motion to Set Aside Conviction and Dismiss Prosecution, the hearing conducted on the representation of the State of Louisiana of its consent hereto, and that there is no opposition for any good cause appearing herein;

IT IS ORDERED, ADJUDGED AND DECREED that this conviction is set aside and the prosecution dismissed for purposes of expungement.

THUS ORDERED AND SIGNED this 14th day of JUNE, 20 18
at New Orleans, Louisiana.


JUDGE

Print Name

PLEASE SERVE:

1. District Attorney: Leon Cannizzaro
2. Attorney for Defendant and/or Defendant: Brian J. Capitelli BR# 27398

STATE OF LOUISIANA

NO. 532-554

DIV M1

VERSUS

Criminal JUDICIAL DISTRICT COURT

PARISH OF Orleans

SEAN MOUNT

STATE OF LOUISIANA

**MOTION TO SET ASIDE CONVICTION AND
DISMISS PROSECUTION**

NOW INTO HONORABLE COURT, comes

☐ Defendant, OR

☒ Defendant through undersigned Counsel,

who moves that the conviction pursuant to Louisiana Code of Criminal Procedure

☒ 894(B) Misdemeanors, OR

☐ 893(E) Felonies

in the above numbered case be set aside and that the prosecution dismissed in accordance with the Code of Criminal Procedure in that the period of the deferred sentence has run and petitioner has successfully completed the terms of his probation.

The mover is further identified below:

DOCKET NUMBER: 532-554

CHARGE: RS 32:78 and RS 14:98.a(A)(2)


DATE OF ARREST: 01/26/2017

ARRESTING AGENCY: New Orleans Police Dept.

CITY/PARISH OF ARREST: Orleans Parish

The Mover prays that, after a contradictory hearing with the District Attorney's Office, the Court order the above numbered case be set aside and that the prosecution dismissed in accordance with the Code of Criminal Procedure.

Respectfully submitted,


Signature of Attorney for Mover/Defendant

Brian J. Capitelli
Print Name of Attorney

27398
Attorney's Bar Roll No.

1100 Poydras St. , Suite 2950
Address

New Orleans, LA 70163
City, State, ZIP Code

504-582-2425
Telephone Number

If not represented by counsel:

Signature of Mover/Defendant

Print Name

Address

City, State, ZIP Code

Telephone Number



1405 W. Causeway Approach
Mandeville, LA 70471
Phone (985) 778-0571
Fax (985) 778-0574

JLAP@louisianajlap.com
www.louisianajlap.com

July 24, 2020

Ms. Brianne A. Hemmans
Deputy Disciplinary Counsel
Office of the Disciplinary Counsel
4000 S. Sherwood Forest Blvd., Suite 607
Baton Rouge, LA 70816

BOARD OF DIRECTORS

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CLINICAL STAFF

Jennifer B. Gros, MS, MAC, LPC
Clinical Director

Jessica Duplantis, MAC, CRC, LPC
Clinical Case Manager

RE: SEAN MOUNT - **FINAL REPORT**

Dear Ms. Hemmans:

I am writing to provide you with a Final Report on Mr. Sean Mount's status with the Judges and Lawyers Assistance Program (JLAP). Mr. Mount executed a JLAP Diagnostic Monitoring Agreement on July 23, 2018 agreeing to be monitored for a period of two (2) years from the date of execution.

Pursuant to the standard terms and conditions of Mr. Mount's JLAP Agreement, he has been required to submit to random drug and alcohol screens in order to demonstrate that he has remained abstinent from alcohol and mind-altering substances, meet monthly with his JLAP monitor, and pay a \$50 monthly monitoring fee to the Judges and Lawyers Assistance Program to defray the cost of monitoring his case.

Over the course of his contract, Mr. Mount has been drug and alcohol screened a total of 67 times to include blood, hair, and urine. Two urine drug screens resulted "dilute" but follow up testing resulted negative. All other tests under monitoring have resulted negative. Regarding his daily check-ins, Mr. Mount has only missed 3 out of a total 731 while under JLAP monitoring.

Mr. Mount has remained compliant and there has been no indication that he has used any alcohol or mind-altering substances under monitoring, and he has met all terms and conditions required of his contract. At this time his status is that of successful completion and his JLAP file has been closed.

***"Helping Lawyers, Judges and Law Students
Live Well Every Day"***

EXHIBIT 2

Ms. Brianne A. Hemmans

July 24, 2020

Page 2

We at JLAP commend Mr. Mount on his accomplishment and wish him great success in all future endeavors.

With kindest regards, I am

Sincerely,

A handwritten signature in blue ink that reads "Jessica Duplantis". The signature is written in a cursive, flowing style.

Jessica Duplantis, MAC, CRC, LPC
Clinical Case Manager

CC: Sean Mount
Remy Donnelly



LOUISIANA ATTORNEY DISCIPLINARY BOARD

OFFICE OF THE DISCIPLINARY COUNSEL

4000 S. Sherwood Forest Blvd.

Suite 607

Baton Rouge, Louisiana 70816

(225) 293-3900 • 1-800-326-8022 • FAX (225) 293-3300

July 24, 2020

VIA U.S. MAIL

Mr. William Ross
909 Poydras Street
New Orleans, LA 70112

Re: Sean Patrick Mount
Supreme Court Docket Number 2018-B-1823
ODC Monitoring Number 660

Dear Mr. Ross:

According to our records, Mr. Mount has satisfactorily completed his two (2) year period of probation in this matter. He has complied with all the conditions of probation and paid all costs. JLAP has reported that he has successfully completed monitoring under the agreement with their office. Accordingly, we consider this probation matter to be successfully completed and are closing the file as of today's date.

We wish Mr. Mount the best of luck and thank you for your cooperation in this process. Should you require any additional information, please do not hesitate to contact me.

With regards, I am

Sincerely,

A handwritten signature in cursive script that reads "Brianne Hemmans".

Brianne Hemmans
Deputy Disciplinary Counsel

EXHIBIT 3



BEFORE THE BOARD OF DISCIPLINARY APPEALS

Appointed By
THE SUPREME COURT OF TEXAS

**IN THE MATTER OF
CARL B. DUKE, JR.
STATE BAR CARD NO. 24059184**

§
§
§

CAUSE NO. 65570

JUDGMENT DENYING RECIPROCAL DISCIPLINE

On the 29th day of October, 2021, the above-styled and numbered disciplinary action was called for hearing before the Board of Disciplinary Appeals. Petitioner, the Commission for Lawyer Discipline, appeared by attorney and announced ready. Respondent, Carl B. Duke, Jr., appeared *pro se* and announced ready. All matters of fact and all issues of law were submitted to the Board of Disciplinary Appeals for determination. Having considered the pleadings on file, having received evidence, and having heard the argument of counsel, the Board of Disciplinary Appeals makes the following findings, conclusions, and orders:

Findings of Fact. The Board of Disciplinary Appeals finds that:

- (1) Respondent, Carl B. Duke, Jr., State Bar Card Number 24059184, is licensed to practice law in the State of Texas by the Supreme Court of Texas.
- (2) Respondent is not currently eligible to practice law in Texas because he has claimed an MCLE exemption.
- (3) On or about February 17, 2021, a Revised Joint Petition for Consent Discipline Pursuant to Rule XIX § 20, which includes a Revised Joint Memorandum in Support of Petition for Discipline on Consent Pursuant to Rule XIX, §20 and Stipulations of Fact in Support of Joint Petition for Discipline on Consent, was filed in the Supreme Court of Louisiana in a matter styled: *In Re: Confidential Party, Docket No. 2020-B-1272*.
- (4) The documents referenced in paragraph (3), above, reflect that the disciplinary proceeding arose out of two separate, alcohol-related events:

- (1) a 2018 altercation between Respondent and his wife, resulting in Respondent being charged with domestic abuse battery, and (2) a 2019 incident that resulted in Respondent being charged with driving while intoxicated, speeding, resisting an officer, flight from an officer, and aggravated criminal damage to property.
- (5) In Section VI of the Revised Joint Petition for Discipline on Consent Pursuant to Rule XIX, §20 stated: "Respondent wishes to conditionally admit that he has violated the provisions of [Louisiana Rules of Professional Conduct] 8.4(b) and 8.04(a) by his commission of criminal acts."
- (6) The referenced Louisiana Rules of Professional Conduct provide:
- 8.4(b). It is professional misconduct for a lawyer to Commit a criminal act especially one that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects; and
- 8.4(a). It is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another.
- (7) The Revised Joint Memorandum in Support of Petition for Discipline on Consent states that the domestic battery charge against Respondent was dismissed, and the other criminal charges qualified for an enhanced felony diversion program, in which Respondent was enrolled and fully compliant.
- (8) On or about February 17, 2021, an Order/Per Curiam Opinion was entered by the Supreme Court of the State of Louisiana in a matter styled: *In Re: Carl Binus Duke, Jr., No. 2020-B-1272*, accepting the petition for consent discipline and suspending Respondent from the practice of law for a period of two years, with all but one year and one day deferred. That suspension was ordered to be retroactive to July 31, 2019, the date of Respondent's interim suspension.
- (9) Respondent, Carl B. Duke, Jr., is the same person as Carl Binus Duke, Jr., who is the subject of the Order/Per Curiam Opinion issued by the Supreme Court of the State of Louisiana; and
- (10) The Order/Per Curiam entered by the Supreme Court of the State of Louisiana is final.
- (11) Respondent testified that he completed the pretrial intervention program on August 9, 2021, and he presented evidence that all charges that had been

brought against him giving rise to the underlying discipline in Louisiana, referenced in paragraph (4) above, have been dismissed.

- (12) Nothing in the documents referenced in paragraph (3), above, or in the Supreme Court of the State of Louisiana's Order/Per Curiam Opinion, referenced in paragraph (8), above, reflects a finding or agreement that Respondent's conduct reflected adversely on his fitness to practice law.
- (13) There is no evidence that the conduct for which Respondent was disciplined in any way relates to his practice of law.
- (14) The Commission cited no instances of attorney discipline being imposed in Texas for conduct similar to that alleged against Respondent.
- (15) The Commission referenced a case in which this Board denied reciprocal discipline based on assault family violence. *See In re Cardenas*, BODA Case No. 48983 (Apr. 25, 2012).
- (16) In that case, the Board held that Louisiana Rule of Professional Conduct 8.4(b) and Texas Disciplinary Rule of Professional Conduct 8.04(a)(2) are substantially different. The Board explained:

[The Louisiana] rule allows for discipline of any crime, whether or not the underlying conduct related to the practice of law and making no distinction between misdemeanor and felony.

[The Texas rule] limits criminal acts which result in misconduct to "a serious crime or . . . any other criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects."

Id.

- (17) The Board also held that a misdemeanor conviction for domestic abuse battery, "however reprehensible that conduct, does not necessarily render the attorney unfit to practice law." *Id.* (citing *In re Lock*, 54 S.W.3d 305, 309 (Tex. 2001)).

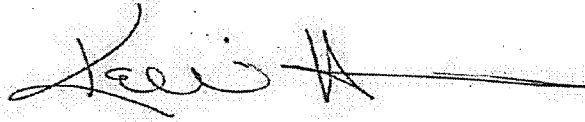
Conclusions of Law. Based upon the foregoing findings of facts, the Board of Disciplinary Appeals makes the following conclusions of law:

- (1) This Board has jurisdiction to hear and determine this matter. TEX. RULES DISCIPLINARY P. R. 7.08(H).

- (2) Respondent has proven by clear and convincing evidence one or more of the defenses listed in Texas Rule of Disciplinary Procedure 9.04.
- (3) No reciprocal discipline is warranted in this case. *See* TEX. RULES DISCIPLINARY P. R. 9.04 (“If the Board of Disciplinary Appeals determines that one or more of the foregoing defenses have been established, it shall enter such orders as it deems necessary and appropriate.”).

It is, accordingly, **ORDERED, ADJUDGED, and DECREED** that the Petition for Reciprocal Discipline is **DENIED**.

Signed this 2nd day of November 2021.



CHAIR PRESIDING