DISCIPLINARY REVIEW BOARD

OF THE

SUPREME COURT OF NEW JERSEY

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July 18, 2025

VIA CERTIFIED, REGULAR, AND ELECTRONIC MAIL
Thomas Hallinan Vigneault, Jr., Esq.
c/o Marc David Garfinkle, Esq.
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Re: In the Matter of Thomas Hallinan Vigneault, Jr.
Docket No. DRB 25-140
District Docket No. XIII-2021-0015E
LETTER OF ADMONITION

Dear Mr. Vigneault:

The Disciplinary Review Board has reviewed your conduct in the above matter and has concluded that it was improper. Following a review of the record, the Board determined to impose an admonition for your violation of RPC 1.7(a)(2) (representing one or more clients when there is a significant risk that the representation will be materially limited by the lawyer's responsibilities to another client, a former client, a third person, or by a personal interest of the lawyer) and RPC 1.14(a) (failing, as far as reasonably possible, to maintain a normal client-lawyer relationship with a client whose capacity to make adequately considered decisions in connection with the representation is diminished).

Specifically, on August 23, 2021, the New Jersey Office of the Public Defender (the OPD) sent the Office of Attorney Ethics a letter pursuant to its obligation under RPC 8.3(a) (a lawyer who knows another lawyer has violated the Rules of Professional Conduct shall inform the OAE of the violation) following the Appellate Division's August 17, 2021 decision in In re Civil Commitment of S.W., 2021 N.J. Super. Unpub. LEXIS 1755 (App. Div. 2021).

The OPD explained that S.W. had been civilly committed to University Hospital, in Newark, New Jersey, and had a hearing scheduled for November 18, 2020. The order committing S.W. to University Hospital designated Deputy Public Defender Nora R. Locke as S.W.'s counsel. Assistant Deputy Public Defender Daniel F. O'Brien, Esq., who presumably reported to Locke, routinely represented patients who were civilly committed to University Hospital. Accordingly, the OPD assigned the matter to him. Prior to the hearing, O'Brien reviewed the case and spoke with S.W. to ascertain her position. Thereafter, O'Brien prepared to argue against S.W.'s commitment to University Hospital.

On November 13, 2020, you provided S.W.'s sister, P.W., a retainer agreement stating that P.W. "hereinafter ("Client") hereby retain[s] The Vigneault Law firm [sic] and Thomas H. Vigneault Esq. to represent me the client in respect to the client as the guardian to her sister in commitment court." P.W. stated that she was appointed S.W.'s guardian in May 2015, and the "guardianship court" granted her authority over S.W.'s property, finances, and mental health.

On November 17, 2020, you sent an e-mail to O'Brien and Deanna Critchley, Esq., Assistant Essex County Counsel, informing them that you had been retained to represent S.W. in the commitment proceeding "through her Guardian [P.W., who] has sole and absolute authority to make all and any decisions for [S.W.] including retaining the attorney [P.W.] chooses." However, you did not file a substitution of attorney or notice of appearance with the court.

At the beginning of the commitment hearing, O'Brien indicated that S.W. did not wish to be represented by "the attorney who was retained by her sister." S.W. stated that P.W. "is not my guardian. That's what this is all about. That's why I'm representing myself. To clear all of this up. She is not my guardian. I don't have a guardian." Following S.W.'s declaration that she was representing

herself, you placed your appearance on the record by stating you were appearing "for the guardian and the patient."

O'Brien also placed his appearance on the record, noting that he spoke with S.W. after receiving your November 17, 2020 letter and she confirmed that "she wanted a public defender representation." O'Brien observed that your appearance was for the guardian, which you disputed by claiming you were representing S.W. because you were "retained through the party [P.W.]."

The court allowed you to continue as S.W.'s counsel for the proceeding. Thereafter, the State's witness, Dr. Zeshawn Ali, testified. You declined the court's invitation to voir dire Dr. Ali as to his qualifications. After you stipulated to Dr. Ali's qualifications, the court requested that O'Brien remove himself from the virtual hearing. O'Brien objected, relying on N.J.S.A. 52:27EE-29;[1] however, the judge determined that he was not a party to the matter and ordered him to disconnect from the virtual hearing. O'Brien disconnected from the call, and S.W. then told the judge she wanted to represent herself. She added that she was "qualified to represent myself. They don't understand this case like I do. [. . .] because this is my life we're talking about." After she reiterated that she wished to speak for herself, the judge told S.W. she would have an opportunity to do so during the hearing.

Dr. Ali then explained that S.W. had contacted 911 herself but lacked insight into her mental health. He believed she was non-compliant with her psychotropic medications. He also testified that, according to P.W., S.W. had been psychiatrically hospitalized many times before. He also did not believe that S.W. would be able to care for herself if she were discharged from the hospital. Dr. Ali recommended that S.W. be immediately admitted for long-term care because she would be safe only in a structured hospital setting. You did not cross-examine Dr. Ali.

Critchley also called P.W. as a witness. She testified that, although the guardianship court granted her guardianship over S.W. in May 2015, S.W. had

[1] N.J.S.A. 52:27EE-29 establishes within the OPD a Division of Mental Health Advocacy, which was "designated as the State's mental health protection and advocacy agency. The division shall have all the powers necessary to carry out its responsibilities as required to qualify for federal funding as the State protection and advocacy agency."

unsuccessfully challenged her status as guardian. S.W. had been living with P.W. for the previous two-and-a-half years.

P.W. described S.W.'s behavior leading to her commitment at University Hospital as "combative" and stated that S.W. was easily offended. However, P.W. testified she could handle S.W., since they were sisters, but she worried about "what someone would do to her." When Critchley asked P.W. whether S.W. ever threatened her, P.W. testified that she "mostly tells me she's not crazy" and that she was not afraid of S.W., but rather, "it's just her mouth."

You asked P.W. two cross-examination questions. First, you asked her whether she agreed with Dr. Ali's opinion that S.W. required long-term care, which she did. Second, you asked P.W. "do you believe it's in the best interests, as the guardian [. . .] (indiscernible) long-term care," and P.W. testified "yes." Your cross-examination of P.W. was the last you spoke during the hearing.

After hearing the testimony of Dr. Ali and P.W., the judge ordered her commitment at University Hospital to continue, with another court review in thirty days. S.W. interjected by stating "excuse me, Your Honor. Didn't you say that you would let me speak?" The judge then agreed to allow her to address the court. In her statement, S.W. indicated she was there to represent herself and that everything P.W. "told you all is, in fact, a lie. And there is two sides to every story." S.W. also told the court P.W. was not her guardian, elaborating "I'm telling you that she is not my guardian and I have the documents to prove it."

The OPD appealed the court's order committing S.W. to University Hospital for an additional thirty days. In re Civil Commitment of S.W., 2021 N.J. Super. Unpub. LEXIS 1755 (App. Div. 2021). Ultimately, the Appellate Division vacated the November 18, 2020 commitment order, finding that S.W. had been deprived of the effective assistance of counsel at the hearing. Id. at 22.

During the ethics investigation, you asserted your belief that you were acting in your client's best interests. Specifically, you maintained that P.W., as S.W.'s guardian, retained you to represent S.W. at the civil commitment hearing. You denied that P.W.'s payment of your retainer fee created a conflict and asserted S.W. was your client.

You contended that, due to COVID-19 protocols in place at New Jersey hospitals at the time, you were unable to meet with S.W. Moreover, you acknowledged that S.W. refused to speak with you prior to the hearing. You attributed your belief to the "many, many conversations" you had with Dr. Ali and counsel for University Hospital because it was "evident to them that [S.W.] was unable to make decisions in her own best interest." However, you admitted that both times you tried to speak with S.W., P.W. was present because the attempted conversations occurred when she visited S.W. in the hospital. Although you never spoke with S.W. prior to the hearing, you spoke with P.W. approximately twelve times.

Finally, you maintained that you primarily practice law before the Family and Surrogate courts, representing children with special needs, incapacitated individuals, and others who "need the voice of a lawyer to assist them." Additionally, you actively volunteer for the Battered Women's Lawyer's Appearance Program, where you represent victims of domestic violence who cannot afford representation. Your firm also donates supplies and aid to other victims of domestic violence and their families.

Although you admitted many of the facts alleged by the DEC, you denied that your conduct violated the Rules of Professional Conduct. Additionally, you asserted that, based on conversations you had with Dr. Ali and University Hospital's counsel, you understood Dr. Ali's recommendation to be that S.W. should remain committed for six months and contended you "felt that was appropriate in the circumstances and that the judge might approve it." You argued that you "did not believe that maintaining a normal attorney-client relationship with a person of unsound mind required [you] to advocate for a course of action which ran counter to her best interests." Rather, you maintained you were guided by RPC 1.14 and RPC 2.1 (an attorney shall exercise independent professional judgment and render candid advice to a client).

Indeed, you asserted that S.W. was mentally ill and, in your opinion and based on your observations and conversation with Dr. Ali, S.W. was not competent to "make decisions in her best interest." You, therefore, believed your obligation at the hearing was to act in your client's best interests. Accordingly, your questioning of witnesses during the hearing was guided by the opinions you were already familiar with, because "any effort . . . to undermine that would have been against my client's interests." You denied that P.W.'s position

influenced you; to the contrary, P.W. was upset when you agreed with Dr. Ali's opinion, rather than her own – which was that S.W. should remain committed indefinitely.

In imposing only an admonition, the Board considered that you were S.W.'s attorney, not her guardian ad litem. Thus, pursuant to RPC 1.14(a), you were obligated to maintain a normal attorney-client relationship. There is no evidence in the record that S.W. was so incapacitated that she could not make rational decisions. To the contrary, you never even spoke with S.W. to assess her capacity or to discuss her position. Rather, she was her own advocate at the commitment hearing. Even if you did not believe S.W.'s position was wise, as her counsel, you were obligated to present her position and you failed to do so.

Further, the Board considered, in aggravation, that you had multiple opportunities during the hearing either to assert S.W.'s position or to withdraw from the representation. Instead, you did neither and chose to stay silent.

In mitigation, at the time of S.W.'s civil commitment hearing, you had only been practicing law for approximately five years and testified that you do not intend to represent clients in civil commitment hearings in the future. Additionally, it is clear you misunderstood your role in the civil commitment hearing and thought you were supposed to advance a position consistent with S.W.'s best interests, rather than her preferred outcome, relying on the information Dr. Ali provided you. That misunderstanding does not excuse your misconduct but serves to mitigate the quantum of discipline necessary to address your failure to advance S.W.'s position. In further mitigation, the record demonstrates that you offer pro bono representation to victims of domestic violence.

Your conduct has adversely reflected not only on you as an attorney but also on all members of the bar. Accordingly, the Board has directed the issuance of this admonition to you. R. 1:20-15(f)(4).

A permanent record of this occurrence has been filed with the Clerk of the Supreme Court and the Office of Board Counsel. Should you become the subject of any further discipline, this admonition will be taken into consideration.

The Board also has directed that the costs of the disciplinary proceedings be assessed against you. An invoice of costs will be forwarded to you under separate cover.

Very truly yours,

/s/ Timothy M. Ellis

Timothy M. Ellis
Chief Counsel

TME/akg

c: Chief Justice Stuart Rabner
Associate Justices
Heather Joy Baker, Clerk
Supreme Court of New Jersey
Hon. Mary Catherine Cuff, P.J.A.D. (Ret.), Chair
Disciplinary Review Board (e-mail)
Johanna Barba Jones, Director
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Robyn A. Veasey, Esq., Grievant (regular mail)
Ryan J. Moriarty, Statewide Ethics Coordinator
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