

BEFORE THE HEARING BOARD  
OF THE  
ILLINOIS ATTORNEY REGISTRATION  
AND  
DISCIPLINARY COMMISSION

In the Matter of:	)	
	)	
DAVID FREDERICK WILL,	)	Commission No. 2023PR00035
	)	
Attorney-Respondent,	)	
	)	
No. 6257692.	)	

COMPLAINT

Jerome Larkin, Administrator of the Attorney Registration and Disciplinary Commission, by his attorney, Jonathan M. Wier, pursuant to Supreme Court Rule 753(b), complains of Respondent David Frederick Will, who was licensed to practice law in Illinois on May 6, 1999, and alleges that Respondent has engaged in the following conduct which subjects him to discipline pursuant to Supreme Court Rule 770:

*(Failing to Act with Diligence and Making False Statements  
in the Course of Representing a Client – Vincent Burgess)*

1. On or about January 5, 2015, Vincent Burgess (“Vincent”) pled guilty to the offenses of aggravated battery of a peace officer and being an armed habitual criminal. Vincent was sentenced to ten years in the custody of the Illinois Department of Corrections for each count, with the sentences to run concurrently.

2. In December 2020, Respondent and Vincent’s wife, Patricia Burgess (“Patricia”), discussed whether Respondent would represent Vincent in the filing of a clemency petition which, if granted, could result in Vincent’s sentence being commuted.

3. On December 16, 2020, Patricia sent a text message to Respondent in which she told him that Vincent would like Respondent to represent him in filing a clemency petition.

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Respondent and Patricia agreed that Respondent's fee for representing Vincent would be \$1,500. On December 18, 2020, Patricia paid \$500 to Respondent. On December 31, 2020, Patricia paid \$1,000 to Respondent, the balance of the agreed upon fee.

4. Over the next several months, Respondent, Patricia and Vincent communicated regarding the filing of a petition for clemency. Patricia submitted documents to support the petition including letters of support and medical records relating to Vincent's health to Respondent.

5. On May 13, 2021, Patricia sent a text message to Respondent that stated the following:

Hello!!! My husband wants to know what's going on he don't have a copy of the petition and his name is not on the docket and you are not communicating, can you do something about his situation or not, if you can't do nothing let him no don't leave him handing like that.

6. On May 20, 2021, Respondent replied to Patricia's text message, "Sorry, I can't talk right now." That same day, Patricia texted Respondent asking whether Respondent had filed Vincent's petition yet.

7. Respondent sent two text messages to Patricia on May 20, 2021 responding to her question. In those messages he stated, "I have" and "Awaiting a response."

8. Respondent's statements that he had filed Vincent's petition and that he was awaiting a response were false because Respondent had not filed the petition. Respondent's statement that he was awaiting a response was also false because no petition had been filed, so he was not awaiting a response.

9. When Respondent made the statements regarding the clemency petition to Patricia, he knew that they were false because he knew he had not completed nor filed the petition, and he knew that the clemency board would not provide any response absent a filing of the petition.

10. On May 21, 2021, Patricia sent Respondent a text message asking him to let her know when he hears something from the clemency board. Respondent sent a response to Patricia stating, "I will as soon as I get it."

11. On May 25, 2021, Patricia sent Respondent a text message asking Respondent how he filed Vincent's case. Respondent texted that the case or petition was emailed.

12. Respondent's statement that he had emailed the case or petition was false because Respondent had not filed any case or petition on Vincent's behalf.

13. Respondent knew that his statement regarding filing the case or petition via email was false because he knew that, as of May 25, 2021, he had not made any filing on Vincent's behalf nor had he emailed any case or petition relating to Vincent's request for a commutation of his sentence.

14. In another text on May 25, 2021, Patricia inquired as to whether the case or petition had been emailed to the clemency board. Respondent replied "Correct."

15. Respondent's statement that the case or petition had been emailed to the clemency board was false because no case or petition had been emailed or submitted in any manner to the clemency board or anyone else on Vincent's behalf.

16. Respondent knew that his statement to Patricia that the case or petition had been emailed to the clemency board was false because Respondent knew he had not emailed or submitted a case or petition to the clemency board or to anyone else on Vincent's behalf.

17. Patricia then asked in another text message on May 25, 2021 when the case or petition was emailed and whether it was in May of 2021. Respondent first replied to the text message that he was away from his computer and would let Patricia know later. He then responded that he had emailed the case or petition that month.

18. Respondent's statement that the case or petition was emailed to the clemency board in May 2021 was false because Respondent had never submitted the case or petition to the board or any other entity.

19. Respondent knew when he told Patricia that the case or petition had been emailed to the clemency board in May 2021 was false because he knew he had not emailed or filed anything on Vincent's behalf with the board or any other entity.

20. In June and July of 2021, Patricia called Respondent and sent him text messages regarding Vincent's matter. On June 24, 2021, Patricia sent the following text to Respondent:

Hello!!! I'm not understanding you not answering your phone when I call or returning my calls, I have questions about the case I hired you for.

21. From June 24, 2021 through October 30, 2021, Patricia emailed and called Respondent asking about the status of Vincent's matter. Respondent did not return her calls, nor did he provide any information regarding Vincent's matter in any of the text messages that he sent. Rather, Respondent told Patricia that he was dealing with other matters and that he would contact her at another time. Respondent did this at least one time in June and twice in July of 2021. Respondent did not communicate with Patricia at all in August, September, October or November of 2021 regarding Vincent's matter.

22. By reason of the conduct described above, Respondent has engaged in the following misconduct:

- a. failing to act with reasonable diligence and promptness in representing Vincent by not filing a petition for clemency on his behalf, in violation of Rule 1.3 of the Illinois Rules of Professional Conduct (2010); and
- b. engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation, by conduct including but not limited to telling Patricia that he had emailed Vincent's clemency petition to the board in May 2021 when he had not done so,

in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

WHEREFORE, the Administrator requests that this matter be referred to a panel of the Hearing Board of the Commission, that a hearing be conducted, and that the Hearing Panel make findings of fact, conclusions of fact and law, and a recommendation for such discipline as is warranted.

Respectfully submitted,

Jerome Larkin, Administrator  
Attorney Registration and  
Disciplinary Commission

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