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

In the Matter of:

ROBERT KNOX ADRIAN,

Attorney-Respondent,

No. 6185022.

Commission No. 2024PR00035

COMPLAINT

Lea S. Gutierrez, Administrator of the Attorney Registration and Disciplinary Commission, by her attorney, Peter L. Rotskoff, pursuant to Supreme Court Rule 753(b), complains of Respondent, Robert Knox Adrian, who was licensed to practice law in Illinois on November 9, 1983, and alleges that Respondent has engaged in the following conduct which subjects him to discipline pursuant to Supreme Court Rule 770:

BACKGROUND

1. Between December 6, 2010, and February 23, 2024, Respondent was a circuit judge in the Eighth Judicial Circuit.

2. On October 13, 2021, Respondent presided over a three-day bench trial in case number 2021CF396, in Adams County. The defendant (hereinafter referred to as "D.C."), who was 18 years old, was charged in a three-count indictment with criminal sexual assault involving a 16-year-old victim, ("C.V.") The first count alleged sexual penetration, in that D.C. placed his penis inside C.V.'s vagina by the use of force or threat of force. The second count alleged sexual penetration, in that D.C. placed his penis in C.V.'s vagina when he knew that the victim was unable to give knowing consent. The third count alleged sexual penetration, in that D.C. placed his finger in the victim's vagina when he knew the victim was unable to give knowing consent.

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3. On October 15, 2021, following the conclusion of the bench trial, Respondent found D.C. not guilty of the first two counts of the indictment and guilty of the third count of the indictment.

4. On October 19, 2021, D.C.'s defense attorney, Andrew Schnack, III ("Schnack"), filed two post-trial motions. One motion requested a not guilty finding on Count III and the other motion requested that the sentencing statute, which required a mandatory minimum sentence of four years imprisonment, be declared unconstitutional.

5. On January 3, 2022, Respondent held a hearing to consider the post-trial motions and sentencing. Following arguments from the state and the defense, Respondent made the following statements:

> The Court has considered the motions. The Court has considered the arguments of counsel and the written motions themselves. This Court is required to do justice by the public, it's required to do justice by me, and it's required to do justice by God.
>
> It's a mandatory sentence to the Department of Corrections. This happened when this teenager – because he was and is a teenager, was two weeks past 18 years old. He has no prior record, none whatsoever. By law, the Court is supposed to sentence this young man to the Department of Corrections. This Court will not do that. That is not just. There is no way for what happened in this case that this teenager should go to the Department of Corrections. I will not do that.
>
> The Court could find that the sentencing statute for this offense is unconstitutional as applied to this Defendant. But that's not going to solve the problem because, if the Court does that, this Court will be reversed by the Appellate Court, and [D.C.] will end up in the Department of Corrections.
>
> [D.C.] has served almost five months in the county jail, 148 days. For what happened in this case, that is plenty of punishment. That would be a just sentence. The Court can't do that.
>
> But what the Court can do, because this was a bench trial, the Court will find that the People failed to prove their case on Count 3. The Court is going to reconsider its verdict, is going to find the Defendant not guilty on

> Count 3. And, therefore, the case – the Defendant will be released from custody. Bond will be discharged.

6. At no time during the hearing on January 3, 2022, did Respondent discuss the issue of consent in Count III, nor did Respondent indicate that he determined that the prosecution had not proven, beyond a reasonable doubt, that C.V. was unable to give knowing consent.

7. On January 26, 2023, the Judicial Inquiry Board ("JIB") filed a three-count amended complaint against Respondent with the Illinois Courts Commission ("ICC"). The complaint alleged, *inter alia*, that 1) Respondent reversed the guilty finding in the *D.C.* case in order to circumvent the law requiring D.C. to serve a mandatory prison sentence; 2) Respondent retaliated against a prosecutor because the prosecutor had "liked" a social media post criticizing Respondent's decision in case number 2021CF396; and 3) Respondent gave false and misleading testimony to the JIB.

8. Following a hearing where Respondent appeared with counsel, the ICC entered a written report and order on February 23, 2024, finding that all of the charges brought by the JIB were proven and ordered that Respondent be removed from office, effective immediately.

COUNT I
(*False statements in written response to the Judicial Inquiry Board*)

9. On February 22, 2022, the Chair of the JIB sent a letter to Respondent requiring him to appear before the JIB on April 8, 2022, to answer questions related to allegations of misconduct in case no. 2021CF396. The letter specifically alleged that Respondent had reversed his guilty verdict on Count III in the case in order to circumvent the law that required Respondent to impose a mandatory sentence of at least four years of imprisonment.

10. On March 15, 2022, prior to appearing before the JIB, Respondent submitted a written response to the JIB concerning the allegations set forth in the February 22, 2022, letter.

11. In the March 15, 2022, letter, Respondent repeatedly stated that he reversed his guilty finding in case number 2021CF396 because the evidence did not support the verdict:

> I based my decision on the law and evaluation of the evidence concluding that the People did not prove beyond a reasonable doubt that C.V. was unable to consent.
>
> The People must have proven beyond a reasonable doubt C.V. was unable to consent. I finally concluded it had not.
>
> I concluded that the People had not proven its case beyond a reasonable doubt.

12. Respondent's statements set forth in paragraph 11, above, were false because Respondent reversed his decision and entered a not guilty finding in order to circumvent the law and to keep D.C. from serving a mandatory minimum four-year prison sentence in the Department of Corrections. Respondent stated at the time he reversed the guilty verdict:

> It's a mandatory sentence to the Department of Corrections. This happened when this teenager – because he was and is teenager, was two weeks past 18 years old. He has no prior record, none whatsoever. By law, the Court is supposed to sentence this young man to the Department of Corrections. This Court will not do that. That is not just. There is no way for what happened in this case that this teenager should go to the Department of Corrections. I will not do that.

13. Respondent knew at the time that he wrote the statements set forth in paragraph 11, above, they were false.

14. In the March 15, 2022, letter, Respondent also stated:

> "[M]y decision to reconsider truly had nothing to do with the statute on sentencing but whether the facts supported a finding of guilty."

15. Respondent's statement set forth in paragraph 14, above, was false because Respondent reversed his decision and entered a not guilty finding in order to circumvent the law and to keep D.C. from serving a mandatory minimum four-year prison sentence in the Department of Corrections.

16. Respondent knew at the time that he wrote the statement set forth in paragraph 14, above, it was false.

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

a. making false statements of material fact or law to a tribunal by making the statements to the JIB set forth in paragraphs 11 and 14, above, in violation of Rule 3.3(a)(1) of the Illinois Rules of Professional Conduct (2010); and

b. engaging in conduct involving dishonesty, fraud, deceit or misrepresentation by making the false statements to the JIB set forth in paragraphs 11 and 14, above, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

COUNT II
(*False statements in testimony before the JIB*)

18. On April 8, 2022, Respondent appeared and gave testimony before a group of board members and staff of the JIB. Those present included David Sterba ("Sterba"), Chairman of the JIB, and Michael Deno ("Deno"), JIB Executive Director and General Counsel.

19. During his testimony, Respondent repeatedly stated that he reversed Count III because the prosecution failed to prove lack of consent by the victim:

Q. [Mr. Deno] [In your ruling] you never mentioned anything about the issue of consent or the People totally failing to prove lack of consent, correct?

A. [Respondent] Correct.

Q. [Mr. Deno] Yet that is, as you state in your response, why you reversed your decision in this matter, correct?

A. [Respondent] It is…I did it based on the evidence in the case. I did it not because I wanted to thwart to [*sic*] get around the law, I did it because that was what the evidence was.

20. Respondent's statements set forth in paragraph 19, above, were false because Respondent reversed his decision and entered a not guilty finding in order to circumvent the law and to keep D.C. from serving a mandatory minimum four-year prison sentence in the Department of Corrections.

21. With respect to his sworn testimony before the JIB, the ICC found in its order:

> [W]e find respondent's testimony was untruthful, and that his position before this Commission – that he reversed his guilty finding based on his belief that the State had failed to prove its case – was a purely deceptive scheme designed to justify, or conceal, his misconduct.
>
> …we reject respondent's purported claim that he reversed the guilty finding based on the evidence and that the State had failed to prove its case. To the contrary, the Board's evidence shows that respondent willfully refused to follow the law requiring that [D.C.] be sentenced to a mandatory prison term, not because respondent actually thought [D.C.] was not guilty, but because respondent did not agree with the law. We are convinced respondent reversed his guilty finding to achieve that objective. We conclude respondent's testimony was designed to manipulate and deceive first the Board, and now this Commission. Further, we find respondent's falsehoods began with his March 2022 written submission to the Board, continued through his sworn testimony before the Board in April 2022, and carried into November 2023, when he testified before this Commission.

22. Respondent knew at the time he made the statements set forth in paragraph 19, above, that they were false.

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

a. making false statements of material fact or law to a tribunal by making the statements to the JIB set forth in paragraph 19, above, in violation of Rule 3.3(a)(1) of the Illinois Rules of Professional Conduct (2010); and

b. engaging in conduct involving dishonesty, fraud, deceit or misrepresentation by making the false statements to the JIB set forth in paragraph 19, above, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

COUNT III
(*False statements under oath before the Illinois Courts Commission*)

24. On November 7 and 8, 2023, a hearing was held in *In re Adrian*, 22CC04, before the Illinois Courts Commission, with Justice Elizabeth M. Rochford presiding.

25. During the hearing, Respondent was sworn in as a witness and testified. During his testimony, Respondent was asked the following questions by Deno and gave the following answers:

Q. [Mr. Deno] So, Judge, to be clear, in your written response and in your sworn testimony before the Judicial Inquiry Board, you state that the reason that you reversed your decision was that the People had totally failed to prove that the victim was unable to give knowing consent, and was not because you did not want to sentence [D.C.] to the penitentiary; is that correct?

A. [Respondent] That's correct.

Q. [Mr. Deno] And, Judge, as you sit here today, is that what you are telling the Commission?

A. [Respondent] That I found him not guilty because he was not guilty, and I did not do it because I didn't want to sentence him to the Department of Corrections. That's what I'm telling the Commission.

26. Respondent's statements set forth in paragraph 25, above, were false because Respondent reversed his decision and entered a not guilty finding in order to circumvent the law and to keep D.C. from serving a mandatory minimum four-year prison sentence.

27. Respondent knew his statements set forth in paragraph 25, above, were false at the time that he made them.

28. During the ICC hearing, Respondent testified about the following statement he made at the sentencing hearing in case 2021CF396:

Q. [Mr. Deno] So you're telling the Commission that when you said "this Court will not do that," you were not specifically saying that

you were refusing to sentence [D.C.] to the Department of Corrections.

A. [Respondent] I'm saying it's – he's not guilty, so it would not be just. I know I said it poorly, but I'm also talking about, and later on I talk about the statute as to being unconstitutional.

Q. [Mr. Deno] So, Judge, once again, whether you're saying it poorly or not, you're telling the Commission that when you said "this Court will not do that," you were not specifically saying that you were refusing to sentence [D.C.] to the Department of Corrections.

A. [Respondent] Why would I sentence someone who's not guilty of an offense to the Department of Corrections?

Q. [Mr. Deno] So what is your answer? Yes or no?

A. [Respondent] My answer is I will not sentence somebody who's not guilty of a crime to the Department of Corrections.

Q. [Mr. Deno] Judge, so in the next part of your ruling, starting with the very next sentence, you said, "There is…" Do you see that part?

A. [Respondent] Yes.

Q. [Mr. Deno] "There is no way for what happened in this case that this teenager should go to the Department of Corrections. I will not do that."
Correct?

A. [Respondent] That's correct.

Q. [Mr. Deno] And are you telling us here that when you said, "I will not do that" you once again were not specifically saying that you were refusing to sentence [D.C.] to the Department of Corrections?

A. [Respondent] I said – I'm sorry. Go ahead.

Q. [Mr. Deno] Go ahead.

A. [Respondent] I'm saying, as I said, "There is no way for what happened in this case," which was not a sexual assault, that this teenager

should go to the Department of Corrections. I will not do that.

Q. [Mr. Deno] But you left out the words "of which there was a sexual assault"; correct?

A. [Respondent] That's correct.

29. Respondent's statements set forth in paragraph 28, above, were false because Respondent did not make the statements in order to find D.C. not guilty, he made the statements because he did not believe that a prison term for D.C. was justified.

30. In their order, the ICC found:

> Respondent testified before this Commission that when he said, "the Court will not do that," and "I will not do that," he meant he would not sentence [D.C.] to prison when he was not guilty. This proffered explanation, given after the fact, is not believable. To any reasonable person hearing respondent's words, respondent was refusing to sentence [D.C.] to a mandatory prison term "for what happened in [the] case" because he did not believe prison was a "just" sentence under the circumstances.

31. Respondent knew that the statements set forth in paragraph 28, above, were false at the time he made them.

32. During the hearing before the ICC, Adams County First Assistant State's Attorney, Todd Eyler ("Eyler"), testified that on October 15, 2021, the day case number 2021CF396 ended, Respondent approached him in the courthouse parking lot and initiated a conversation. Eyler testified that Respondent said something needed to be done about the way Anita Rodriguez ("Rodriguez"), the prosecutor in DC's case, handled sex cases, and Respondent specifically remarked, "First [another defendant] and [D.C.]."

33. At the hearing, Respondent maintained that he had a conversation with Eyler in the parking lot but he did not say anything to Eyler about Rodriguez, or the way she handled sex cases.

34. Respondent's statement set forth in paragraph 33, above, was false because Respondent did discuss Rodriguez with Eyler and Respondent did tell Eyler that something needed to be done about the way Rodriguez handled sex cases.

35. In its order, the ICC found:

> "We find Eyler's recollection of the substance of this conversation and the date on which it occurred credible and believable, and we find Respondent's testimony that he did not say anything about Rodriguez and the way she was handling sexual assault cases was untruthful."

36. Respondent knew that the statements set forth in paragraph 33, above, were false at the time he made them.

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

a. making false statements of material fact or law to a tribunal by making the statements to ICC set forth in paragraphs 25, 28, and 33, above, in violation of Rule 3.3(a)(1) of the Illinois Rules of Professional Conduct (2010); and

b. engaging in conduct involving dishonesty, fraud, deceit or misrepresentation by making the false statements to ICC set forth in paragraph 25, 28, and 33 above, in violation of Rule 8.4(c) of the Illinois Rules of Professional Conduct (2010).

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

Respectfully submitted,

Lea S. Gutierrez, Administrator
Attorney Registration and
Disciplinary Commission

By: _/s/ Peter L. Rotskoff___
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