

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

In the Matter of:

DAVID FREDERICK WILL,

Attorney-Respondent,

No. 6257692.

Commission No. 2023PR00035

**NOTICE OF FILING**

TO: Jonathan Wier  
Counsel for the Administrator  
[jwier@iadc.org](mailto:jwier@iadc.org)  
[ARDCeService@iadc.org](mailto:ARDCeService@iadc.org)

PLEASE TAKE NOTICE that on June 23, 2023, I filed the attached Respondent's Answer to the Complaint with the Clerk of the Attorney Registration and Disciplinary Commission in Chicago, Illinois, a copy of which is hereby served upon you.

/s/Sari W. Montgomery  
Sari W. Montgomery

Sari W. Montgomery  
Robinson, Stewart, Montgomery & Doppke LLC  
33 North Dearborn Street, Suite 1420  
Chicago, IL 60602  
(312) 676-9872  
[smontgomery@rsmdlaw.com](mailto:smontgomery@rsmdlaw.com)

FILED  
6/23/2023 3:27 PM  
ARDC Clerk

## **CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that she served the above Notice of Filing and attached Answer to the Complaint on the person listed above by causing them to be emailed to the email addresses listed above on June 23, 2023.

Under penalties as provided by law pursuant to 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

/s/Sari W. Montgomery  
Sari W. Montgomery

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**RESPONDENT'S ANSWER TO THE COMPLAINT**

Now comes the Respondent, David Frederick Will, by his attorney, Sari W. Montgomery, of Robinson, Stewart, Montgomery & Doppke LLC, and states, as and for his answer to the Administrator's Complaint:

**ANSWER**

*(Failing to Act with Diligence and Making False Statements in the Court 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.

**ANSWER: Admit.**

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.

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**ANSWER: Respondent admits that Patricia hired him to represent Vincent in the filing of a petition to commute Vincent's sentence in December 2020 but further states that he had ongoing discussions with both Patricia and Vincent about the representation for several months prior to December 2020. Respondent denies the remaining allegations of Paragraph 2 above.**

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. 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.

**ANSWER: Admit.**

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.

**ANSWER: Admit.**

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 (*sic*) like that.

**ANSWER: Respondent admits that Patricia sent a text message to Respondent on May 13, 2021 that read as alleged. Respondent denies that he was not communicating with Patricia and Vincent.**

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.

**ANSWER: Admit.**

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."

**ANSWER: Admit.**

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.

**ANSWER: Admit.**

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.

**ANSWER: Admit.**

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."

**ANSWER: Admit.**

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.

**ANSWER: Respondent admits the first sentence of Paragraph 11. Respondent further admits that he responded to Patricia’s text stating, “[i]t was emailed.” Respondent denies the remaining allegations of Paragraph 11.**

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.

**ANSWER: Respondent admits that his statement, “[i]t was emailed,” was false because he had not filed any case or petition on Vincent’s behalf. Respondent denies the remaining allegations of Paragraph 12.**

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.

**ANSWER: Respondent admits that he knew that his statement that, “[i]t was emailed,” 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. Respondent denies the remaining allegations of Paragraph 13.**

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.”

**ANSWER: Respondent admits that on May 25, 2021, Patricia inquired by text whether the “case” had been emailed to the clemency board. Respondent denies the remaining allegations of the first sentence of Paragraph 14. Respondent admits the allegations in the second sentence of Paragraph 14.**

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.

**ANSWER: Respondent's admits that his statement that Vincent's "case" was emailed to the clemency board was false because no petition had been emailed or submitted in any manner to the clemency board or anyone else on Vincent's behalf. Respondent denies the remaining allegations of the first sentence of Paragraph 15.**

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.

**ANSWER: Respondent admits that he knew that his statement to Patricia that the "case" had been emailed to the clemency board was false because he knew he had not emailed or submitted a case or petition to the clemency board or to anyone else on Vincent's behalf. Respondent denies the remaining allegations of the first sentence of Paragraph 16.**

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.

**ANSWER: Respondent admits that Patricia asked in another series of text messages on May 25, 2021, "when it was done," and whether it was "this month." Respondent admits that he first replied to the text message that he was away from his computer and would "let you know when I get back to it." Respondent further admits that**

**he later responded that, “[y]es, it was.” Respondent denies the remaining allegations of the first sentence of Paragraph 17.**

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.

**ANSWER: Respondent admits that his statements, as described in his answer to the allegations in Paragraph 17, were false because he had never submitted the case or petition to the board or any other entity. Respondent denies the remaining allegations of the first sentence of Paragraph 18.**

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.

**ANSWER: Respondent admits that he knew that his statements as described in his answer to the allegations in Paragraph 17 were false because he knew he had not emailed or filed anything on Vincent’s behalf with the board or any other entity. Respondent denies the remaining allegations of the first sentence of Paragraph 19.**

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.

**ANSWER: Admit.**

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.

**ANSWER: Admit.**

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).

**ANSWER: Because the allegations in Paragraph 22 are legal conclusions, rather than factual allegations, Respondent denies same.**

#### **COMPLIANCE WITH COMMISSION RULE 231**

1. Respondent has never been admitted to practice law before any other state court. Respondent was admitted to practice in the United States District Court for the Northern District of Illinois on October 26, 1999, under the name David Frederick Will, and assigned Bar Number 6257692.

2. Respondent has not received any other professional licenses or certificates.

Respectfully submitted,

David Frederick Will,

By: /s/ Sari W. Montgomery  
Sari W. Montgomery  
Counsel for David Frederick Will

Sari W. Montgomery  
Robinson, Stewart, Montgomery & Doppke LLC  
33 North Dearborn Street, Suite 1420  
Chicago, IL 60602  
(312) 676-9872  
[smontgomery@rsmdlaw.com](mailto:smontgomery@rsmdlaw.com)