

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

In the Matter of:

BART E. BEALS,

Attorney-Respondent,

No. 6273501

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Commission No. 2024PR00066

COMPLAINT

Lea S. Gutierrez, Administrator of the Attorney Registration and Disciplinary Commission (“ARDC”), by her attorneys, Christine P. Anderson and Tammy L. Evans, pursuant to Supreme Court Rule 753(b), complains of Respondent, Bart E. Beals, who was licensed to practice law in Illinois on November 9, 2000, and alleges that Respondent has engaged in the following conduct which subjects him to discipline pursuant to Supreme Court Rule 770:

COUNT I

(Criminal Sexual Assault of a Client’s Wife, S.M., Conflict of Interest, and Communicating with a Person Represented by Counsel)

1. At all times related to this complaint, 720 ILCS 5/11-1.20(a)(1) provides that, “a person commits criminal sexual assault if that person commits an act of sexual penetration, and (1) uses force or threat of force.”

2. On or about May 17, 2021, Respondent met S.M. in the lobby of the Peoria Marriott Pere Marquette Hotel in Peoria, Illinois, to discuss Respondent’s potential representation of S.M.’s husband, D.M., who had been charged in a federal criminal matter in the United States District Court for the Central District of Illinois. Respondent and S.M. agreed that

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Respondent would represent D.M. and would charge D.M. \$15,000 if the criminal matter proceeded to a trial, and \$10,000 if D.M. pled guilty to the pending charges.

3. On May 17, 2021, S.M. agreed to Respondent's representation of her husband D.M. and, at the hotel that day, paid Respondent \$3,750 in cash.

4. At the time Respondent met with S.M., her husband, D.M., was in federal custody in the Peoria County Jail and remained in custody during the course of Respondent's representation of him.

5. On or about May 17, 2021, during their meeting at the hotel, S.M. attempted to purchase coffee from the Starbucks located in the hotel's lobby but was advised that the coffee shop was closing. At the conclusion of their meeting, S.M. informed Respondent that she was going back to work and provided Respondent with the name of her business. Later that day, Respondent appeared, unannounced, at S.M.'s business and brought her coffee. Respondent complimented S.M. on her appearance, but S.M. did not respond.

6. On May 18, 2021, Respondent was granted leave to enter his appearance on behalf of D.M. in federal court.

7. Between May 18, 2021 and October 22, 2021, Respondent met S.M. on at least six occasions, which included two meetings at her place of business, one meeting at a Denny's restaurant, one meeting at a Mexican restaurant in Peoria, and at least two meetings at her home in Peoria. During each meeting, Respondent's behavior became increasingly inappropriate. In his conversations with S.M., Respondent discussed oral sex with S.M. and invited her to join him on a trip to California to attend a Chicago Bears game, which S.M. declined.

8. Between May 18, 2021 and October 22, 2021, Respondent sent S.M. numerous text messages that were flirtatious in nature from his cell phone, and messages via Google Voice,

and Facebook Messenger. In a few of his messages, Respondent stated that he would like S.M. to send nude pictures of herself to Respondent.

9. On or about September 17, 2021, S.M. was served with a subpoena by the U.S. Attorney's Office requiring her testimony as a witness against D.M. in the pending criminal matter. After she was served with the subpoena, S.M. sent a text message to Respondent and asked Respondent if he could represent her. Respondent told S.M. that he could not represent her because he represented her husband. S.M. asked Respondent to provide her with the names of attorneys that could represent her.

10. On September 20, 2021, S.M. met with Boyd Roberts ("Roberts"), a Peoria attorney, regarding the subpoena that she had received from the U.S. Attorney.

11. On September 21, 2021, S.M. and Roberts agreed that Roberts would represent S.M. and file a motion to quash the subpoena. Roberts and S.M. also agreed that S.M. would pay a \$500 retainer to Roberts and that Roberts would bill S.M. at an hourly rate of \$250 for legal work that he performed. On that date, S.M. signed the written legal service agreement that Roberts provided to her and paid Roberts \$500.

12. On October 21, 2021, S.M. provided Roberts' name and telephone number to Respondent in a text message that she sent to Respondent's cell phone.

13. At no time after September 21, 2021, did Roberts give Respondent his consent to speak to S.M., Roberts' client.

14. On October 22, 2021, Respondent sent a text message to S.M. and stated that he was going to meet with D.M. at the Peoria County Jail that day and that he needed to meet S.M. before he met with D.M. Respondent and S.M. agreed that Respondent would meet with S.M. at her home later that day.

15. On October 22, 2021, at approximately 2:15 p.m., Respondent appeared at S.M.'s home in Peoria and discussed D.M.'s case with her.

16. At no time prior to appearing at S.M.'s home on October 22, 2021, did Respondent contact Roberts and obtain his consent to speak with S.M. about the case.

17. On October 22, 2021, while at S.M.'s house, Respondent grabbed the back strap of S.M.'s bra as she walked past the chair in which Respondent was seated, causing her bra to become unhooked. When S.M. realized that her bra became unhooked, she quickly walked towards her bedroom. Respondent followed S.M. and entered into S.M.'s bedroom without her knowledge or consent.

18. When S.M. realized that Respondent had followed her into her bedroom, S.M. told Respondent to leave. Respondent did not leave S.M.'s bedroom and stated, "I just want to take a picture of it. I want to see what your husband's so crazy about." Respondent then pushed S.M. onto her bed and proceeded to take off her clothes and removed his own clothes. S.M. repeatedly told Respondent "no" and told him several times that she was "dirty" in hopes that Respondent would leave. Respondent vaginally penetrated S.M. with his penis. Respondent then ejaculated into his hand, after which he cleaned up and then informed S.M. that he was going to Springfield to obtain a concealed carry permit.

19. After Respondent left S.M.'s residence, S.M. called her brother and his wife, and told them that Respondent had raped her. S.M.'s brother and his wife thereafter arrived at S.M.'s home and urged S.M. to contact the police. S.M. advised them that she was worried that reporting Respondent to the police would result in Respondent not properly representing D.M. at his upcoming trial which was scheduled for November 1, 2021. S.M. did agree to go to Methodist Hospital in Peoria so that a rape kit could be completed. While at Methodist Hospital,

S.M. told hospital personnel that she did not want to report the rape to police. Hospital personnel completed a rape exam and contacted the Peoria Police Department to retrieve the rape kit. Peoria Police Department collected the rape kit at approximately 11:46 p.m. for storage.

20. Shortly after leaving S.M.'s home on October 22, 2021, and again on October 23, 2023, Respondent placed several telephone calls and sent several text messages to S.M. asking if she was okay and requesting that she call him. S.M. did not respond to Respondent's messages.

21. On or about October 25, 2021, S.M. spoke to Roberts and told him that Respondent had sexually assaulted her on October 22, 2021. S.M. told Roberts that Respondent had been calling and sending text messages to her since the assault. Roberts advised S.M. to file a police report and to contact the ARDC. S.M. explained to Roberts that she went to the hospital and submitted to a rape kit, but that she was hesitant to take any further steps because of D.M.'s upcoming trial.

22. On October 26, 2021, Roberts sent an email to Respondent advising him to cease any further attempts to contact S.M. directly and that any further communications regarding S.M. should be directed to Roberts. Respondent acknowledged receipt of Roberts' email.

23. On November 1, 2021, Respondent appeared as counsel for D.M. at his criminal jury trial, which resulted in a partial verdict. D.M. was found guilty on one of three charges that were filed against him. The jury did not reach a unanimous verdict on the remaining two charges and a new trial on those two charges was scheduled for April 4, 2022.

24. On January 6, 2022, S.M. contacted the Peoria Police Department and filed a report alleging that she was sexually assaulted by Respondent on October 22, 2021.

25. On January 28, 2022, Respondent filed a motion to withdraw as counsel for D.M., citing a conflict of interest. In a hearing on his motion to withdraw, Respondent informed the

court and opposing counsel that he engaged in a “sexual relationship” with his client’s wife, S.M. The court granted Respondent’s motion, and he was allowed to withdraw as D.M.’s counsel on March 2, 2022.

26. By reason of the conduct outlined above, Respondent has engaged in the following misconduct:

- a. failing to promptly inform a client of any decision or circumstance with respect to which the client’s informed consent, as defined in Rule 1.0(e), is required by conduct including failing to inform his client, D.M., that he had engaged in a sexual act with his client’s wife, S.M., until two months after his client’s criminal trial had ended, and after Respondent had filed a motion to withdraw as counsel, in violation of Rule 1.4(a)(1) of the Illinois Rules of Professional Conduct (2010);
- b. representing a client when there is a significant risk that the representation of one or more clients will be materially limited by the lawyer’s responsibilities to another client, a former client or a third person or by a personal interest of the lawyer, by conduct including, engaging in a sexual act with S.M., his client’s wife, while representing his client, D.M., in a pending criminal matter, in violation of Rule 1.7(a)(2) of the Illinois Rules of Professional Conduct (2010);
- c. in representing a client, communicating about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter without the consent of the other lawyer, by conduct including sending telephone and text messages to S.M. and meeting with her in-person when Respondent knew she was represented by Roberts, in violation of Rule 4.2 of the Illinois Rules of Professional Conduct (2010);
- d. committing a criminal act that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects, by conduct including committing criminal sexually assault, in violation of 720 ILCS 5/11-1.20(a)(1), when Respondent removed S.M.’s clothing and penetrated S.M.’s vagina with his penis without her consent, in

violation of Rule 8.4(b) of the Illinois Rules of Professional Conduct (2010); and

- e. engaging in conduct that is prejudicial to the administration of justice by conduct including, engaging in a sexual act with his client's wife and failing to inform his client that he had engaged in a sexual act with his client's wife until two months after his client's criminal trial had ended, and after Respondent had filed a motion to withdraw as counsel, in violation of Rule 8.4(d) of the Illinois Rules of Professional Conduct (2010).

COUNT II

(Inappropriate Sexual Relationship with Client – J.M.)

27. In May 2021, the Grand Jury of McClean County charged J.M. in an eight-count indictment with the felony criminal offense of burglary and misdemeanor retail theft. This matter was docketed by the clerk of the circuit court as *People of the State of Illinois v. [J.M.]*, case number 2021CF000543.

28. On or prior to June 18, 2021, Respondent and J.M. agreed that Respondent would represent her in the criminal case. On June 18, 2021, Respondent filed an appearance and appeared as attorney for J.M. in case number 2021CF000543.

29. At the time that Respondent agreed to represent and entered his appearance as J.M.'s counsel, he did not have an ongoing sexual relationship with her.

30. Several months after being retained by J.M. and while he was still representing her in case number 2021CF000543, Respondent had sexual relations with J.M. in his office.

31. At the time he entered into sexual relations with J.M., Respondent was aware of Rule 1.8(j) of the Rules of Professional Conduct (2010) which prohibits attorneys from engaging in sexual relations with a client unless a consensual sexual relationship existed between them when the client-lawyer relationship commenced.

32. Between June 2021 and September 2022, Respondent represented J.M. in case number 2021CF000543. On September 15, 2022, J.M. pled guilty to two counts of burglary in case number 2021CF000543. J.M. was sentenced to 30 months of probation, 90 days in the McLean County jail, served on home confinement, 240 hours of community service, and ordered to pay restitution and costs.

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

- a. engaging in a sexual relationship with his client, J.M., after the client-lawyer relationship commenced, in violation of Rule 1.8(j) of the Illinois Rules of Professional Conduct (2010).

COUNT III

(Inappropriate Sexual Relationship with Client – J.H.)

34. In April 2019, the Grand Jury of the Circuit Court of Cook County charged J.H. with the felony criminal offense of possession of controlled substance with intent to deliver. This matter was docketed by the clerk of the circuit court as *People of the State of Illinois v. [J.H.]*, case number 2019CR445701.

35. On or prior to April 22, 2019, Respondent and J.H. agreed that Respondent would represent her in the criminal case. On or before April 22, 2019, Respondent filed an appearance and appeared as attorney for J.H. in case number 2019CR445701.

36. At the time that Respondent agreed to represent and entered his appearance as J.H.'s counsel, he did not have an ongoing sexual relationship with her.

37. In the summer of 2019, while he was still representing her in case number 2019CR445701, Respondent had sexual relations with J.H. in his office.

38. At the time he entered into sexual relations with J.H., Respondent was aware of Rule 1.8(j) of the Rules of Professional Conduct (2010) which prohibits attorneys from engaging in sexual relations with a client unless a consensual sexual relationship existed between them when the client-lawyer relationship commenced.

39. Between April 2019 and March 2021, Respondent represented J.H. in case number 2019CR445701. On March 5, 2021, the State made a motion to *nolle prosequi* the charges in case number 2019CR445701.

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

- a. engaging in a sexual relationship with his client, J.H., after the client-lawyer relationship commenced, in violation of Rule 1.8(j) of the Illinois Rules of Professional Conduct (2010).

COUNT IV
(*Conflict of Interest- B.S.*)

41. On or before March 2021, Respondent met B.S. in the Kankakee County courthouse when B.S. asked Respondent for his business card. Respondent did not have any business cards, so he and B.S. exchanged cell phone numbers. Respondent had not previously represented B.S. in any legal matters.

42. Between March 2021 and October 2021, Respondent and B.S. communicated with each other by sending messages to each other via Facebook Messenger. On at least two occasions, Respondent transferred money to B.S.'s Cash App account. Cash App is a mobile payment service that allows users to transfer money to one another using a mobile phone application. On at least one occasion, after Respondent transferred money to B.S.'s Cash App

account, B.S. sent pictures of herself, including pictures of herself in undergarments and pictures exposing her genital area to Respondent.

43. Prior to July 27, 2022, B.S. and M.G. were arrested and charged in connection with the same criminal enterprise.

44. On July 27, 2022, Respondent filed his appearance as counsel for M.G., the defendant in Kankakee County criminal case number 2022CF446, *People of the State of Illinois v. [M.G.]*. In that matter, the Kankakee County State's Attorney charged M.G. with unlawful possession of controlled substances with the intent to deliver. On the same date, B.S. was arrested and charged with unlawful delivery of a controlled substance.

45. On or about August 29, 2022, the Kankakee County State's Attorney tendered discovery to Respondent, including the names of the persons the State's Attorney intended to call as witnesses in case number 2022CF446. B.S. was one of the persons that the State's Attorney disclosed as a witness they intended to call.

46. At the time Respondent received discovery from the State's Attorney and learned that the State's Attorney intended to call B.S., he knew that a conflict of interest existed and that he had a duty to advise the court, the State's Attorney, and M.G., his client.

47. At no time between about August 29, 2022 and September 8, 2023, did Respondent disclose to the court, the State's Attorney, and/or his client, M.G., that he had a personal relationship with B.S., and had given her money in exchange for her sending the pictures of herself described in paragraph 42, above, to him.

48. On or before September 8, 2023, the State's Attorney learned that Respondent had previously communicated with B.S. via Facebook Messenger and that Respondent transferred money to B.S.'s Cash App account after she sent the pictures of herself described in paragraph

42, above, to Respondent. The State's Attorney asked Respondent about his relationship with B.S. and expressed his concern to Respondent that a conflict of interest existed that required Respondent's withdrawal as M.G.'s counsel in 2022CF446.

49. On September 8, 2023, Respondent filed a motion to withdraw as counsel for M.G. in case number 2022CF446, and informed the court that a non-waivable conflict of interest existed and required his withdrawal as counsel for M.G. The court allowed Respondent to withdraw from the matter.

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

- a. representing a client when the representation of one or more clients will be materially limited by a personal interest of the lawyer, by conduct including representing M.G. in a criminal matter, case number 2022CF446, in which B.S. was disclosed as a witness for the State against M.G. in that same matter, in violation of Rule 1.7(a)(2) of the Illinois Rules of Professional Conduct (2010); and
- b. engaging in conduct that is prejudicial to the administration of justice, by conduct including failing to disclose to the court and the State's Attorney that Respondent had a previous relationship with B.S., described in paragraph 42, above, until more than a year after he learned B.S. was a witness for the State in case number 2022CF446 against his client, M.G., in violation of Rule 8.4(d) 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 a hearing be held, and that the panel make findings of fact, conclusions of fact and law, and a recommendation for such discipline as is warranted.

Respectfully submitted,

Lea S. Gutierrez, Administrator
Attorney Registration and
Disciplinary Commission

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