

FILE NO. _____

STATE OF MINNESOTA

IN SUPREME COURT

In Re Petition for Disciplinary
Action against ALFRED AARON GRIFFIN,
a Minnesota Attorney,
Registration No. 0254150.

**PETITION FOR
DISCIPLINARY ACTION**

TO THE SUPREME COURT OF THE STATE OF MINNESOTA:

Upon the approval of a Lawyers Professional Responsibility Board Panel Chair, the Director of the Office of Lawyers Professional Responsibility, hereinafter Director, files this petition pursuant to Rules 10(d) and 12(a), Rules on Lawyers Professional Responsibility. The Director alleges:

The above-named attorney, hereinafter respondent, was admitted to practice law in Minnesota on May 5, 1995. Respondent was suspended on September 4, 2013, for his failure to pass the Professional Responsibility portion of the state bar examination by August 1, 2013, pursuant to the Court's August 1, 2012, order. Respondent remains suspended from the practice of law.

Respondent has committed the following unprofessional conduct warranting public discipline:

DISCIPLINARY HISTORY

1. On September 6, 2001, respondent was issued an admonition for failing to timely respond to a complaint, failure to attend meetings with a District Ethics Committee (DEC) investigator, and failure to reply to requests for information from a DEC investigator in violation of Rule 8.1(a)(3), Minnesota Rules of Professional Conduct (MPRC), and Rule 25, Rules of Lawyers Professional Responsibility (RLPR).

2. On August 3, 2003, respondent was issued an admonition for failure to act with diligence, failure to keep his client reasonably informed, and failure to cooperate with the disciplinary investigation in violation of Rules 1.3, 1.4(a), and 8.1(a)(3), MRPC, and Rule 25, RLPR.
3. On October 8, 2007, respondent was placed on private probation for a period of two years for his failure to cooperate with the DEC investigator and the Director in violation of Rule 8.1(b), MPRC, and Rule 25, RLPR.
4. On August 1, 2012, respondent was suspended from the practice of law for a minimum of sixty days for engaging in the unauthorized practice of law while he was on involuntary restricted status for failing to comply with continuing legal education requirements and while he was suspended for nonpayment of attorney registration fees and failing to cooperate with the Director's investigation in violation of Rules 5.5(a), 8.1(b), 8.4(d), MRPC; Rule 12(b), Rules of the Minnesota State Board on Continuing Legal Education; Rule 2(H), Rules of the Supreme Court of Lawyer Registration; and Rule 25, RLPR. On November 5, 2012, respondent was reinstated to the practice of law, subject to his successful completion of the professional responsibility portion of the state bar examination by August 1, 2013.
5. On November 13, 2012, respondent was issued an admonition for his failure to notify the court and the prosecutor of his suspension from the practice of law in violation of Rule 26(b) and (c), RLPR, and Rules 3.4(c) and 8.4(d), MRPC.
6. On September 4, 2013, the court revoked respondent's conditional reinstatement and suspended respondent indefinitely from the practice of law for his failure to provide the court proof that he successfully passed the professional responsibility portion of the state bar examination.

FIRST COUNT

S.W.G. Matter

1. Respondent and J.W. are the parents of a child, S.W.G., born in 2007. Respondent was adjudicated the child's father in a paternity proceeding. In 2010, the district court issued a judgment and decree that awarded the parties temporary joint legal and physical custody of the child.

2. In 2012, as the time for S.W.G. to enter school approached, J.W. and respondent were involved in a dispute as to where S.W.G. would attend school (the "school matter"). In July 2012, J.W. sought to have the Hennepin County District Court, family division, permit S.W.G. to attend school in Maple Grove.

3. On July 8, 2012, Jason Rojas approached respondent at Ridgedale Shopping Center to serve respondent with papers concerning that action.

4. When Rojas asked respondent if he was "Alfred Griffin," respondent stated that he was not. Respondent stated that he was "Louis Griffin."

5. Rojas told respondent that he had papers from Hennepin County Family Court for Alfred Griffin. Again, respondent said he was not Alfred Griffin and he would not accept service.

6. Rojas confirmed with J.W.'s then-attorney, and J.W., that the person Rojas had attempted to serve was, in fact, respondent. After confirming respondent's identity, Rojas again tried to serve respondent with the documents. Again, respondent refused to accept service.

7. Around this same time, but unrelated to his dispute with J.W., respondent was subject to a disciplinary action by the Minnesota Supreme Court. In an order dated August 1, 2012, respondent was suspended from the practice of law for a minimum of 60 days. Respondent's suspension was based upon his conduct in engaging in the unauthorized practice of law while on involuntary restricted status for failing to comply with the continuing legal education requirements and while he was suspended for

nonpayment of his attorney registration fee, and failing to cooperate with the Director's investigation. *In re Griffin*, 818 N.W.2d 521 (Minn. 2012).

8. Pursuant to the Supreme Court's August 1, 2012, order, respondent was within one year to file with the Clerk of Appellate Courts and serve on the Director proof of his successful completion of the professional responsibility portion of the state bar exam.

9. On August 21, 2012, in the school matter, the district court determined that S.W.G. should attend school in the Maple Grove school district. On October 22, 2012, respondent appealed the district court's decision.

10. By early 2013, respondent was in arrears of his child support obligation to J.W. by at least \$30,000 and possibly in excess of \$50,000 (the "child support matter"). Hennepin County filed a motion to find respondent in constructive civil contempt for his failure to pay child support.

11. On February 7, 2013, the issue of respondent's arrearages came on for hearing before a referee. Respondent appeared and was represented by attorney Damon Ward. Respondent admitted that he was in contempt of court in that he knew of the existence of the applicable child support order, did not pay all support owed, and could have paid more than he did pay.

12. The court ordered that respondent was in constructive civil contempt of court and was sentenced to 90 days in the Hennepin County Adult Correctional Facility. However, execution of the sentence was stayed provided that respondent comply with purge conditions set by the court. The matter was continued to August 7, 2013, at which time respondent was to appear before the court.

13. On April 23, 2013, J.W. filed a petition for a harassment restraining order against respondent (the "restraining order").

14. On or about May 11, 2013, a deputy sheriff with the Hennepin County Sheriff's Office attempted to serve respondent at his residence with documents

concerning the restraining order. Respondent was in the residence at the time, but refused to come to the door to accept service of process.

15. On May 21, 2013, the harassment restraining order came on for hearing before Hennepin County District Court. Respondent was not present for the hearing. The court noted the Hennepin County Sheriff's Office's attempt to serve respondent at his residence and his refusal to accept service. The court also took notice of Damon Ward's representation of respondent in the school matter and ordered that service could be made on Damon Ward, "which shall be good and sufficient service on Respondent." Ward was served on May 22, 2013.

16. On June 7, 2013, there was a second hearing on J.W.'s petition for a restraining order. Again, respondent failed to appear for the hearing. At that time, the court granted J.W.'s request for the restraining order.

17. August 1, 2013, marked one year since the Supreme Court's order in respondent's disciplinary matter, which required respondent to file with the Clerk of Appellate Courts and serve on the Director proof of his successful completion of the professional responsibility portion of the state bar exam. Respondent failed to do so.

18. On August 7, 2013, the district court held the previously scheduled hearing on respondent's child support arrearages. Neither respondent nor his attorney, Ward, appeared for the hearing. The court issued an order for respondent to appear and continued the matter to September 16, 2013.

19. On September 4, 2013, the Supreme Court ordered respondent suspended from the practice of law for failing to file proof of his successful completion of the professional responsibility portion of the state bar examination. *In re Griffin*, 836 N.W.2d 524 (Minn. 2013). As indicated above, as of the date of these charges, respondent remains suspended.

20. On September 16, 2013, respondent was served with a notice to appear on November 8, 2013, concerning his child support arrearages.

21. On October 28, 2013, the Minnesota Court of Appeals remanded the school matter to the district court. The next day, respondent sent a letter requesting that the district court hold an evidentiary hearing on where S.W.G. should attend school. The district court granted the motion and scheduled the evidentiary hearing in the school matter for February 10, 2014.

22. On November 8, 2013, there was another hearing on the arrearages matter; respondent failed to appear. On December 6, 2013, the court issued a bench warrant for respondent's arrest based on his failure to appear for the hearing.

23. On February 3, 2014, Damon Ward wrote to the district court concerning the upcoming hearing in the school matter, asking for a continuance because of his allegedly serious medical problems. Ward also alleged that respondent had a medical issue of his own and scheduled medical treatment for the same date as the hearing. J.W. opposed the continuance, arguing that the outstanding bench warrant for respondent's nonpayment of child support was the driving force behind his continuance request. The district court nonetheless continued the matter to March 7, 2014.

24. On March 3, 2014, respondent (either on his own or acting through Ward) wrote another letter to the district court withdrawing his request for an evidentiary hearing in the school matter. In that letter, respondent requested an opportunity to submit the affidavit of a Maple Grove police officer to support respondent's argument that J.W. did not reside in the school district. Respondent again asserted that his counsel would not be able to attend the evidentiary hearing because of recent health issues.

25. In response to respondent's request, the district court gave him two options: (1) attend the March 7 evidentiary hearing as scheduled; or (2) completely withdraw his motion challenging where S.W.G. attended school.

26. Respondent did not attend the hearing. Ward appeared, explaining that respondent was receiving surgery that could only take place on that day. On April 21,

2014, the district court ruled that respondent had withdrawn his objection as to where J.W.G. could attend school. The court further found, "The fact that there was an outstanding warrant for the arrest of [respondent], and that [respondent's] request to the presiding judicial officer on that matter was denied, makes [respondent's] non-appearances highly suspicious."

27. Respondent subsequently appealed the district court's ruling on the school matter.

28. On April 24, 2014, the district court held a review hearing in respondent's child support contempt proceeding. This time respondent and counsel appeared. However, the matter was continued to June 23, 2014, at 10:30 a.m.

29. On June 17, 2014, the district court issued an order requiring the county to file respondent's child support payment history. That order mistakenly noted the review hearing was scheduled for 10:30 p.m. The "p.m." notation was a typographical error, in that the hearing – as noted in the April 24 order to appear that was personally served on respondent – was scheduled to occur at 10:30 a.m.

30. On June 23, 2014, neither respondent nor Ward appeared for the review hearing. The court issued a bench warrant for respondent's arrest for his failure to appear.

31. On July 8, 2014, Ward wrote the court requesting the bench warrant be quashed.

32. On July 11, 2014, the court issued an order regarding respondent's request that the bench warrant be quashed. The court found the argument that respondent was current in his child support payments was "not a basis on which to quash the bench warrant, as the bench warrant was issued due to Respondent's failure to appear." The court's order further stated:

Respondent also contends he did appear in Court on June 23, 2014 at 10:30 p.m. (i.e. at night) in reliance on the June 17 order. Respondent's attorney's letter, however, does not recognize that the April 24 order states that the hearing is at 10:30 a.m. Moreover, the Court does not

believe that Respondent, who is a lawyer, or his lawyer, honestly believed that the hearing was to occur at 10:30 at night. Indeed, Respondent's lawyer's letter does not state that Respondent's lawyer attempted to appear at 10:30 p.m.

(Emphasis in original.) The court denied respondent's request to quash the bench warrant.

33. According to J.W., as of the date of these charges, the bench warrant remains outstanding, and respondent has not made a child support payment since July 2014.

34. On January 12, 2015, the Minnesota Court of Appeals ruled in the school matter that the district court had not abused its discretion when it characterized respondent's withdrawal from the hearing as a withdrawal of this challenge on where S.W.G. should attend school.

35. Respondent's conduct in intentionally avoiding service of process, failure to pay his child support obligations and his failure to attend court hearings violated Rule 8.4(d), Minnesota Rules of Professional Conduct (MRPC).

SECOND COUNT

T. K. Matter

36. T.K. and respondent have been social acquaintances for over ten years.

37. As indicated above, on September 4, 2013, the Supreme Court suspended respondent from the practice of law for failing to file proof of his successful completion of the professional responsibility portion of the state bar examination.

38. On the evening of September 18, 2013, T.K. was arrested under suspicion of driving while intoxicated.

39. That same night, while in police custody, T.K. called respondent, seeking his advice as an attorney. Respondent provided T.K. with legal advice regarding his situation, including advising T.K. that he request a urine or blood test rather than a breath test.

40. At the time that respondent provided this advice to T.K., respondent was suspended from the practice of law and his conduct in so advising T.K. constituted the unauthorized practice of law.

41. Respondent's conduct in providing legal advice while suspended from the practice of law violated Rule 5.5(a), MRPC.

THIRD COUNT

Non-Cooperation

42. As indicated above, on August 7, 2013, respondent failed to appear in the child support matter. On August 9, 2013, J.W. filed an ethics complaint with the Director's Office concerning respondent's conduct in the S.W.G. and related matters.

43. On October 2, 2013, the Director sent respondent a notice of investigation regarding J.W.'s complaint. The notice directed respondent to submit a response to the J.W. complaint within 14 days. Respondent failed to respond.

44. On October 7, 2013, the Director received a complaint from T.K. On October 25, 2013, the Director sent respondent a notice of investigation in the T.K. matter. The notice directed respondent to submit a response to the complaint within 14 days. Respondent failed to respond.

45. On October 23, 2013, the Director wrote respondent, again requesting a response in the J.W. matter. Respondent failed to respond.

46. On November 18, 2013, the Director wrote to respondent, requesting responses to the complaints of J.W. and T.K. The Director's November 18, 2013, letter was sent by regular U.S. mail and by certified mail. On December 30, 2013, the United States Post Office (USPS) returned the Director's certified letter as "unclaimed," but the letter sent by regular U.S. mail was not returned. Respondent failed to respond.

47. On May 7, 2014, respondent called the Director's Office. Respondent informed the receptionist that he had been ill and it had interfered with him fulfilling his requirements. On May 8, 2014, the Director returned respondent's call and left a

voicemail message requesting a return call. Respondent did not return the Director's call.

48. On June 5, 2014, the Director called respondent again and reminded him that the Director was still waiting for responses to the complaints of J.W. and T.K. Respondent stated that he was driving and asked if he could call the Director the next day.

49. On June 6, 2014, respondent spoke with the Director and agreed to send responses to the complaints by July 1, 2014. Respondent confirmed that his current mailing address was the same address he maintained with the Lawyer Registration Office (7864 Bailey Drive, Eden Prairie, MN 55347), which is the address to which the Director had been sending correspondence in these matters.

50. On June 11, 2014, the Director wrote to respondent, confirming their June 6 conversation and resending the notices of investigation in the J.W. and T.K. matters. The Director reminded respondent that he had agreed to provide responses to the notices by July 1, 2014.

51. On July 7, 2014, respondent called the Director's Office and spoke with paralegal Jenny Westbrooks. Respondent indicated that he was having trouble emailing the Director at the email address provided during their previous phone conversations. Ms. Westbrooks provided the Director's email to respondent. Respondent further stated that a hard copy of the letter he was attempting to send to the Director would go out in the U.S. mail that same day.

52. On July 8, 2014, respondent emailed the Director twice, enclosing documents related to his dispute with J.W., but which were not responsive to J.W.'s complaint. Respondent did not include a written response to either of the complaints.

53. On July 9, 2014, the Director emailed respondent, noting that he had not yet responded to the J.W. and T.K. complaints. The Director also attached the June 11 letter that was sent to respondent and asked him to also respond to the questions in that letter.

54. That same day, respondent emailed the Director in response to the Director's July 9 email. Respondent stated that he would ask someone to hand deliver a packet to the Director's Office tomorrow. The Director did not receive such a hand-delivered packet.

55. On July 17, 2014, respondent emailed the Director a response to the T.K. complaint.

56. That same day, the Director emailed respondent, requesting respondent provide a response to the J.W. complaint and a more detailed response to the Director's June 11 letter. Respondent failed to respond.

57. On August 7, 2014, the Director wrote to respondent, again requesting a response to the J.W. complaint and the Director's June 11 letter. On September 22, 2014, the USPS returned the Director's August 7 letter as "unclaimed."

58. On August 27, 2014, the Director wrote respondent, requesting he appear at the Director's Office on September 18 to discuss the complaints against him and the issues raised in the Director's June 11 letter. Respondent failed to appear.

59. To date, respondent has not provided a written response to the J.W. complaint and has not provided a detailed response to the Director's June 11 letter.

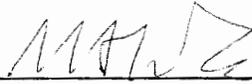
60. On May 1, 2015, the Director mailed to respondent at his last known address the charges of unprofessional conduct in this matter. Pursuant to Rule 9(a)(1), RLPR, and Rule 6, Minn. R. Civ. Proc., respondent's answer to the charges of unprofessional conduct was due to the Director and Panel Chair by May 19, 2015.

61. To date, the Director has not received respondent's answer to the May 1, 2015, charges of unprofessional conduct. Further, respondent has not contacted the Director at any time since the charges of unprofessional conduct were mailed to him.

62. Respondent's conduct in failing to cooperate with the Director's Office violated Rule 8.1(b), MRPC, and Rule 25, Rules on Lawyers Professional Responsibility (RLPR).

WHEREFORE, the Director respectfully prays for an order of this Court suspending respondent or imposing otherwise appropriate discipline, awarding costs and disbursements pursuant to the Rules on Lawyers Professional Responsibility, and for such other, further or different relief as may be just and proper.

Dated: May 27, 2015.



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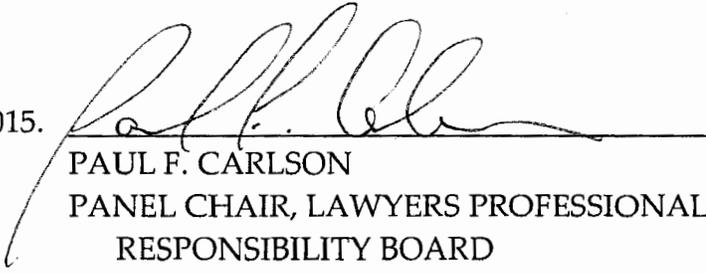
and



CRAIG D. KLAUSUNG
SENIOR ASSISTANT DIRECTOR
Attorney No. 0202873

This petition is approved for filing pursuant to Rules 10(d) and 12(a), RLPR, by the undersigned Panel Chair.

Dated: 5/29, 2015.



PAUL F. CARLSON
PANEL CHAIR, LAWYERS PROFESSIONAL
RESPONSIBILITY BOARD