

**VIRGINIA:**

**IN THE CIRCUIT COURT FOR THE CITY OF ALEXANDRIA**

**VIRGINIA STATE BAR EX REL  
FIFTH DISTRICT COMMITTEE  
VSB Docket No. 22-051-125696**

**Complainant,**

v.

**Case No. 2022-2471**

**ALFRED LINCOLN ROBERTSON, JR.**

**Respondent.**

**FINAL JUDGMENT MEMORANDUM ORDER**  
**(REVOCATION)**

THIS MATTER was heard on March 27, 2023 and May 10, 2023 by a Three-Judge Circuit Court duly impaneled pursuant to Section 54.1-3935 of the Code of Virginia (1950) as amended, consisting of the Honorable Judith L. Wheat, Judge of the 17<sup>th</sup> Judicial Circuit; the Honorable Angela Lemmon Horan, Judge of the 31<sup>st</sup> Judicial Circuit; and the Honorable Tania M. L. Saylor, Judge of the 19<sup>th</sup> Judicial Circuit and designated Chief Judge (“Chief Judge”) of the Three-Judge Circuit Court (collectively “the Court”).

Bar Counsel Renu M. Brennan represented the Virginia State Bar (“VSB”). Respondent, having received proper notice of the proceeding, appeared with counsel Timothy J. Battle.

The Chief Judge swore the court reporter, and each member of the Court verified that she had no personal or financial interest that might affect or reasonably be perceived to affect her ability to be impartial in this matter.

WHEREUPON a hearing was conducted upon the Rule to Show Cause issued

against Respondent. The Rule directed Respondent to appear and to show cause why his license to practice law in the Commonwealth of Virginia should not be suspended, revoked, or otherwise sanctioned by reason of the allegations of ethical misconduct set forth in the Certification issued by a subcommittee of the Fifth District Committee of the VSB.

### **Misconduct Phase**

Pursuant to the Pre-Hearing Order entered February 8, 2023, the Court admitted VSB Exhibits 1-34. At the request of the VSB, which Respondent did not oppose, the Court removed VSB 696-0443-450 of VSB Exh. 33 before the hearing began. Respondent did not submit any exhibits. Respondent provided the Court and VSB with *Matter of Lozada*, 19 I&N Dec.637 (BIA 1988).

Both parties made opening statements.

The Court received the testimony of Grethal Valverde, Madeline Taylor-Diaz, Esq., and David W. Jackson for the VSB.

The VSB then rested. Respondent moved to strike the VSB's evidence on all allegations of the Certification. After hearing argument from the VSB and Respondent, the Court deliberated and denied the Motion to Strike.

Respondent testified in his case. Respondent did not call any other witnesses.

Both parties made closing statements.

Upon due deliberation and in consideration of the exhibits and witness testimony, the Court made the following findings of fact by clear and convincing evidence:

### **FINDINGS OF FACT**

1. Respondent was admitted to the Virginia State Bar ("VSB") in 2000. At all relevant times, Respondent was a member of the VSB. As identified below, at some relevant times, Respondent's license was not in good standing. Admitted by Respondent in



Answer to Certification. VSB Exh. 1, VSB 696-0016. VSB Exh. 3 (Affidavit of DaVida M. Davis, Director of Regulatory Compliance).

2. From 2011 to 2021, Respondent represented Complainant Grethal Valverde (“Valverde”) in removal proceedings before the Executive Office of Immigration Review (“EOIR”) /Arlington Immigration Court (“Immigration Court”). Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0016; VSB Exh. 7 (Report of Investigation, Attachment 3, Respondent’s Case File for Valverde). VSB Exh. 8 (Supplemental Report of Investigation, Interview of Valverde and Attachment 1, Chronology of Emails and Texts from Valverde). VSB Exhs. 12-26 Notices of Hearings, Decision of Removal, Notice of Removal, and Audio of Removal Hearing. VSB Exh. 28 (December 19, 2109 letter from Respondent to Valverde re: Suspension of License). VSB Exh. 29 (Text Messages dated December 26, 2019 between Valverde and Respondent). VSB Exh. 30 (Text Messages dated July 1 and July 8, 2019 between Valverde and Respondent). VSB Exh. 31 (Text Messages dated July 7 and July 23, 2021 from Valverde to Respondent). VSB Exh. 33 (Motion to Reopen filed May 6, 2022, VSB 696-0408-418; Exh. 1. Valverde Declaration, VSB 696-0424-25). Testimony of Valverde and Respondent.
3. Valverde was in custody when Robertson was retained as her counsel. Robertson did not enter into a written retainer agreement with Valverde. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0016. VSB Exh. 7 (Report of Investigation, Attachment 3, Respondent’s Case File for Valverde).
4. On October 4, 2011, Respondent entered his Notice of Appearance for Valverde and identified his address as 11350 Random Hills Road, #800, Fairfax, Virginia 22030. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0017. VSB Exh. 7 (Report of Investigation, Attachment 1, VSB 696-0040, VSB 696-0217).
5. Beginning in October 2011 and continuing through February 2012, Respondent (1) filed the motion for bond on October 4, 2011; (2) a petition for relief or Cancellation of Removal (42A Cancellation or “Cancellation of Removal Proceeding<sup>1</sup>”) on October 27, 2011; (3) requested and was denied an individualized bond hearing; (4) filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 seeking an individualized bond hearing and Valverde’s release from detention on December 5, 2011; and (4) successfully represented Valverde on the remand for bond redetermination proceeding on February 9, 2012, when the Court released Valverde on bond. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0017. VSB Exh. 7 (Report of Investigation, Attachment 3, Case File for Valverde, VSB 696-0053-60, 696-0218-305). VSB Exh. 5 (Response to Bar Complaint). VSB Exh. 33 (Valverde Declaration, Exh. 1 to Motion to Reopen, VSB 696-0424-25). Testimony of Valverde and Respondent.
6. From October 2011 to November 2013, the Immigration Court served Valverde with the Notice of Hearing in Removal Proceedings (“NOH/Removal”) through

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<sup>1</sup> Cancellation of removal is a form of protection or relief from removal.



Respondent either by personal service on Respondent or by mail to Respondent at his 11350 Random Hills Road address as follows:

On October 18, 2011 for an October 27, 2011 individual hearing<sup>2</sup> (mail October 18, 2011); and

On October 27, 2011 for a March 12, 2012<sup>3</sup> individual hearing (personal service on October 27, 2011); and

On March 5, 2012 for a March 12, 2012 individual hearing (mail March 5, 2012); and

On March 12, 2012 for a November 8, 2013 individual hearing (personal service).

Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0017. VSB Exhs. 12, 13, 15, and 16 (Notices of Hearing in Removal Proceedings). VSB Exh. 7 (Report of Investigation, Attachment 2, VSB 696-0046-47, 49, 51).

7. Notwithstanding the fact that Respondent had ample time to prepare Valverde's Petition for Cancellation of Removal with updated fingerprints and evidence, Respondent did not supplement Valverde's Petition for Cancellation of Removal with updated fingerprints or evidence in advance of Valverde's individual hearing on November 8, 2013. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0017. Testimony of Respondent. VSB Exh. 18 (Notice Dated November 18, 2013 and Order of November 13, 2013). VSB Exh. 7 (Report of Investigation, Attachment 3, Respondent's Case File for Valverde, Witness and Exhibit List not filed until March 7, 2013. VSB 696-0060-63). Testimony of Valverde and Respondent. Valverde testified that Respondent did not inform her of the hearing and that she would have attended and prepared had she been aware of the hearing.
8. On November 8, 2013, the Court ordered Valverde removed. Per the Order, Valverde's cancellation of removal was "abandoned – prints stale" and the Order reflected "may get a MTR [motion to reopen] on this case." Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0017. VSB Exh. 7 (Report of Investigation, Attachment 3, Case File for Valverde, VSB 696-0342-3).

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<sup>2</sup> Individual hearings are evidentiary hearings on contested matters as opposed to master calendar hearings.

<sup>3</sup> The NOH/Removal provided a sheet entitled "Limitations on Discretionary Relief for Failure to Appear" and checked box 1:

1. You have been scheduled for a removal hearing, at the time and place set forth on the attached sheet. Failure to appear for this hearing other than because of exceptional circumstances beyond your control \*\* will result in your being found ineligible for certain forms of relief under the Immigration and Nationality Act (see Section A. below) for a period of ten (10) years after the date of entry of the final order of removal.



9. By e-mail to Respondent dated November 8, 2013, Valverde stated:

KOD,

Attached is the return that I filed this year for 2012. I have the other tax transcripts for 2011, 2010, 2009 and 2008 that I just received this week from the IRS. I will see you on Monday at 2:00 p.m. at your office in Alexandria and I will try to bring as many of the other documents and the \$185.00 that you requested from me today.

I am very worried and upset about this. The last time we had spoken about my case about two weeks ago you had told me that my case was easy and that I shouldn't have a problem getting the cancellation. Now it seems that since you completely dropped the ball on this ... I am in jeopardy of being deported. I really don't understand why you are putting me through this. I would have and will do anything that you asked me to do in order to have this over and done. I am going through a lot of stress and emotional distress over this situation. I only hope that you can fix this and help me get this cancellation stopped and finally removed. You know that my family counts on me for support and mostly financial support. There is no way that I can create the same level of financial support if I am forced to leave this country. Since my father's heart attack in January of this year he has not been working and therefore I have been forced to support both him and my mother in full. They receive very little social security and can't afford housing, food, clothing or medications all on their own. I was born in Costa Rica but I don't have anything there for me and if I have to leave my parents will be on the streets. My brother as you know also had a heart attack and just last week started working again. I was even forced to support him while he was in recovery. He has two daughters and is not able to help me with my parents. My sister also tries to help but she is limited since she got divorced and has lots of financial problems of her own. We don't really have other family that can help us and ever since I started working when I was 18 years old and have always been the one that has worked to support my parents they have really only relied on me. I have been fortunate to have gotten into a career that has brought me a lot of financial benefits and security and I am the only one of my parents children that can support them.

I really need your help in getting all this paperwork done and the appeal filed so that the judge can re-consider my cancellation. I was hoping like you had told me that this would be easy. I just hope that you don't let me down this time if I am given another opportunity.

Respectfully,

Grethel M. Valverde

Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0017. VSB Exh. 8 (Supplemental Report of Investigation, Attachment 1, Chronology of Text and Email Communications provided by Valverde, VSB 696-0362).

10. On November 12, 2013, Respondent filed a Motion to Reopen. His address on the Motion to Reopen was listed as 500 N. Washington Street, Fairfax, Virginia 22314. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0017. VSB Exh. 7 (Report of Investigation, Attachment 3, Case File for Valverde, VSB 696-0115-117).
11. By Order entered November 13, 2013, the Immigration Court re-opened Valverde's case. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0017. VSB Exh. 18 (Notice dated November 18, 2013 and Order of November 13, 2013).
12. By email dated November 20, 2013, Respondent notified Valverde that her case was reopened and that the Court mailed the Order November 18, 2013. Respondent further stated, "We'll be getting a new hearing notice soon. I'll let you know as soon as I see it." Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0017. VSB Exh. 8 (Supplemental Report of Investigation, Attachment 1,



Chronology of Text and Email Communications provided by Valverde, VSB 696-0362).

13. Beginning November 18, 2013, the Immigration Court served Valverde with the NOH/Removal to Respondent either personally or at 500 N. Washington Street, Alexandria, Virginia 22314 as follows:
  - On November 18, 2013 for July 8, 2014 master hearing (mail);
  - On July 8, 2014 for August 23, 2016 individual hearing (personal);
  - On October 30, 2015 for January 25, 2017 master hearing (mail):
  - On January 25, 2017 for November 27, 2017 individual hearing (personal); and
  - On September 15, 2017 for November 27, 2020 master hearing (mail).

Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0017. VSB Exhs. 17-22 (Notices of Hearings in Removal Proceedings).
14. In 2014, Respondent e-mailed Valverde an I-551 form. There is no record of communications between Respondent and Valverde in 2015, nor do there appear to have been any significant developments in 2015. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0017. No records of communications in VSB Exh. 7, Report of Investigation, Attachment 3, Respondent's Case File. No records of e-mails or texts in 2015 in VSB Exh. 8, Supplemental Report of Investigation, Attachment 1, Chronology of Text and Email Communications provided by Valverde, VSB 696-0362-32.
15. By email dated January 9, 2016, Valverde advised Respondent of new contact information and requested that he please keep her informed. There is no record of additional communications in 2016, nor do there appear to have been any significant developments in 2016. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0017. VSB Exh. 8 (Supplemental Report of Investigation, Attachment 1, Chronology of Text and Email Communications provided by Valverde, VSB 696-0363).
16. The hearing was continued from August 23, 2016 to January 25, 2017. Both Valverde and Respondent were aware of the continued date. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0017. VSB Exhibit 20 (Notice of Hearing in Removal Proceedings dated October 30, 2015).
17. On January 12, 23, and 25, 2017, in advance of the January 25, 2017 hearing, Valverde texted Respondent her contact information, previously forwarded a year earlier, requested the address of the court, and confirmed that she would be present



for the hearing. Respondent acknowledged receipt of Valverde's address, provided her with the court address, and confirmed that she should wait and he would arrive soon. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0017. VSB Exh. 8 (Supplemental Report of Investigation, Attachment 1, Chronology of Text and Email Communications provided by Valverde, VSB 696-0363).

18. On January 25, 2017, Respondent was personally served with a NOH/Removal for Valverde for November 27, 2017. Valverde appears to have been present on January 25, 2017 and aware of the continuance to November 27, 2017. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0017. VSB Exh. 21 (Notice of Hearing in Removal Proceedings dated January 25, 2017).
19. By text message sent February 14, 2017, Valverde asked whether Respondent picked up her passport, and by email dated September 22, 2017, she provided Respondent her new lease. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0017. VSB Exh. 8 (Supplemental Report of Investigation, Attachment 1, Chronology of Text and Email Communications provided by Valverde, VSB 696-0363).
20. By notice dated September 15, 2017 to Respondent, Valverde's November 27, 2017 hearing was continued three years to November 27, 2020. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0017. VSB Exh. 22 (Notice of Hearing in Removal Proceedings dated September 15, 2017).
21. Respondent did not notify Valverde of the change in hearing date from November 27, 2017 to November 27, 2020. Testimony of Valverde. VSB Exh. 8 (Supplemental Report of Investigation, Interview of Valverde, VSB 696-0359). No communications in Respondent's file, VSB. Exh. 7, Attachment 3, or Valverde's texts and emails, VSB. Exh. 8, Attachment 1. VSB Exh. 33 (Valverde Declaration, Exh. 1 to Motion to Reopen, VSB 696-0424-25).
22. By emails dated October 3, 2017, Valverde advised Respondent of a new address and provided tax information for the last three years and stated, "My court date is coming up and I was wondering if there is anything that I should know specially (sic) with all that is happening lately. Please tell me if you need anything else from me. Have awonderful (sic) evening. Thank you. Grethel." Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0017. VSB Exh. 8 (Supplemental Report of Investigation, Attachment 1, Chronology of Text and Email Communications provided by Valverde, VSB 696-0363).
23. By email dated December 6, 2017, Valverde asked Respondent to advise her of the new court date. The email exchange follows. The third column identifies the sender, and the fourth column identifies the recipient.



12/06/2017	EMAIL	Robertson	Valverde	The next court date is now 11/27/2020 at 10:30 a.m. But that date is going to change, it is going to be earlier. The reason it is set so far out is because it is the group of cases that are going to be re-assigned to a new judge when the new judges start in a couple of months. Rob jAlfred L. "Rob" Robertson, Jr. Robertson Law Office, PLLC 500 N. Washington St. Alexandria, VA 22314(571) 482-5133(703) 842-6196 (facsimile)
12/06/2017	EMAIL	Valverde	Robertson	So we don't know but you think it will be this coming year 2018? If that's the case can you please get my ID's back. I need a second form of identification and I don't have one. They have everything ... I'm also afraid that my employer is going to need an updated resident alien card and I don't have anything to give him. I can't lose my job. Can you please help me with that ... I had hoped that this was going to be over by now and was thinking I would have been able to get my stuff back. This situation is so frustrating ... I just pray that it can be over with soon. Thank you, Gretel
12/06/2017	EMAIL	Robertson	Valverde	With the court date so far out at the moment, we should be able to apply for a new card- I did this for another client in the same situation. There's a filing fee, though
12/06/2017	EMAIL	Valverde	Robertson	Please can you let me know how much it is and if there's anything I need to do. Is it a lot ... I'll borrow the money if I have to. But please help me.
12/06/2017	EMAIL	Robertson	Valverde	Ok. The filing fee is \$540 for immigration. We can do it online.
12/06/2017	EMAIL	Valverde	Robertson	Ok ... yeah that's pretty high but its no so bad. I'll start working on getting that together. I might be getting a bonus this month but I'm not sure how much it will be ... I'll let you know in about two weeks. Thanks Rob ... talk with you soon.

Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0017. VSB Exh. 8 (Supplemental Report of Investigation, Attachment 1, Chronology of Text and Email Communications provided by Valverde, VSB 696-0364).

24. On January 25, 2018, Valverde emailed Respondent that she had the \$540 for the application for an updated resident alien card. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0018. VSB Exh. 8 (Supplemental Report of Investigation, Attachment 1, Chronology of Text and Email Communications provided by Valverde, VSB 696-0364).
25. On May 18, 2018, Respondent emailed a payment receipt for the \$540 and texted Valverde a code to access the green card renewal. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0018. VSB Exh. 8 (Supplemental Report of Investigation, Attachment 1, Chronology of Text and Email Communications provided by Valverde, VSB 696-0364).
26. By texts May 18 and 21, 2018 and June 22, 2018, Valverde inquired as to the status stating she never received the emails Respondent stated that she would receive. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0018. VSB Exh. 8 (Supplemental Report of Investigation, Attachment 1, Chronology of Text and Email Communications provided by Valverde, VSB 696-0364-5).
27. On June 27, 2018, a Motion to Advance the Master Calendar Hearing from November 27, 2020 filed by the Department of Homeland Security ("DHS") was served on Respondent at his 500 N. Washington Street, Alexandria, Virginia address. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0018. VSB Exh. 7 (Report of Investigation, Attachment 3, Case File for Valverde, VSB 696-0109-10).



28. In early 2019, Respondent moved his practice to 6575 Edsall Road, Springfield, Virginia 22151. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0018.
29. By NOH/Removal dated May 21, 2019, served by mail on Respondent at Robertson Law Office, PLLC, 6575 Edsall Road, Springfield, Virginia 22151, the Immigration Court notified Respondent that a master hearing in removal proceedings in Valverde's case was set for July 1, 2019. VSB Exh. 23 (Notice of Hearing in Removal Proceedings May 21, 2019). See also VSB Exhs. 9-11, Letter from L. Allison Minor, Legal Administrative Specialist at EOIR, Office of the General Counsel enclosing Valverde's certified record and digital audio records of hearings, Declaration of Minor dated October 26, 2022, and Certification & Release of Records to David W. Jackson, VSB Bar Investigator, dated November 21, 2022).
30. Respondent did not notify Valverde of the removal hearing on July 1, 2019, nor did Respondent appear at the removal hearing. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0018. VSB Exh. 26 (Audio of Removal Hearing). VSB Exh. 8 (Supplemental Report of Investigation, Interview of Valverde, VSB 696-0359). VSB Exh. 30 (Text Messages dated July 1 and 9, 2019 between Valverde and Respondent). VSB Exh. 33 (Valverde Declaration, Exh. 1 to Motion to Reopen, VSB 696-0424-25). Testimony of Valverde. No communications in Respondent's file, VSB. Exh. 7, Attachment 3.
31. On July 1, 2019, the Immigration Court removed Valverde *in absentia*. The Court Clerk, Immigration Court mailed a copy of the decision to Respondent. The decision and a notice advising that it was final unless a Motion to Reopen was filed with the Immigration Court lists Respondent at his Edsall Road address. VSB Exhs. 24 & 25 (Notice to Respondent and Decision dated July 1, 2019).
32. Respondent did not notify Valverde of her removal or her option to file a motion to reopen or the process by which she could reopen. VSB. Exh. 7 (Report of Investigation, VSB 696-0037). VSB Exh. 8 (Supplemental Report of Investigation, Interview of Valverde, VSB 696-0359). VSB Exh. 30 (Text Messages dated July 1 and 9, 2019 between Valverde and Respondent). VSB Exh. 33 (Valverde Declaration, Exh. 1 to Motion to Reopen, VSB 696-0424-25). Testimony of Valverde. No communications in Respondent's file, VSB. Exh. 7, Attachment 3.
33. In his response to the bar complaint, Respondent advised the bar that he "never received notice of [the removal] hearing." Respondent further stated:

... On the last day I was in Court with Ms. Valverde, the next court date was set for November 27, 2020. It was in reviewing court dates that I noticed that not only had Ms. Valverde's court date been reset, but that the date had already passed. There was a removal order *in absentia* in July of 2019. I did not receive the *in absentia* removal order.

VSB Exh. 5 (Response to Bar Complaint). Admitted by Respondent in Answer to



Certification. VSB Exh. 1, VSB 696-0018.

34. Respondent told the bar investigator that he talked to Valverde, but there wasn't a lot going on in her case. Respondent stated, "...I can say that I may not have been checking the dates because I was expecting to receive a notice in the mail of when the new court date was..." Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0018. VSB Exh. 7 (Report of Investigation, VSB 696-0037). Testimony of David W. Jackson, Bar Investigator.
35. In Respondent's interview with the bar investigator, Respondent said that it was not until November 2019, when checking cases, that Respondent discovered the order removing Valverde in absentia. Respondent told the bar investigator, "I kinda freaked out a little..." VSB Exh. 7 (Report of Investigation, VSB 696-0036). Testimony of David W. Jackson, Bar Investigator.
36. When asked by the bar investigator what Respondent did upon learning, in November 2019, that Valverde had been ordered removed and Respondent had missed the hearing, Respondent said:
- ... the first action that I was going to take was to talk with Grethal about it, I did talk with Grethal about it, I did tell her what I thought was going on and what we could do about reopening her case so there isn't going to be a problem...
- VSB Exh. 7 (Report of Investigation, VSB 696-0037). Testimony of David W. Jackson, Bar Investigator.
37. Respondent, however, did not tell Valverde that she had been removed until 2021, almost two years later. VSB Exh. 4 (Bar Complaint). VSB Exh. 6 (Rebuttal). VSB Exh. 33 (Valverde Declaration, Exh. 1 to Motion to Reopen, VSB 696-0424-25). VSB Exh. 8 (Supplemental Report of Investigation, Valverde Interview, VSB 696-359-60 and Attachment 1, Chronology of Emails and Texts from Valverde). VSB Exh. 30 (Text Messages dated July 1 and 9, 2019 between Valverde and Respondent). VSB Exh. 31 (Text Messages dated July 7, 2021 and July 23, 2021 from Valverde to Respondent). Testimony of Valverde.
38. Respondent did not notify Valverde of any rights she may have had to reopen or file an appeal. VSB Exh. 4 (Bar Complaint). VSB Exh. 33 (Valverde Declaration, Exh. 1 to Motion to Reopen, VSB 696-0424-25). VSB Exh. 8 (Supplemental Report of Investigation, Valverde Interview, VSB 696-359-60 and Attachment 1, Chronology of Emails and Texts from Valverde). VSB Exh. 30 (Text Messages dated July 1 and 9, 2019 between Valverde and Respondent). VSB Exh. 31 (Text Messages dated July 7, 2021 and July 23, 2021 from Valverde to Respondent). Testimony of Valverde.
39. Respondent did not file a motion to reopen Valverde's case even though, as he told the bar investigator, "he was certain the motion would have been granted, given they



never received the notice of the hearing.” Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0019. VSB Exh. 7 (Report of Investigation, VSB 696-0037).

40. In November 2019, Respondent was aware that he had a disciplinary hearing before the Virginia State Bar Disciplinary Board in one month, on December 6, 2019. The Notice of Hearing of the disciplinary matter was sent to Respondent June 4, 2019. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0019.
41. From December 6, 2019 to February 4, 2020, Respondent’s license to practice law in Virginia was suspended. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0019.
42. By letter sent certified mail December 20, 2019, Respondent notified Valverde of his suspension of his license to practice in Virginia and asked her to contact him as soon as possible to make arrangements for the handling of her case. Respondent did not then tell Valverde that she had been ordered removed over five (5) months prior. Instead, by his letter notifying Valverde of his suspension, Respondent perpetuated Valverde’s belief that she still had an active case. VSB Exh. 28 (December 19, 2019 letter from Respondent to Valverde re: Suspension and certified mail receipt). VSB Exh. 33 (Valverde Declaration, Exh. 1 to Motion to Reopen, VSB 696-0424-25). VSB Exh. 8 (Supplemental Report of Investigation, Valverde Interview, VSB 696-359-60 and Attachment 1, Chronology of Text and Email Communications provided by Valverde). Testimony of Valverde.
43. On December 26, 2019, Valverde received the certified letter and texted Respondent. Valverde asked that Respondent call her as soon as he got the chance to let her know if there was anything that she needed to do. VSB Exh. 39 (Text Messages dated December 26, 2019 between Valverde and Respondent). VSB Exh. 8 (Supplemental Report of Investigation, Attachment 1, Chronology of Text and Email Communications provided by Valverde, VSB 696-0365). Testimony of Valverde.
44. By text dated December 26, 2019, Respondent replied to Valverde, “Will do. No one at the office yet...” Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0019. VSB Exh. 39 (Text Messages dated December 26, 2019 between Valverde and Respondent). VSB Exh. 8 (Supplemental Report of Investigation, Attachment 1, Chronology of Text and Email Communications provided by Valverde, VSB 696-0365). Testimony of Valverde.
45. Respondent did not then notify Valverde that she had been ordered removed from the country five (5) months earlier, nor did Respondent advise her that she could and should hire new counsel as his license was suspended. Respondent did not advise Valverde that he could not represent her or take the necessary action on her behalf. Respondent did not then, or ever, notify Valverde of his potential conflict of interest at that point given the facts that Respondent failed to (1) notify Valverde of the July 1, 2019, removal hearing, (2) attend the hearing, and (3) take any action to reopen the



matter. Instead, Respondent continued to lead Valverde to believe that she still had a hearing pending. VSB Exh. 4 (Bar Complaint). VSB Exh. 6 (Rebuttal). VSB Exh. 8 (Supplemental Report of Investigation, Valverde Interview, VSB 696-359-60 and Attachment 1, Chronology of Text and Email Communications provided by Valverde, VSB 696-0365). VSB Exh. 28 (December 19, 2019 letter from Respondent to Valverde re: Suspension and certified mail receipt). VSB Exh. 33 (Motion to Reopen, VSB 696040-418 and Attachment 1 to Motion to Reopen, Valverde Declaration, VSB 696-0424-25). Testimony of Valverde. No communications in Respondent's file, VSB. Exh. 7, Attachment 3.

46. By Order entered January 21, 2020, by the Board of Immigration Appeals ("BIA"), Respondent was suspended from practice before the BIA, the Immigration Courts, and DHS from December 6, 2019 to February 4, 2020. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0019.
47. On June 25, 2021, Respondent's license to practice law in Virginia was suspended until June 27, 2022. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0019. VSB Exh. 3 (Affidavit of DaVida M. Davis, Director of Regulatory Compliance).
48. By certified mail sent July 7, 2021, two (2) years after Valverde had been ordered removed, Respondent notified Valverde of his second suspension and asked her to contact him to make arrangements for her case. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0019.
49. Valverde then called Respondent several times leaving messages. VSB Exh. 8 (Supplemental Report of Investigation, Interview of Valverde, VSB 696-0359-60). VSB Exh. 31 (Text Messages dated July 7, 2021 and July 23, 2021 from Valverde to Respondent). VSB Exh. 33 (Valverde Declaration, Exh. 1 to Motion to Reopen, VSB 696-0424-25). Testimony of Valverde.
50. By text sent July 7, 2021, Valverde asked Respondent whether there was any news about her case. Valverde asserts that Respondent spoke to her and told her not to worry, he would find someone to take over her case. During their conversation, Respondent asked, "wait a minute did we miss a court date?" Valverde responded, "not that I'm aware of, when did we miss a court date?" Respondent replied, "let me take a look at this real carefully, and I'll call you back." Valverde states that is how and when she learned that she missed her immigration hearing two years earlier. VSB Exh. 8 (Supplemental Report of Investigation, VSB 696-0359). VSB Exh. 31 (Text Messages dated July 7, 2021 and July 23, 2021 from Valverde to Respondent). Testimony of Valverde.
51. By text dated July 23, 2021, from Valverde to Respondent, she stated:

Hi Rob ... I haven't heard from you with regards to my case...  
is there anything that we can do to find out what is going on or



if we will be able to appeal the decision... I'm always so worried about my situation... I cant believe this has gone on for so many years... its now over 10 years and I don't have any documents... I hear so many crazy cases that I get worried about my status

Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0019. VSB Exh. 31 (Text Messages dated July 7, 2021 and July 23, 2021 from Valverde to Respondent).

52. By Order entered August 10, 2021, by the BIA, Respondent was also suspended from practice before the BIA, the Immigration Courts, and DHS. Respondent must reapply in order to be reinstated to practice before the BIA, DHS, and Immigration Courts. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0019.
53. In 2022, Valverde hired successor counsel who requested Respondent provide her a copy of Valverde's file on March 4, 2022 and March 22, 2022. Admitted by Respondent in Answer to Certification. VSB Exh. 1, VSB 696-0020. Testimony of Madeline Taylor Diaz. VSB Exh. 4 (Bar Complaint). VSB Exh. 6 (Rebuttal). VSB Exh. 32 (Notice of Entry of Appearance as Attorney dated May 6, 2022).
54. Having heard nothing two months after her initial request, on May 4, successor counsel advised Respondent that she was filing a bar complaint. Respondent finally sent successor counsel the file on May 9, 2022. Testimony of Madeline Taylor Diaz. VSB Exhibit 4 (Bar Complaint) and VSB Exhibit 6 (Rebuttal).
55. On May 4, 2022, successor counsel notified the bar of Respondent's failure to notify Valverde or to appear on her behalf and Valverde's subsequent removal. Testimony of Madeline Taylor Diaz. VSB Exhibit 4 (Bar Complaint) and VSB Exhibit 6 (Rebuttal).
56. The immigration judge reopened Valverde's case in response to Valverde's motion to reopen filed by successor counsel. A master calendar hearing was held in February 23 and Valverde's individual hearing is set for June 2023. Testimony of Madeline Taylor Diaz and Valverde. Admitted by Respondent in Answer to Certification that case was reopened and master calendar hearing was set for February 2023. VSB Exh. 1, VSB 696-0020. The Order granting the Motion to Reopen found "prior counsel was clearly ineffective." VSB Exh. 34 (Order of the Immigration Judge entered May 18, 2022).

#### **NATURE OF MISCONDUCT**

Upon consideration of the exhibits, Respondent's admissions in his Answer to the Certification, the witnesses' testimony, arguments of counsel, and the entirety of the record, the Court finds that the evidence establishes by clear and convincing evidence



that such conduct by Respondent violated the following provisions of the Rules of

Professional Conduct as follows:

*That the Respondent knew in December 2019 about the removal, as Respondent told the bar investigator, and Respondent's testimony to the contrary before the Court and during the disciplinary hearing was not credible.*

*That Respondent failed to represent Valverde competently and diligently by failing (1) to monitor Valverde's immigration proceedings, (2) to notify Valverde of her removal hearing, despite receiving notice of the same, (3) to appear at Valverde's removal hearing and to protect her interests, (4) to advise Valverde of her options upon being ordered removed, including to reopen the case, and (5) to pursue Valverde's options to cure the removal, after consultation, including to file a motion to reopen or otherwise protect Valverde's interests. Respondent also failed to keep Valverde reasonably informed about her matter by sending Valverde letters notifying her of his suspension in December 2019 and communicating with Valverde in December 2019 without notifying Valverde of the status of her case and leading her to believe she still had an active case in which Respondent was representing her when in fact Valverde had been ordered removed five (5) months earlier, when Respondent could not file a motion to reopen or take any action on her behalf because his license was suspended. Respondent thus violated Rules 1.1, 1.3(a), and 1.4(a).*

**RULE 1.1 Competence**

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

**RULE 1.3 Diligence**

(a) A lawyer shall act with reasonable diligence and promptness in representing a client.

**RULE 1.4 Communication**

(a) A lawyer shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

*That Respondent failed to tell Valverde about her hearing and failed to tell Valverde that she had been ordered removed in absentia when he discovered the same in December 2019,*

*That Respondent failed to explain or consult with Valverde regarding her options after being ordered removed knowing her heightened risk of mandatory detention, and given his suspension, where Respondent knew he could not promptly assist Valverde.*

*Respondent thus violated Rules 1.2(a) and 1.4(b).*

**RULE 1.2 Scope of Representation**

(a) A lawyer shall abide by a client's decisions concerning the



objectives of representation, subject to paragraphs (b), (c), and (d), and shall consult with the client as to the means by which they are to be pursued...

**RULE 1.4 Communication**

...

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

*That, in violation of Rule 1.7(a), Respondent continued to represent Valverde after he missed the July 2019 hearing date in which Valverde was ordered removed. This action resulted in a conflict of interest as Respondent failed to advise Valverde of his failure to attend the hearing, and, as such, placed his personal interest ahead of Valverde's interest, while a bar disciplinary action was pending.*

**RULE 1.7 Conflict of Interest: General Rule**

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

...

(2) there is 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.

*That by failing to deliver Valverde's file to his successor for two months while knowing that a removal order had been in effect since July of 2019 and swift action was necessary, Respondent violated Rule 1.16(e).*

**RULE 1.16 Declining Or Terminating Representation**

(e) All original, client-furnished documents and any originals of legal instruments or official documents which are in the lawyer's possession (wills, corporate minutes, etc.) are the property of the client and, therefore, upon termination of the representation, those items shall be returned within a reasonable time to the client or the client's new counsel upon request, whether or not the client has paid the fees and costs owed the lawyer. If the lawyer wants to keep a copy of such original documents, the lawyer must incur the cost of duplication. Also upon termination, the client, upon request, must also be provided within a reasonable time copies of the following documents from the lawyer's file, whether or not the client has paid the fees and costs owed the lawyer: lawyer/client and lawyer/third-party communications; the lawyer's copies of client-furnished documents (unless the originals have been returned to the client pursuant to this paragraph); transcripts, pleadings and discovery responses; working and final drafts of legal instruments, official documents, investigative reports, legal memoranda, and other attorney work product documents prepared or collected for the client in the course of the representation; research materials; and bills previously submitted to the client. Although the lawyer may bill and seek to collect from the client the costs associated with making a copy of these materials, the



lawyer may not use the client's refusal to pay for such materials as a basis to refuse the client's request. The lawyer, however, is not required under this Rule to provide the client copies of billing records and documents intended only for internal use, such as memoranda prepared by the lawyer discussing conflicts of interest, staffing considerations, or difficulties arising from the lawyer-client relationship. The lawyer has met his or her obligation under this paragraph by furnishing these items one time at client request upon termination; provision of multiple copies is not required. The lawyer has not met his or her obligation under this paragraph by the mere provision of copies of documents on an item-by-item basis during the course of the representation.

*That by telling the bar investigator that he informed Valverde in December 2019 of her removal as soon as he learned about it, Respondent violated 8.1(a).*

**RULE 8.1 Bar Admission And Disciplinary Matters**

An applicant for admission to the bar, or a lawyer already admitted to the bar, in connection with a bar admission application, any certification required to be filed as a condition of maintaining or renewing a license to practice law, or in connection with a disciplinary matter, shall not:

(a) knowingly make a false statement of material fact;

*That by failing to tell Valverde about her removal as soon as he knew, failing to disclose his conflict of interest to Valverde, and by telling the bar investigator that he informed Valverde in December of 2019 of her removal as soon as he learned about it, which this Court has found Respondent did not do, Respondent violated Rule 8.4(c).*

**RULE 8.4 Misconduct**

It is professional misconduct for a lawyer to:

(c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation which reflects adversely on the lawyer's fitness to practice law;

**DISMISSAL OF VIOLATIONS OF RULES 1.3(b) and 1.3(c)**

The Court dismissed the alleged violations of Rules 1.3(b) and 1.3(c) because it did not find clear and convincing evidence to support the alleged violations.

**RULE 1.3 Diligence**

(b) A lawyer shall not intentionally fail to carry out a contract of employment entered into with a client for professional services, but may withdraw as permitted under Rule 1.16.

(c) A lawyer shall not intentionally prejudice or damage a client during the course of the professional relationship, except as required or permitted under Rule 1.6 and Rule 3.3.

**SANCTIONS PHASE**

On May 10, 2023, the Court reconvened for the sanctions phase.

The VSB and Respondent's Counsel presented opening statements.



The Court admitted Respondent's Disciplinary Record as VSB Exhibit 35. Respondent has been sanctioned nine times in the 23 years he has been licensed. His Disciplinary Record includes two private admonitions, one with terms; four public reprimands, three with terms; and three suspensions. Respondent's Disciplinary Record involves violations of duties to 11 clients in criminal, immigration, and civil cases. With the exception of one matter, all cases involved Respondent's failure to be diligent in his representation of his clients. In most of the cases, Respondent also violated his duties under Rule 8.1 to respond to the client's bar complaint. Respondent's first suspension was for backdating a client's asylum petition, which he did not timely file, so that he could later argue to the immigration court that the petition was timely filed. Respondent's second suspension was for a year and a day for procedural defaults in three different criminal appeals, the last of which occurred in 2019. Respondent also again violated Rule 8.1 requiring him to answer the bar complaint. In August 2022, Respondent was suspended for a year for violating the terms of one of his public reprimands.

Witnesses Vernon D. Gutjhar and Jorge Artieda testified on behalf of Respondent, and he proffered the testimony Meghan A. Matulka, regarding Respondent's knowledge of the intersection of criminal and immigration law and his willingness to help other attorneys. The witnesses also testified that Respondent effectively represented clients. The witnesses were familiar with Respondent's disciplinary history but not the misconduct or findings by this Court in Ms. Valverde's case.

Counsel for the VSB and the Respondent presented argument regarding the sanctions to be imposed on Respondent for the misconduct found, and the Court recessed



to deliberate. In addition to Respondent's lengthy disciplinary history and pattern of misconduct, the Court found that (1) Respondent lacked credibility during the Misconduct phase and was deceptive during the disciplinary process and hearing; (2) at no point did Respondent show remorse for his actions as to Ms. Valverde; and (3) Ms. Valverde was a vulnerable client, and Respondent's failure to act on her behalf since missing her individual hearing in July 2019 has left her in a vulnerable position. The Court also considered the testimony of Mr. Gutjhar and Ms. Artieda and the proffer of Ms. Matulka that Respondent is well-versed in the law and well-liked in the legal community and that he is good with some clients. The Court, however, found that this mitigation evidence was outweighed by the aggravating factors outlined above.

#### **REVOCAATION**

After due deliberation and review of the findings of fact and misconduct and the evidence and testimony presented in the sanctions phase, and in consideration of the evidence as to mitigation and aggravation and argument of counsel, the Court reconvened in open session and announced its sanction of a Revocation.

Accordingly, it is hereby ORDERED that Respondent receive a Revocation of his license to practice law in the Commonwealth of Virginia, effective on May 10, 2023.

It is further ORDERED that Respondent must comply with the requirements of Part Six, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia. Respondent shall forthwith give notice by certified mail, return receipt requested, of the Revocation of his license to practice law in the Commonwealth of Virginia, to all clients for whom he is currently handling matters and to all opposing attorneys and presiding judges in pending litigation. Respondent shall also make appropriate arrangements for



the disposition of matters then in his care in conformity with the wishes of his clients. Respondent shall give such notice immediately and in no event later than 14 days of the effective date of the revocation, and make such arrangements as are required herein as soon as practicable and in no event later than 45 days of the effective date of the Revocation. Respondent shall also furnish proof to the VSB within 60 days of the effective date of the Revocation that such notices have been timely given and such arrangements made for the disposition of matters.

It is further ORDERED that if Respondent is not handling any client matters on the effective date of the Revocation, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System of the VSB. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13-29 shall be determined by the VSB Disciplinary Board.

It is further ORDERED that the Clerk shall send a copy teste of this Final Judgment Memorandum Order to Respondent Alfred Lincoln Robertson, Jr., by certified mail, return receipt requested, to Robertson Law Office, PLLC, 6575 Edsall Rd., Springfield, VA 22151, his address of record with the VSB; to Timothy Joseph Battle, Respondent's Counsel, to Law Office of Timothy J. Battle, P. O. Box 320593, Alexandria, VA 22320-4593; to the Honorable Joanne Fronfelter, Clerk of the Disciplinary System, Virginia State Bar, 1111 E. Main Street, Suite 700, Richmond, VA 23219; and to Renu M. Brennan, Bar Counsel, Virginia State Bar, 1111 E. Main Street, Suite 700, Richmond, VA 23219.

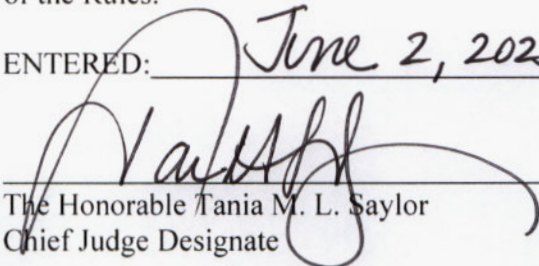
The hearing was recorded by Thomas Watson, Anderson Court Reporting, LLC, 1800 Diagonal Road, Suite 600, Alexandria, VA 22314, telephone (703) 519-7180.



The Clerk of the Disciplinary System shall assess costs pursuant to Part Six,  
Section IV, Paragraph 13-9.E of the Rules.

ENTERED: \_\_\_\_\_

*June 2, 2023*

  
\_\_\_\_\_  
The Honorable Tania M. L. Saylor  
Chief Judge Designate

I ask for this:

VIRGINIA STATE BAR

By: *Renu Brennan*

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SEEN AND \_\_\_\_\_:

**Endorsement Waived  
Per Rule 1:13**

By: \_\_\_\_\_

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