

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
JOSHUA NATHANIEL DEBOLD

VS. DOCKET NO.: 24-000-131274

MEMORANDUM ORDER OF REVOCATION

THIS MATTER came on to be heard on March 22, 2024, on the Rule to Show Cause and Order of Summary Suspension and Hearing (“Rule to Show Cause”) entered by the Virginia State Bar Disciplinary Board (Board”) on February 22, 2024, pursuant to Part Six, §IV, ¶ 13-22(A) of the Rules of the Virginia Supreme Court (“Rules”). This matter was heard before a panel of the Disciplinary Board consisting of Carolyn V. Grady, Chair Designate, Stephanie G. Cox, Yvonne S. Gibney, Alison G. M. Martin, and Dr. Theodore Smith, Lay member. The Virginia State Bar (the "VSB") was represented by Elizabeth K. Shoenfeld, Senior Assistant Bar Counsel. Joshua Nathaniel Debold (the "Respondent") was not present and was not represented by counsel. At the direction of the Chair, the Clerk exited the courtroom and called for the Respondent three (3) times. The Clerk reported no response.

The Chair polled the members of the Panel as to whether any of them was conscious of any personal or financial interest or bias which would preclude any of them from fairly hearing this matter and serving on the panel, to which inquiry each member responded in the negative. Jennifer L. Thomas, court reporter, Chandler and Halasz, P.O. Box 1975 Mechanicsville, Virginia 23116, 804/730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

All legal notices of the date and place were timely sent by the Clerk of the Disciplinary System (“Clerk”) in the manner prescribed by Part Six, Section IV, Paragraph 13 of the Rules.

PROCEDURAL BACKGROUND

The Respondent notified the VSB of his felony conviction in the Circuit Court of Arlington County, Virginia, and, on February 22, 2024, the Board entered a Rule to Show Cause pursuant to Part Six, §IV, ¶ 13-22(A) of the Rules suspending Respondent's license to practice law within the Commonwealth of Virginia effective February 29, 2024. The Board also ordered Respondent to appear before the Board at a hearing on March 22, 2024, to show cause why his license should not be further suspended or revoked.

On March 6, 2024, Respondent sent an email to the Clerk's office acknowledging that he received the hearing notices, certifying that he had no clients and was not involved in any pending litigation in compliance with the notice requirements of Part Six, §IV, ¶ 13-29 of the Rules. The Respondent also advised that he would not be attending the March 22, 2024, Show Cause hearing.

A prehearing conference call was conducted, upon proper notice to Respondent, on March 18, 2024. Respondent did not participate in the prehearing conference call and was not represented by counsel. The VSB was represented by Elizabeth K. Shoenfeld, Senior Assistant Bar Counsel. Bar Counsel timely filed witness lists and exhibit lists to which Respondent did not object. Respondent did not file a witness list, exhibit list or exhibits. Without any objection the Bar's exhibits will be admitted at the Show Cause Hearing.

PROCEEDINGS AND FINDINGS OF FACT

The Chair admitted into evidence VSB Exhibits 1 and 2 at the outset of the Show Cause Hearing without objection. No evidence or exhibits were introduced by the Respondent. VSB Exhibit 1 included the Rule to Show Cause which states, in part, that "on February 5, 2024, Joshua Nathaniel DeBold entered guilty pleas in Case Nos. CR23-962, CR [sic]1378-82 and CR23-1075-76 to Domestic A+B, Assault on LEO, strangulation, and obstruction, in the Circuit Court of Arlington County." Upon further examination of the record and VSB Exhibit 1, which

included Respondent's written plea agreement (at 014 - 019), the Board determined, and Bar Counsel concurred, that Respondent pled guilty to Case No. CR23-1076 (the misdemeanor offense of Domestic Assault and Battery in violation of Virginia Code §18.2-57.2) and to Case No. CR23-1379 (the amended felony offense of Attempted Assault on LEO in violation of Virginia Code §§18.2-57 and 18.2-26). All other case numbers and criminal charges noted in the Rule to Show Cause were disposed of by the trial Court on motion of the Commonwealth to *nolle prosequi*. The Board found that the Rule to Show Cause should be amended accordingly to accurately reflect Respondent's two criminal convictions and it was so amended. The Arlington County Circuit Court Case Details report and the Pleadings/Orders Detail report from the on-line Virginia Courts Case Information System showing Respondent's felony conviction on Case No. CR23001379-00 were admitted into evidence without objection as VSB's Exhibits 3 and 4, respectively.

After consideration of the exhibits admitted into evidence and argument of Bar Counsel, the Board made the following findings of fact based on clear and convincing evidence:

1. Respondent was licensed to practice law in the Commonwealth of Virginia on October 16, 2008, and is currently an Associate (inactive) member of the Virginia State Bar not in good standing. Respondent's official address of record with the VSB is 48 Birch Fld, Jefferson, GA 30549.
2. On February 5, 2024, in the Arlington County Circuit Court of Virginia, Respondent pled guilty and was found guilty of two criminal offenses: (1) misdemeanor Domestic Assault and Battery in violation of Virginia Code §18.2-57.2; and (2) felony Attempted Assault of a Law Enforcement Officer in violation of Virginia Code §§18.2-57/18.2-26. Respondent received a 12-month suspended sentence on the misdemeanor offense and a three-year suspended sentence on the felony conviction. Respondent was placed on three years of active supervised probation with conditions that included having no contact with the victim, Mary DeBold, completing the "Partner Shift Program," remaining alcohol and drug free, and completing a mental health assessment and complying with all treatment

recommendations.

3. A summary of the uncontested facts supporting the Respondent's plea agreement and criminal convictions was admitted as part of VSB Exhibit 1 (at 020-022) and the Board found that it established the following:

On June 30, 2023, the Respondent physically assaulted his wife, Mary DeBold, in their Arlington home when Ms. DeBold confronted Respondent, who was intoxicated, about his drinking. Respondent grabbed his wife by her throat with both hands and squeezed hard while she was against the wall. She could not breathe. Law enforcement officers later observed red marks on the left side of her neck and multiple red protruding blood vessels in her eyes.

In the course of their struggle, Respondent threw his wife to the ground next to some golf clubs. Ms. DeBold grabbed a golf club and hit Respondent in the chest as he was coming toward her. Respondent threw a bar stool at Ms. DeBold but missed. Respondent then lunged at her, knocked her down, took his laptop and smashed it on her as she was on the ground. Officers later observed a laceration with a knot type injury in the center of her forehead.

Ms. DeBold was able to grab her phone and call the police. Respondent continued yelling at his wife and told her not to call the police. He then retrieved a 10 mm handgun and returned to where his wife was. The firearm remained in his hand by his hips as he was pacing.

Ms. DeBold was subsequently able to leave the apartment and told officers that Respondent was holding a 10 mm handgun. Officer Tianshan Fullop, serving as the negotiator, attempted to call the Respondent multiple times with no response. Five officers, including Officer Fullop, entered the hallway in riot gear with ballistic shields and rifles drawn. The apartment door was slightly ajar and Officer Fullop called out to Respondent. The door subsequently closed from the inside.

Officers opened the door to see Respondent down the hallway of the

apartment. The lights were turned off and the apartment was dark but they could see Respondent holding something in his right hand. Officer Fullop identified himself as a law enforcement officer. Respondent warned officers not to enter the apartment and stated, "I'm going to fucking kill you, you understand." He appeared highly intoxicated. Believing his intent was to kill, the officers withdrew down the hall.

Respondent approached the doorway, stood in the threshold of the door to the apartment and began to communicate with officers. He stated, "I will literally kill you right now." He was holding his right hand behind himself and appeared to be gripping something. The Respondent refused to comply with orders to show his hands. He then told officers he had a 10 mm in his hand.

Officer Fullop began using text messages to engage with the Respondent. Respondent stated "I would suggest you put my thoughts that all of you a [sic] fuck yourself if you want me you can come in here and get me, and I will go down in a glorious fiery blaze. I'm looking forward to it." At one point when Respondent approached the hallway, officers reported that Respondent took a firing stance. The officers believed that they were about to be shot at and killed. Eventually officers convinced Respondent to come out into the hallway and surrender himself.

4. At the time of this incident, Respondent was a prosecutor with the U. S. Department of Justice. He resigned from this position in July 2023.

Based on the evidence presented, the Board found that the Respondent has been convicted of the felony offense of Attempted Assault on a law enforcement officer, a Crime as that term is defined by Part 6, Section IV, Paragraph 13-1 of the Rules, as well as the misdemeanor offense of Domestic Assault and Battery. Respondent has the burden, pursuant to Part 6, Section IV, Paragraph 13-22 (D) of the Rules, to prove by clear and convincing evidence that he was not convicted of a Crime as defined by the Rules. Respondent failed to meet his burden.

IMPOSITION OF SANCTION

After the Board announced its findings that the Respondent had been convicted of a Crime as defined by the Rules, the Board received further evidence regarding aggravating and mitigating factors applicable to determining the appropriate sanction, including Respondent's prior disciplinary record which was admitted into evidence as VSB Exhibit No. 5. Respondent, having failed to appear, testify or submit any evidence, did not present clear and convincing evidence as to why his license to practice law in the Commonwealth should not be further suspended or revoked. The Bar argued for revocation of Respondent's license, citing both 5.11 and 5.12 of the American Bar Association Standards for Imposing Lawyer Sanctions for Respondent's failure to maintain personal integrity.

The Board recessed to deliberate on the appropriate sanction as required under Part 6, Section IV, Paragraph 13-22(E). After due deliberation, the Board reconvened to announce the sanction imposed.

Though Respondent offered no evidence in mitigation, the Board considered as mitigation Respondent's lack of any prior disciplinary record, the self-reporting of his felony conviction to the VSB, and other penalties imposed on him as a result of his felony and misdemeanor convictions. The Board found the mitigating factors to be minimal and outweighed by the aggravating factors.

The aggravating factors the Board considered included the vulnerability of Respondent's wife, the victim of the domestic assault; Respondent's substantial experience in the practice of law, in particular his role as a prosecutor in the U.S. Department of Justice¹; and his threatening and violent conduct that led to his convictions. The Respondent's criminal actions put his wife, the officers, the public and himself, in mortal danger. The Board also considered Respondent's failure to participate in the Show Cause proceedings.

¹ See, e.g., People v. Groland, 908 P.2d 75,77 (Colo. 1995), which held that the attorney respondent's role as a deputy district attorney when he engaged in the misconduct constituted an aggravating factor "because public officials engaged in law enforcement have assumed an even greater responsibility to the public than have other lawyers."

The Board was guided by Standards 5.11 and 5.12 of the Annotated Standards for Imposing Lawyer Sanctions, Second Edition (ABA 2019), which address a lawyer's failure to maintain personal integrity. The Board weighed Standard 5.11, which identifies certain serious criminal or dishonest conduct of the lawyer as warranting disbarment, against Standard 5.12, which identifies less serious criminal conduct by the lawyer as warranting suspension. Because the identified aggravating factors far outweighed the mitigating factors, the Board finds that revocation is the appropriate sanction despite Respondent's criminal conduct not falling within the category of serious criminal conduct addressed in Standard 5.11.

Accordingly, it is ORDERED that the Respondent's license to practice law in the Commonwealth of Virginia be REVOKED effective March 22, 2024.

It is further ORDERED that, as directed in the Board's March 22, 2024, Summary Order in this matter, Respondent must comply with the requirements of Part 6, Section IV, Paragraph 13-29 of the Rules of the Supreme Court of Virginia. The Respondent shall forthwith give notice by certified mail, 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. The Respondent shall also make appropriate arrangements for the disposition of matters then in his care in conformity with the wishes of his client. 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 is practicable and in no event later than 45 days of the effective date of the revocation. The Respondent shall also furnish proof to the Clerk of the Disciplinary System of the Virginia State Bar within 60 days of the effective date of the Revocation or Suspension that such notices have been timely given and such arrangements have been made for the disposition of matters.

It is further ORDERED that if the Respondent is not handling any client matters on the effective date of revocation, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar within 60 days of the effective day of the revocation. The Board shall decide all issues concerning the adequacy of the notice and

arrangements required herein. The burden of proof shall be on the Respondent to show compliance.

It is further ORDERED that pursuant to Part 6, Section IV, Paragraph 13-9.E of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess all costs against the respondent.

It is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this order to the Respondent by certified mail, return receipt requested, and by regular first-class mail and to his address of record with the Virginia State Bar, being 48 Birch Fld, Jefferson, GA 30549, and a copy to Elizabeth K. Shoenfeld, Senior Assistant Bar Counsel, Virginia State Bar, 1111 East Main Street, Suite 700, Richmond, VA 23219-0026.

ENTERED this 30th day of March, 2024.

VIRGINIA STATE BAR DISCIPLINARY BOARD

Carolyn V. Grady, Esq., Chair Designate