

**DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY**

In the Matter of

Kenneth L. Blackwell, Esquire

Respondent

Bar Registration No. 441413

Date of Admission: April 1, 1994

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: **Bar Docket No. 2016-D396**
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SPECIFICATION OF CHARGES

The disciplinary proceedings instituted by this petition are based upon conduct that violates the standards governing the practice of law in the District of Columbia as prescribed by D.C. Bar Rules X and XI, § 2(b).

Jurisdiction for this disciplinary proceeding is prescribed by D.C. Bar Rule XI. Respondent is subject to this disciplinary jurisdiction because:

1. Respondent is a member of the Bar of the District of Columbia Court of Appeals, having been admitted by motion on April 1, 1994, and assigned Bar number 441413.

The conduct and standards that Respondent has violated are as follows:

2. Respondent is the father of D.B., the minor child of Cinzia Allen.

3. In late 2006, Respondent and Ms. Allen were engaged in a child custody matter in the Prince William County Juvenile and Domestic Relations District

Court. Ms. Allen was ultimately awarded sole physical custody of D.B. Because Respondent lived in Maryland at that time, the Virginia Division of Child Support Enforcement referred the matter to the Prince George's County Office of Child Support Enforcement for establishment of a child support order pursuant to the Uniform Interstate Family Support Act.

4. On May 10, 2007, the Circuit Court for Prince George's County, Maryland entered a consent order requiring Respondent to pay \$156 per month as support for D.B. to Ms. Allen.

5. On or about October 2, 2007, the Circuit Court for Prince George's County, Maryland increased the child support order to \$250 per month.

6. On December 4, 2007, the Circuit Court for Prince George's County, Maryland increased the child support order to \$500 per month. Respondent was also ordered to pay \$50 per month toward the arrearages which the court assessed at \$5,000.

7. From June 1, 2007 until December 9, 2009, Respondent made no payments toward his support obligation to the Virginia Division of Child Support Enforcement or the Prince George's County Office of Child Support Enforcement.

8. On September 10, 2009, the Prince George's County Office of Child Support Enforcement filed a Petition for Contempt against Respondent.

Based on that petition, the Circuit Court for Prince George's County Maryland scheduled a show cause hearing for October 19, 2009.

9. Over the next year, the Maryland contempt proceeding was continued several times.

10. Meanwhile, on December 9, 2009, the Prince William County Juvenile and Domestic Relations District Court found Respondent guilty of civil contempt under Va. Code Ann. § 16.1-278.16 (2019) for failure to comply with the support obligation and sentenced him to 90 days in jail with a \$3,000 purge clause and a \$16,500 appeal bond.

11. On December 14, 2009, in order to be released from jail, Respondent paid \$3,000 to purge the civil contempt. This payment was applied as Respondent's first payment to the Virginia Division of Child Support Enforcement toward his child support arrearages.

12. Respondent made a second payment of \$100 on March 23, 2010. Thereafter, Respondent made no more child support payments.

13. Around that time, in March 2010, Ms. Allen's attorney was preparing to move for Respondent to be held in contempt again for his failure to pay. Ms. Allen, however, had already expended over \$20,000 in legal fees on the case, and could no longer afford to pay an attorney to represent her interests.

Ms. Allen was forced to end the representation with her counsel and no contempt motion was filed.

14. On May 26, 2010, Respondent appeared in the Circuit Court for Prince George's County, Maryland for a contempt hearing based on the unpaid child support. During that proceeding the judge made clear to Respondent that he would only get credit for payments made to Virginia Division of Child Support Enforcement or OCSE. The judge was inclined to hold Respondent in contempt but gave him another opportunity to make payments and continued the matter to August 25, 2010.

15. Respondent moved to continue the August 25, 2010, contempt hearing based on a back problem, and the case was continued to November 24, 2010.

16. In October 2010, Respondent convinced Ms. Allen to close the child support cases in both Virginia and Maryland. Respondent told Ms. Allen that he was worried about being sent to jail again for his failure to make payments and that he was concerned he could lose his license to practice law. Respondent promised Ms. Allen that he would make payments directly to her after the cases were closed.

17. Ms. Allen agreed, and she assisted Respondent in taking the necessary steps to close the cases. However, Ms. Allen requested that the child

support orders remain in effect in case she wanted to reopen the proceedings at a later date.

18. On or about October 15, 2010, the Virginia Division of Child Support Enforcement closed its case but did not terminate the support order because Ms. Allen had indicated that she may want to reopen the case at a later date. At that time, Respondent owed \$18,250 in unpaid child support.

19. On December 7, 2010, the Circuit Court for Prince George's County, Maryland dismissed the Motion for Contempt and closed the Maryland Office of Child Support's interest in the case. The Court left the child support order in effect and ordered that Respondent make payments directly to Ms. Allen.

20. Between December 2010 and May 2014, Respondent made only a few child support payments directly to Ms. Allen.

21. On May 29, 2014, Ms. Allen applied to the Virginia Division of Child Support Enforcement to reopen the child support case.

22. On June 1, 2014, the Virginia Division of Child Support Enforcement reopened the case, resuming the requirement that Respondent pay Ms. Allen \$500 per month.

23. The Virginia Division of Child Support Enforcement sent several notices to Respondent informing him that Ms. Allen was once again receiving

child support services and directing Respondent to send payments to the Virginia Division of Child Support Enforcement. Respondent did not respond.

24. On September 2, 2014, the Virginia Division of Child Support Enforcement added the arrearages from Respondent's previous failure to pay Ms. Allen to his then current outstanding total.

25. On September 17, 2014, the Virginia Division of Child Support Enforcement contacted Respondent by email. That same day, Respondent replied to the Virginia Division of Child Support Enforcement by email stating that he had not received any of the notices it had sent out.

26. On November 7, 2014, Respondent called the Virginia Division of Child Support Enforcement and told them that he would make future payments through their office. He also provided an address where payment information could be sent.

27. Thereafter, Respondent did not make any payments toward his child support obligation or move to modify the child support order.

28. Between May 2014 and May 2015, Ms. Allen frequently contacted the Virginia Division of Child Support Enforcement requesting status updates and enforcement of her child support order. The Virginia Division of Child Support Enforcement informed Ms. Allen that they had been unable to serve Respondent, and later that they transferred the matter to the D.C. child support

office for enforcement because Respondent lived there. In May 2015, Ms. Allen became discouraged and stopped calling.

29. On June 15, 2016, the Virginia Division of Child Support Enforcement sent a letter to Ms. Allen stating that they had not heard from her since May 20, 2015 and that she must contact them before June 25, 2016, or risk her case being closed and child support enforcement actions being terminated.

30. Shortly before 1:00pm on June 20, 2016, Ms. Allen called the Virginia Division of Child Support Enforcement and spoke with Janine Stowers. Ms. Allen told Ms. Stowers that she did not want her case closed, that she had only stopped calling because the Virginia Division of Child Support Enforcement had told her they could not locate Respondent.

31. Around 2:00pm on June 20, 2016, Ms. Stowers called and spoke to Respondent. She asked why Respondent had not paid any child support and Respondent falsely stated that he had an agreement with Ms. Allen that she would be closing the case. Ms. Stowers told Respondent that she had just gotten off the phone with Ms. Allen and Ms. Allen stated she did not want to close the case.

32. Immediately thereafter, Ms. Stowers called Ms. Allen who confirmed that she did not want to close the case and wanted Virginia Division of Child Support Enforcement to do whatever it took to get Respondent to pay.

33. Since June 2016, the Virginia Division of Child Support Enforcement has continued its efforts to enforce the child support order against Respondent. Respondent has not made any payments.

34. In October 2016, Ms. Allen filed a complaint with Disciplinary Counsel based on Respondent's failure to comply with the child support order. Disciplinary Counsel forwarded the complaint to Respondent for his response.

35. On December 29, 2016, Respondent replied to the complaint stating that he had never evaded or ignored court orders or willfully failed to make child support payments.

36. On February 9, 2017, Disciplinary Counsel sent a follow up inquiry asking among other things "If you have not 'willfully' failed to make court-ordered child support payments, do you agree that you have failed, however, to make the court ordered support payments."

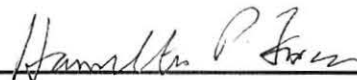
37. On February 21, 2017, Respondent replied "no."

38. As of January 30, 2019, Respondent's total child support arrearage for D.B. was \$62,400 and he had not made a payment to the Virginia Division of Child Support Enforcement or the Maryland or District of Columbia child support offices since March 23, 2010.


39. Respondent's conduct violated the following Rules of the District of Columbia Rules of Professional Conduct:

- a. Rule 3.4(c), in that Respondent knowingly disobeyed an obligation under the rules of a tribunal;
- b. Rule 8.1(a), in that Respondent knowingly made a false statement of fact to the Office of Disciplinary Counsel;
- c. Rule 8.4(c), in that Respondent engaged in dishonesty to the VDCSE.

Respectfully submitted,



Hamilton P. Fox, III
Disciplinary Counsel

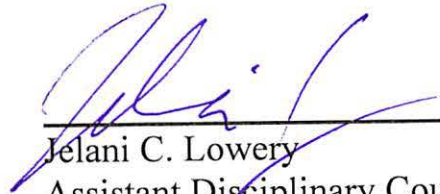


Jelani C. Lowery
Assistant Disciplinary Counsel

OFFICE OF DISCIPLINARY COUNSEL
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(202) 638-1501

VERIFICATION

I do affirm that I verily believe the facts stated in the Specification of Charges to be true.

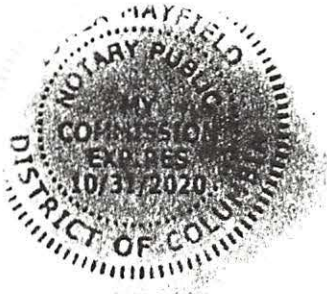


Jelani C. Lowery
Assistant Disciplinary Counsel

Subscribed and affirmed before me in the District of Columbia this 31st day of January 2020.



Notary Public



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PETITION INSTITUTING FORMAL DISCIPLINARY PROCEEDINGS

A. This Petition (including the attached Specification of Charges which is made part of this Petition) notifies Respondent that disciplinary proceedings are hereby instituted pursuant to Rule XI, § 8(c), of the District of Columbia Court of Appeals' Rules Governing the Bar (D.C. Bar R.).

B. Respondent is an attorney admitted to practice before the District of Columbia Court of Appeals on the date stated in the caption of the Specification of Charges.

C. A lawyer member of a Hearing Committee assigned by the Board on Professional Responsibility (Board) pursuant to D.C. Bar R. XI, § 4(e)(5), has approved the institution of these disciplinary proceedings.

D. Procedures

(1) **Referral to Hearing Committee** - When the Board receives the Petition Instituting Formal Disciplinary Proceedings, the Board shall refer it to a Hearing Committee.

(2) **Filing Answer** - Respondent must respond to the Specification of Charges by filing an answer with the Board and by serving a copy on the Office of Disciplinary Counsel within 20 days of the date of service of this Petition, unless the time is extended by the Chair of the Hearing Committee. Permission to file an answer after the 20-day period may be granted by the Chair of the Hearing Committee if the failure to file an answer was attributable to mistake, inadvertence, surprise, or excusable neglect. If a limiting date occurs on a Saturday, Sunday, or official holiday in the District of Columbia, the time for submission will be extended to the next business day. Any motion to extend the time to file an answer, and/or any other motion filed with the Board or Hearing Committee Chair, must be served on the Office of Disciplinary Counsel at the address shown on the last page of this petition.

(3) **Content of Answer** - The answer may be a denial, a statement in exculpation, or a statement in mitigation of the alleged misconduct. Any charges not answered by Respondent may be deemed established as provided in Board Rule 7.7.


(4) **Mitigation** - Respondent has the right to present evidence in mitigation to the Hearing Committee regardless of whether the substantive allegations of the Specification of Charges are admitted or denied.

(5) **Process** - Respondent is entitled to fifteen days' notice of the time and place of hearing, to be represented by counsel, to cross-examine witnesses, and to present evidence.

E. In addition to the procedures contained in D.C. Bar R. XI, the Board has promulgated Board Rules relating to procedures and the admission of evidence which are applicable to these procedures. A copy of these rules is being provided to Respondent with a copy of this Petition.

WHEREFORE, the Office of Disciplinary Counsel requests that the Board consider whether the conduct of Respondent violated the District of Columbia Rules of Professional Conduct, and, if so, that it impose/recommend appropriate discipline.

Office of Disciplinary Counsel

A handwritten signature in black ink, appearing to read "Hamilton P. Fox, III", is written over a horizontal line.

Hamilton P. Fox, III
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