



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

In the Matter of

AMANDA HAINES, ESQ.

Respondent,

**An Attorney Licensed to Practice
Law in New York**

Disciplinary Docket No. 2016-D261

FERNANDO CAMPOAMOR-SANCHEZ, ESQ.

Respondent,

**Member of the Bar of the District of
Columbia Court of Appeals
Bar No.: 451210**

Disciplinary Docket No. 2016-D262

AMANDA HAINES’S ANSWER TO THE SPECIFICATION OF CHARGES

Respondent Amanda Haines submits this answer to the Specification of Charges.¹

1. Ms. Haines admits the allegations in this paragraph.
2. Ms. Haines lacks sufficient information to admit or deny the allegations in this paragraph.

COUNT I

3. Ms. Haines admits that, based on evidence presented at trial, in May 2001, Chandra Levy was murdered while walking in Rock Creek Park and that her body was discovered a year later. Ms. Haines denies the remainder of the allegations in this paragraph.

¹ The Specification of Charges contains unnumbered paragraphs on pages 1 and 2. To the extent those paragraphs state a legal conclusion, no response is required. To the extent they contain factual allegations, Ms. Haines denies that these proceeding are based upon conduct that violates the standards governing the practice of law in the District of Columbia.

4. Ms. Haines admits that Ms. Levy's disappearance and death received national media attention. Ms. Haines denies that the attention was because the investigation revealed Ms. Levy had been romantically involved with Gary Condit. Instead, the attention was because the investigation initially focused on a then-sitting Congressman, Gary Condit, as a possible suspect.

5. Ms. Haines admits that a suspect in the murder was Ingmar Guandique, who in February 2002 had pled guilty to assaulting two women in Rock Creek Park around the time that Ms. Levy was killed and was serving a ten-year sentence in federal prison. Ms. Haines admits that Mr. Guandique denied involvement with the murder and passed a polygraph test. Ms. Haines denies that the denial and polygraph test led law enforcement to focus their attention elsewhere. Law enforcement was never focused on Mr. Guandique; they were focused on Mr. Condit and remained so. Their interest in Mr. Guandique was always the same – low-level.

6. Ms. Haines admits the allegations in this paragraph.

7. Ms. Haines admits that in 2008 she was an experienced AUSA. Ms. Haines admits that she requested assistance on the case. She lacks sufficient information to admit or deny when she was assigned to handle the investigation of Ms. Levy's murder. Ms. Haines denies the remainder of the allegations in this paragraph.

8. Ms. Haines admits that several inmates with whom Mr. Guandique had been incarcerated over the years had reported that Mr. Guandique had confessed to the murder of Ms. Levy. Ms. Haines denies the remainder of the allegations in this paragraph.

9. Ms. Haines admits that one of those inmates was Armando Morales; that Mr. Morales was a founding member of the Fresno Bulldogs, a street gang based in Fresno, California; and that in 1997, Mr. Morales pled guilty to federal drug-related felonies and was

sentenced to 21 years in prison. Ms. Haines lacks sufficient information to admit or deny the remainder of the allegations in this paragraph.

10. Ms. Haines admits the allegations in this paragraph.

11. Ms. Haines admits that Mr. Morales was transferred to the Coleman Federal Correction Institution in Florida and that in 2008, Mr. Morales joined Coleman's "skills programs" and was mentored by another inmate, Miguel Zaldivar. Ms. Haines admits that Mr. Morales told Mr. Zaldivar that Mr. Guandique had confessed to the murder of Ms. Levy to him. Ms. Haines denies the remainder of the allegations in this paragraph. Mr. Morales first told Mr. Zaldivar about Mr. Guandique's confession before the February 2009 news report. Mr. Morales spoke to Mr. Zaldivar about the confession a second time, after the news report, and confirmed the man in the news was the same person they had previously discussed.

12. To the extent this paragraph references a document, the document speaks for itself, and therefore, no response is required. Ms. Haines lacks sufficient information to admit or deny the remainder of the allegations in this paragraph.

13. Ms. Haines denies the allegations in this paragraph. To the extent the paragraph contains legal conclusions, no response is required, but Ms. Haines denies them to any extent necessary.

14. Ms. Haines admits the allegations in this paragraph.

15. Ms. Haines admits that Mr. Morales arrived in Washington, DC on April 16, 2009, and that Ms. Haines was out of town on April 17, 2009. Ms. Haines lacks sufficient information to admit or deny the remainder of the allegations in this paragraph.

16. Ms. Haines admits that on April 20, 2009, Mr. Morales testified before a grand jury in D.C. Superior Court and that Mr. Campoamor-Sanchez conducted the examination. To

the extent this paragraph relies on a document, the document speaks for itself, and therefore, no response is required.

17. Ms. Haines admits that Mr. Campoamor-Sanchez introduced the Zaldivar letter as a grand jury exhibit. Ms. Haines admits that, because she was out of town and therefore not in the grand jury, she did not explore the statement in the Zaldivar letter that Morales had previously “debriefed to law enforcement about his gang involvement...” Ms. Haines lacks sufficient information to admit or deny the remainder of the allegations in this paragraph.

18. Ms. Haines admits that on May 19, 2009, the grand jury returned an indictment against Mr. Guandique. Ms. Haines admits that kidnapping, attempted sexual assault, and murder were among the six felony counts in the indictment.

19. Ms. Haines admits the allegations in this paragraph.

20. Ms. Haines admits the allegations in this paragraph.

21. Ms. Haines admits that Mr. Campoamor-Sanchez was initially going to be responsible for examining Mr. Morales at trial. Ms. Haines admits that Mr. Morales was the only inmate called to testify about Mr. Guandique’s confession. Ms. Haines denies the remainder of the allegations in this paragraph. Ms. Haines and Mr. Campoamor-Sanchez were constantly re-evaluating who would sponsor which witnesses. Mr. Morales was no more important than many other witnesses, including Mr. Condit and the victims.

22. Ms. Haines denies the allegations in this paragraph. According to the Justice Department’s Office of Professional Responsibility, which spent 23 months investigating and adjudicating these same allegations, “Ms. Haines did not violate her duty to disclose exculpatory and impeachment evidence when she did not disclose that Morales told her that when he debriefed with law enforcement, he ‘told them everything.’” OPR Closing Letter, Sept. 13, 2018

at 4. To the extent the paragraph contains legal conclusions, no response is required, but Ms. Haines denies them to any extent necessary.

23. Ms. Haines admits that she met with Mr. Morales on October 5, 2010. Ms. Haines lacks sufficient information to admit or deny whether October 5, 2010, was the first time she met Mr. Morales. Ms. Haines denies the remainder of the allegations in this paragraph.

24. Ms. Haines denies the allegations in this paragraph. To the extent the paragraph contains legal conclusions, no response is required, but Ms. Haines denies them to any extent necessary.

25. Ms. Haines admits the allegations in this paragraph.

26. Ms. Haines admits the allegations in this paragraph.

27. Ms. Haines admits that in advance of Mr. Morales's testimony, the prosecution team prepared a packet containing substantially verbatim statements made by Mr. Morales. Ms. Haines admits that the packet included the transcript of Mr. Morales's grand jury testimony and the entire Zaldivar letter, including the second and third pages. Ms. Haines lacks sufficient information to admit or deny whether Mr. Kavanaugh delivered the Jencks packet. Ms. Haines denies the remainder of the allegations in this paragraph. Indeed, according to OPR, which applied the *less* exacting "preponderance of the evidence" standard than the "clear and convincing evidence" standard that must be applied here, there was insufficient evidence to conclude that the trial team did not disclose page one of the Zaldivar letter. OPR Closing Letter, Sept. 13, 2018 at 4.

28. Ms. Haines denies the allegations in this paragraph. To the extent the paragraph contains legal conclusions, no response is required, but Ms. Haines denies them to any extent necessary.

29. Ms. Haines admits that she presented Mr. Morales's testimony on November 4, 2010. Ms. Haines admits that Mr. Morales testified that he did not come forward with Mr. Guandique's confession in 2006 or 2007 because he "still had a thug mentality" and "still subscribed to them false philosophies of you don't tell"; that he testified that he came forward in 2009 in part because he "no longer subscribe[d] to those prison philosophies"; and that he testified that he brought the information to Mr. Zaldivar because he "didn't know how to [come forward]." Ms. Haines denies the remainder of the allegations in this paragraph. To the extent the paragraph contains legal conclusions, no response is required, but Ms. Haines denies them to any extent necessary.

30. Ms. Haines admits that the parties made closing arguments on November 16, 2010. Ms. Haines admits that in the closing argument, defense counsel argued that Mr. Morales lied about Mr. Guandique's confession after seeing Mr. Guandique on the news and with the hope that he would get a benefit from law enforcement. Ms. Haines admits that the block quote accurately quotes a portion of Mr. Campoamor-Sanchez's rebuttal argument. Ms. Haines denies the remainder of the allegations in this paragraph. To the extent the paragraph contains legal conclusions, no response is required, but Ms. Haines denies them to any extent necessary.

31. Ms. Haines admits that on November 22, 2010, Mr. Guandique was convicted of the two remaining charges: (1) first-degree felony murder, kidnapping and (2) first-degree felony murder, attempted robbery. Ms. Haines admits that on February 11, 2011, Mr. Guandique was sentenced to 60 years in prison. Ms. Haines denies the remainder of the allegations in this paragraph.

32. Ms. Haines admits that the United States Attorney's Office was notified that the Fresno Police Department wanted to talk to Mr. Morales. Ms. Haines denies that the USAO for

the Eastern District of California initiated contact with Ms. Haines. Ms. Haines lacks sufficient information to admit or deny the remainder of the allegations in this paragraph.

33. Ms. Haines admits that the USAO assembled a post-trial team and that, per her own choice, she was not on the post-trial team. Ms. Haines lacks sufficient information to admit or deny what the post-trial team learned. Ms. Haines denies the remainder of the allegations in this paragraph.

34. Ms. Haines lacks sufficient information to admit or deny the allegations in this paragraph.

35. Ms. Haines admits that defense counsel moved to dismiss the indictment, for a new trial, and for sanctions arguing, among other things, that the government had violated its obligations under *Brady* and *Giglio*. Ms. Haines lacks sufficient information to admit or deny the remainder of the allegations in this paragraph.

36. Ms. Haines admits that the government withdrew its opposition to the defense's motion for a new trial and that the court granted Mr. Guandique a new trial. Ms. Haines lacks sufficient information to admit or deny the remainder of the allegations in this paragraph.

37. Ms. Haines admits that media reports called into question Mr. Morales's credibility. Ms. Haines admits that the USAO moved to dismiss the charges against Mr. Guandique and that the court granted the motion. Ms. Haines lacks sufficient information to admit or deny the remainder of the allegations in this paragraph.

38. Ms. Haines denies the allegations in this paragraph, including subparagraphs (a) and (b). OPR spent 23 months investigating and adjudicating the facts underlying Count I and, in a detailed and lengthy report, cleared Ms. Haines of misconduct, applying a lower burden of proof (preponderance of the evidence) than ODC must meet (clear and convincing evidence).

And not only was the burden of proof lower, but so was the threshold for finding misconduct—OPR could have found her responsible for reckless or even negligent misconduct, while ODC must prove that Ms. Haines committed *intentional* misconduct.

Moreover, even before OPR started its investigation, the U.S. Attorney's Office conducted its own internal review, prompted by the Public Defender Service's motions for a new trial and to dismiss the indictment. And it came to the same conclusion that OPR ultimately would: the *Guandique* trial team, including Ms. Haines, did not violate *Brady*, *Giglio*, or the Jencks Act.

Finally, consistent with OPR's findings and with the USAO's findings, the presiding judge in the underlying case never made a finding that Ms. Haines or any member of the *Guandique* trial team committed misconduct.

COUNT II

39. Ms. Haines admits that as Mr. Guandique's trial approached, Ms. Haines and Mr. Campoamor-Sanchez disagreed about their strategy and division of labor and that they exchanged emails reflecting those disagreements. Ms. Haines denies the remainder of the allegations in this paragraph.

40. Ms. Haines admits the allegations in this paragraph.

41. Ms. Haines admits the allegations in this paragraph, including subparagraph (a).

ADDITIONAL DEFENSES

Without assuming the burden of proof on any defense that would otherwise rest with Disciplinary Counsel, and expressly denying any and all wrongdoing, Ms. Haines asserts the following additional defenses:

1. Without admitting any of the allegations against her, Ms. Haines asserts that she lacked the culpable state of mind required to demonstrate any of the violations alleged.

2. Without admitting any of the allegations against her, Ms. Haines asserts that she lacked the actual knowledge required to show a violation of Rule 3.8(e).

3. Without admitting any of the allegations against her, Ms. Haines asserts that the Specification of Charges does not state a violation of Rule 3.8(e) because page one of the Zaldivar letter and related evidence do not tend to negate the guilt of the accused in *United States v. Ingmar Guandique*.

4. Without admitting any of the allegations against her, Ms. Haines asserts that she did not take improper action, nor did her conduct taint the judicial process in more than a *de minimis* way, both required elements of a Rule 8.4(d) violation.

Ms. Haines reserves the right to amend this Answer or to assert additional defenses to and through the time of hearing in the event that investigation or discovery indicates that additional or other defenses are appropriate.

June 26, 2020

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of June, 2020, I caused a copy of the foregoing to be sent via electronic mail to:

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