

THIS REPORT IS NOT A FINAL ORDER OF DISCIPLINE\*

DISTRICT OF COLUMBIA COURT OF APPEALS  
BOARD ON PROFESSIONAL RESPONSIBILITY  
AD HOC HEARING COMMITTEE



FILED

Nov 30 2023 4:10pm

In the Matter of: :  
: :  
SONYA N. ARMFIELD :  
: :  
Respondent. :  
: :  
A Member of the Bar of the :  
District of Columbia Court of Appeals :  
(Bar Registration No. 491717) :

Board on Professional Responsibility

Board Docket No. 23-BD-043  
Disc. Docket No. 2016-D230

REPORT AND RECOMMENDATION OF  
THE AD HOC HEARING COMMITTEE

This matter is before the Ad Hoc Hearing Committee for an expedited hearing pursuant to Board Rule 7.6(e) to: (1) determine whether Respondent, Sonya N. Armfield, has complied with the conditions of practice set forth in the December 21, 2022 Board Order that allows her to continue to practice during the pendency of the disciplinary proceedings before Hearing Committee Number Four in Board Docket No. 22-BD-076; and (2) recommend to the Board whether the monitoring conditions should be lifted and Respondent suspended pending final disposition of the disciplinary proceedings.

As set forth below, the Ad Hoc Hearing Committee finds that Disciplinary Counsel has proven by a preponderance of the evidence that Respondent failed to comply with the practice conditions ordered by the Board. The Hearing Committee recommends to the Board that the monitoring conditions be suspended and that the

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\* Consult the ‘Disciplinary Decisions’ tab on the Board on Professional Responsibility’s website ([www.dcattorneydiscipline.org](http://www.dcattorneydiscipline.org)) to view any subsequent decisions in this case.

Board recommend to the Court that Respondent be immediately suspended pending final disposition of the disciplinary proceedings in Board Docket No. 22-BD-076.<sup>1</sup>

## I. PROCEDURAL HISTORY

In her Answer to the Specification of Charges in the pending disciplinary matter, Respondent had asserted that she suffered “from severe physical and mental disabilities that, in the time of the alleged misconduct, impacted her ability to practice law and would have contributed to the alleged misconduct.” In a December 21, 2022 Order issued pursuant to Board Rule 7.6(c) (Conditions of Practice), the Board Chair imposed the conditions under which Respondent could continue to practice law while under an alleged disability, pending resolution of the disciplinary proceeding. In an April 7, 2023 Order, the Board Chair gave Respondent additional time to comply with the directives in the conditions of practice order.

On September 6, 2023, Disciplinary Counsel requested that the Board direct a hearing committee to take evidence and recommend whether Respondent should be immediately suspended for violating the terms or conditions under which Respondent was permitted to practice. *See* Disciplinary Counsel’s Motion for a Board Order Directing a Hearing Committee to Determine if Respondent Should be Suspended Immediately Pending Final Disposition of the Disciplinary Matter for Violating the Board’s Orders Regarding Her Conditions of Practice. Respondent,

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<sup>1</sup>“DCX” refers to Disciplinary Counsel’s exhibits. “Preh. Tr.” refers to the transcript of the prehearing conference held on September 28, 2023. “Tr.” refers to the transcript of the hearing held on November 7, 2023. “FF” refers to Findings of Fact.

through counsel, filed a motion for additional time to respond. On September 18, 2023, the Board issued an order denying Respondent's motion for additional time and granting Disciplinary Counsel's request for an expedited hearing to determine whether Respondent violated the conditions of practice and should be suspended pending final disposition of the disciplinary proceeding.

On September 28, 2023, a prehearing conference took place before the Chair of the Ad Hoc Hearing Committee. Respondent was present and appeared *pro se*, and the Office of Disciplinary Counsel was represented by Assistant Disciplinary Counsel Traci M. Tait, Esquire. Due to the expedited nature of the proceedings, the Chair suggested setting the hearing for a date in October 2023; Respondent objected, however, and the matter was scheduled for an expedited hearing on November 7, 2023. Respondent requested that the hearing be held in person. As discussed during the prehearing conference and memorialized in the Chair's September 29, 2023 Order, Respondent was given the opportunity to file a late response or answer to Disciplinary Counsel's motion to immediately suspend for violations of conditions of practice. Respondent, however, did not file a response or answer. Instead, on November 2, Respondent filed a Request for Accommodations under the Americans with Disabilities Act which moved for a "hiatus" in this matter until 2024. Upon

consideration of Respondent’s request and Disciplinary Counsel’s opposition, the Chair denied Respondent’s request to continue the hearing until 2024.<sup>2</sup>

The hearing was held on November 7, 2023, before the Ad Hoc Hearing Committee comprised of Kathleen Wach, Esquire, Chair; Trevor Mitchell, Public Member; and Janea Hawkins, Esquire, Attorney Member. Disciplinary Counsel was represented at the hearing by Ms. Tait, but Respondent failed to appear either in person or remotely.<sup>3</sup> At the start of the hearing, Disciplinary Counsel moved its exhibits, DCX 1-21, into evidence and they were admitted. Disciplinary Counsel

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<sup>2</sup> Without citing to any authority, Respondent claimed she was entitled to a “hiatus” in the conditions of practice hearing, as well as the disciplinary proceedings, under the American with Disabilities Act. Previously, the Chair had granted Respondent a delay in the hearing based on her claim that she needed additional time to retain new counsel. Preh Tr. 4-8. In *Slaten v. State Bar of California*, 757 P.2d 1, 7 (Cal. 1988) (en banc), the Supreme Court of California held that the attorney’s alleged mental health issues or disability did not excuse his non-appearance at the hearing: “An accused attorney must assume responsibility not only for obtaining representation but also for appearing at the hearing and presenting evidence in defense . . . .” The court emphasized that “[t]he purpose of disciplinary proceedings is the protection of the public and the need for protection is the same whether or not the attorney is mentally impaired,” or has a disability. *Id.* at 63. Further, in *Florida Bar v. Clement*, 662 So.2d 690, 699-700 (Fla. 1995), the Supreme Court of Florida held that the ADA did not prevent it from disbaring a disabled attorney who suffered from bipolar disorder and had been accused of misuse and misappropriation of client funds.

<sup>3</sup> Eleven minutes prior to the scheduled 9:30 a.m. start of the hearing, Respondent emailed the case manager of the Office of the Executive Attorney a message stating that she would not be attending “based on Doctor’s instruction.” When Respondent did not appear by 9:49 a.m., at the Chair’s direction, the case manager emailed Respondent a Zoom link to participate via videoconference. Tr. 6-7.

then called the following witnesses: Daniel Mills, Esquire; Kaitlin McGee, Esquire; and Michael Robinson.

On November 9, 2023, Disciplinary Counsel submitted its post-hearing brief. *See* Disciplinary Counsel’s Proposed Findings of Fact and Conclusions of Law in Support of Respondent’s Immediate Suspension Pending Resolution of Her Disciplinary Proceedings (hereinafter “ODC Br.”).<sup>4</sup> Respondent’s brief was due on November 27, 2023. She did not file her brief, and instead filed a Motion to Enlarge Time to Submit Proposed Findings of Fact and Conclusions of Law, in which she sought an indeterminate extension of time, citing her inexperience in litigation matters, her desire to obtain counsel, doctor-ordered bed rest due to high blood pressure, and the need to procure additional evidence. Respondent’s motion was denied in a separate order. *See* Order (Nov. 29, 2023).

## II. FINDINGS OF FACT

1. The Hearing Committee takes judicial notice that Respondent is a member of the Bar of the District of Columbia Court of Appeals, having been admitted on July 6, 2007, and assigned Bar admitted number 491717. *See* D.C. Bar Member Directory (Bar number).<sup>5</sup>

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<sup>4</sup> On November 8, 2023, Daniel Mills, Esquire, and Kaitlin McGee, Esquire, filed and served the Final [Tenth] Report of the Practice Monitor and Practice Auditor. Disciplinary Counsel attached the report to its post-hearing brief.

<sup>5</sup> <https://my.dcbbar.org/directorymemberships?id=0014z00001ka3hnAAA>

2. Disciplinary Counsel filed a Specification of Charges in Board Docket No. 22-BD-076 alleging that Respondent had engaged in the intentional or reckless misappropriation of the funds belonging to two wards the D.C. Superior Court appointed Respondent to protect. DCX 18 at 15. The court’s Probate Division had jurisdiction over those matters. *Id.* at 45-56.

3. Respondent filed an Answer in which she gave notice, pursuant to Board Rule 7.6, of her intent to assert a disability in mitigation of sanction (commonly known as *Kersey* mitigation). DCX 19 at 38-41; *In re Kersey*, 520 A.2d 321, 325-27 (D.C. 1987). In her Notice of Intent to Raise Disability in Mitigation, Respondent asserted that she suffered from major depressive disorder, anxiety disorder, hoarding, hypertension, sleep apnea, diabetes, and metabolic syndrome during May 2011 through May 2022. DCX 16 at 1.

4. In response to Respondent’s assertions of *Kersey* mitigation, the Board directed the parties to file proposed conditions “under which Respondent shall practice law during the pendency of these proceedings.” *See* Board Order, *In re Armfield*, 22-BD-076 (Dec. 8, 2022). The conditions of practice are intended to ensure that a respondent’s self-alleged disabilities are being addressed during the course of the disciplinary case. *See* Board Rule 7.6(c).

5. Respondent and the Office of Disciplinary Counsel negotiated practice conditions and filed them with the Board. Tr. 13; *see* Parties’ Joint Submission of Respondent’s Proposed Practice Conditions, *In re Armfield*, 22-BD-076 (Dec. 20, 2022).

6. By order dated December 21, 2022, the Board adopted the parties' proposed conditions and directed Respondent, *inter alia*, to:

- continue to receive treatment for major depressive disorder, generalized anxiety disorder, and hoarding from a licensed psychiatrist, psychologist, or psychotherapist (Condition 1)
- submit, starting in January 2023, monthly medical reports from her treating practitioners and authorize the Office of Disciplinary Counsel to communicate with her treating practitioners regarding her continued mental status as it relates to her fitness to practice law (Condition 2)
- submit to a complete audit of her law practice, including her trust accounts/IOLTA by Daniel Mills, Esquire, of the D.C. Bar's Practice Management Advisory Service (PMAS) to correct inappropriate accounting and recordkeeping methods (Condition 5)
- agree to the immediate appointment of a practice monitor with sufficient expertise in probate/estate matters to assist Respondent in winding down her current matters in those areas (Condition 7)
- withdraw within 90 days from any probate/estate matters, submitting proof that she had done so and, if Respondent chose to resume handling probate/estate matters, to first notify the Board on Professional Responsibility and Office of Disciplinary Counsel, then undertake continuing legal education classes that the Office of Disciplinary Counsel identified for her (Condition 8)
- waive confidentiality regarding her compliance with the proposed conditions (Condition 9)

DCX 16; *see also* DCX 1 (First Report from Practice Auditor and Practice Monitor).

Because Practice Monitor Kaitlin McGee was appointed later than expected, the Board allowed Respondent until April 28, 2023, to withdraw from any probate or estate matter she had been handling. DCX 17 at 2-4.

7. Of a total of nine conditions by which Respondent agreed to abide, Respondent violated five: Conditions 1, 2, 5, 8, and 9. DCX 1-15, 21. Practice Auditor Dan Mills and Practice Monitor Ms. McGee testified to those facts at Respondent's suspension hearing and her disciplinary hearing. *See generally* Tr. 23-72; DCX 20 at 62-77, 82-88. Michael Robinson, a law clerk at the Office of Disciplinary Counsel, also testified to Respondent's failures to abide by her practice conditions. Tr. 73-81; DCX 10-15, 21.

8. Specifically, Respondent violated Conditions 1 and 2 because since June 2023, she has failed to provide monthly reports attesting that she has continued her required treatments for major depressive disorder, anxiety disorder, and hoarding. Tr. at 77-79; *see* DCX 10-15. Most seriously, Respondent rescinded her earlier Authorization to Release Medical Records and Files, and as a result, Disciplinary Counsel is no longer able to communicate with Respondent's treating medical practitioners regarding her fitness to practice law. *See* DCX 21 (November 2, 2023 email message from Respondent to Assistant Disciplinary Counsel Tait: "I withdraw my consent for the release of any medical records.").

9. Regarding Condition 5, Respondent has failed to schedule a complete audit of her law practice, failed to turn over complete records of her trust/IOLTA, and failed to produce financial, billing, and other records requested by her Practice Auditor Mr. Mills and Practice Monitor Ms. McGee. Tr. 23-44, 49-73; DCX 1-9; DCX 20 at 62-76, 82-85.



10. Regarding Condition 8, Ms. McGee initially reported on April 3, 2023, that Respondent was still involved in multiple probate cases, but has since corrected the record. During the hearing, Ms. McGee confirmed that Respondent was not involved in the probate cases identified in her First Report. *See* DCX 20 at 87 (Ms. McGee: “I have filed subsequent reports confirming that we don’t have any reason to believe you are still involved in those cases, so I have corrected the record ”); *see also* Tr. 36 (Mr. McGee: “[W]e’re fairly confident that there weren’t any probate cases still open.”). However, Respondent did not comply with Condition 8 when she took on new probate cases without first notifying the Board on Professional Responsibility and the Office of Disciplinary Counsel of her intent to do so. When asked about credit card payments reflected in her financial documents, Respondent told Practice Auditor Mills that “those were a couple of probate cases that I just recently took on.” Tr. 37; *see also* DCX 17 at 3. Although Respondent ended up refunding those new clients, *see* Tr. 37 (McGee: “[T]hose cases didn’t continue on, and it does appear that she’s wound down her probate cases.”), because she did not notify either the Board or Disciplinary Counsel about her intent to take on new cases, she did not comply with the requirements of Condition 8.

11. Regarding Condition 9, by withdrawing her consent to access her medical providers’ information, Respondent has eliminated any way to check if she is complying with her medical providers’ treatment plans or whether they have any concerns about her fitness to practice law. DCX 21. As noted, her November 2, 2023 email message to Disciplinary Counsel openly violates Condition 9 in which

she agreed “waive confidentiality regarding her compliance with the proposed conditions.” DCX 16 at 4.

12. The day after the hearing, on November 8, 2023, Practice Auditor Mr. Mills and Practice Monitor Ms. McGee filed a Final [Tenth] Report. *See* Final Report of the Practice Monitor and Practice Auditor, *In re Armfield*, 22-BD-076 (Nov. 8, 2023).

### III. CONCLUSIONS OF LAW

Disciplinary Counsel argues that it has more than met its burden of establishing Respondent’s non-compliance with the conditions of practice. *See* ODC Br. at 8.

The Board Rules do not specify the standard of proof in a hearing on violations of conditions of practice. However, in *In re Harris*, Board Docket No. 19-BD-059, at 4, 18 (H.C. Rpt. Nov. 4, 2019), the Hearing Committee concluded that Disciplinary Counsel’s burden of proof should be by a “preponderance of the evidence” because that is the standard applied when a respondent is subject to a probation revocation proceeding under Board Rule 18.3(d). The *Harris* Hearing Committee’s holding was adopted by the Board and the Court of Appeals. *See Harris*, Board Docket No. 19-BD-059, at 5 n.4 (BPR Nov. 26, 2019), *recommendation adopted where no exception filed*, 241 A.3d 243 (D.C. 2020) (*per curiam*).

Having considered the documentary and testimonial evidence, we conclude that Disciplinary Counsel has established by a preponderance of the evidence that

Respondent did not comply with the conditions of practice imposed by the Board. Although even a single violation could show that she has not complied with the conditions of practice, here, Respondent has openly violated five conditions of practice. *See* FF 8-11. While each condition serves an important purpose, we are especially concerned about Respondent's non-compliance in filing monthly medical reports showing her continued treatment and verification from her practitioners of her continued fitness to practice law, and then her recent decision on November 2, 2023, to withdraw the authorization for medical releases from her medical providers. FF 8.

Accordingly, we recommend that the Board recommend to the Court that Respondent's license to practice law be suspended during the pendency of the underlying disciplinary matter, Board Docket No. 22-BD-076. We further recommend that the Board lift the monitoring conditions imposed in its December 21, 2022 Order.

#### IV. CONCLUSION

For the foregoing reasons, the Committee finds that Disciplinary Counsel has proven by a preponderance of the evidence that Respondent failed to comply with the December 21, 2022 Board Order imposing practice conditions. The Hearing Committee recommends to the Board that it lift the monitoring conditions and that it recommend to the Court that Respondent be immediately suspended, pending final disposition of the disciplinary proceedings in Board Docket No. 22-BD-076.

#### AD HOC HEARING COMMITTEE

*Kathleen Wach*

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Kathleen Wach, Chair

*Trevor Mitchell*

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Trevor Mitchell, Public Member

*Janea Hawkins*

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Janea Hawkins, Attorney Member