

FILED

MAR 19 2015

**BEFORE THE BOARD OF PROFESSIONAL CONDUCT
OF
THE SUPREME COURT OF OHIO**

BOARD OF PROFESSIONAL CONDUCT

In re:

Complaint against

**Daniel Joseph Guinn, Esq.
104 South Broadway Street
P.O. Box 804
New Philadelphia, Ohio 44663**

15 - 018

No. _____

Attorney Registration No. (0084686)

COMPLAINT AND CERTIFICATE

Respondent,

**(Rule V of the Supreme Court Rules for
the Government of the Bar of Ohio.)**

**Disciplinary Counsel
250 Civic Center Drive, Suite 325
Columbus, Ohio 43215-7411**

Relator.

Now comes the relator and alleges that Daniel Joseph Guinn, an Attorney at Law, duly admitted to the practice of law in the state of Ohio is guilty of the following misconduct:

1. Respondent, Daniel Joseph Guinn, was admitted to the practice of law in the state of Ohio on May 18, 2009.
2. At all times relevant to the following allegations, respondent was subject to the Rules of Professional Conduct and the Rules for the Government of the Bar of Ohio.

COUNT ONE

Failure to File Appellate Cases

Mary Gonzalez (nka Mary Pena)

3. In 2012, respondent represented Mary Gonzalez regarding the termination of her parental rights. *In the Matter of T.H.-B., A.B., V.E., S.E., and A.G.*, Tuscarawas County Court of Common Pleas, Juvenile Division, Case No. 11JN00210.
4. For these services, respondent charged Gonzalez \$900.00. Gonzalez paid respondent \$500.00 of the \$900.00 owed.
5. On September 28, 2012, the Court ordered permanent custody of the minor children to be placed with Tuscarawas County Job and Family Services and terminated all of Gonzalez' parental rights.
6. On October 15, 2012, respondent timely filed a notice of appeal on behalf of Gonzalez. *In Re: T.H.-B., A.B., V.E., S.E., and A.G.*, Fifth District Court of Appeals, Case No. 2012 AP 10 0059.
7. Respondent did not charge Gonzalez for filing the notice of appeal.
8. Gonzalez' appellate brief was due on December 9, 2012, but on December 11, 2012, respondent requested an extension of time to file the brief.
9. On December 17, 2012, the Court denied respondent's request for an extension of time to file the brief. In its judgment denying the extension, the Court cited the failure of respondent to raise unusual circumstances to warrant the extension, but indicated that they would consider a brief filed immediately.
10. Respondent never filed an appellate brief on behalf of Gonzalez.
11. On January 8, 2013, the Court of Appeals dismissed the case for lack of prosecution.

12. On January 18, 2013, respondent filed a motion for reconsideration. This request was denied by the Court.
13. On April 11, 2013, respondent sent an email to Gonzalez stating that he had filed the appeal on her behalf with the Court. He also stated that the Court had dismissed her appeal.

Nicole Betts

14. In 2012, Nicole Betts' parental rights were terminated by the Juvenile Division of the Tuscarawas County Court of Common Pleas. *In the Matter of D.B.*, Tuscarawas County Court of Common Pleas, Juvenile Division, Case No. 10JN00211.
15. On October 16, 2012, attorney Gerrit DanHeijer filed a Notice of Appeal on behalf of Betts. *In the Matter of D.B.*, Fifth District Court of Appeals, Case No. 2012 AP 10 0061.
16. On December 3, 2012, DanHeijer withdrew from Betts' case.
17. In or around December 2012, Betts retained respondent to handle the appeal on her behalf. Betts paid respondent \$1,000.
18. On December 6, 2012, respondent entered a Notice of Appearance on behalf of Betts.
19. The appellate brief was due on December 16, 2012, but on December 28, 2012, respondent requested an extension of time to file the brief because he needed to review the case file.
20. The Court granted respondent until January 28, 2013 to file the brief. In its judgment entry granting the extension, the Court indicated that no additional extensions would be granted.
21. On January 28, 2013, respondent filed a request with the Court to extend the page limit for his brief. This request was denied on February 6, 2013.

22. On February 12, 2013, respondent filed a motion to extend the time to file the brief. The Court never ruled on this motion.
23. On February 20, 2013, respondent filed the brief.
24. On February 21, 2013, the Court of Appeals dismissed the case for lack of prosecution.
25. Respondent did not inform Betts that the Court dismissed her case.
26. Respondent's conduct in Count One violates the Ohio Rules of Professional Conduct: Prof. Cond. R. 1.1 [requiring a lawyer to provide competent representation to a client]; Prof. Cond. R. 1.3 [requiring a lawyer to act with reasonable diligence and promptness in representing a client]; Prof. Cond. R. 1.4 [requiring a lawyer to keep a client reasonably informed about the status of the matter]; Prof. Cond. R. 1.5(a) [a lawyer shall not charge a clearly excessive fee] (with respect to client Betts); Prof. Cond. R. 8.4(c), [prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation] (with respect to client Gonzalez).

COUNT TWO

Filing a Frivolous Lawsuit

27. In October of 2012, respondent represented Kasey Van Winkle, the defendant mother, in a complaint for neglect, dependency, and custody filed by Tuscarawas County Job and Family Services. *In the Matter of B.M.*, Tuscarawas County Court of Common Pleas, Juvenile Division, Case No. 12JN00498.
28. During a hearing in this case, Jamie Grunder, a caseworker with Tuscarawas County Job and Family Services, testified that Van Winkle permitted a registered sex offender to live in the home with Van Winkle's child.

29. The facts testified to by Grunder during this proceeding were previously admitted and stipulated to by Van Winkle.
30. Nevertheless, on October 17, 2013, respondent filed a defamation complaint on behalf of Van Winkle against Grunder based on Grunder's testimony. *Kasey Van Winkle v. Jamie Grunder*, Tuscarawas County Court of Common Pleas, Case No. 2013-CT-10-0770. The filing of the complaint resulted in Judge Linda Kate recusing herself from any further hearings on the underlying juvenile case.
31. On November 12, 2013, respondent dismissed the complaint.
32. Respondent admitted to relator that he failed to thoroughly investigate the defamation complaint and filed it based on the word of his client. He further admitted that filing the complaint was reckless.
33. Respondent's conduct in Count Two violates the Ohio Rules of Professional Conduct: Prof. Cond. R. 3.1 [prohibiting a lawyer from filing suit unless there is a basis in law and fact for doing so that is not frivolous], and Prof. Cond. R. 8.4(d) [a lawyer shall not engage in conduct that is prejudicial to the administration of justice].

COUNT THREE

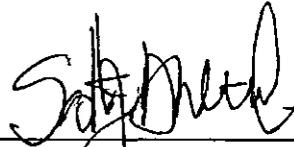
Failure to Inform Clients of Lack of Professional Liability Insurance

34. From December 28, 2010 through June 3, 2014, respondent failed to maintain professional liability insurance.
35. During this period, respondent failed to provide notice to his clients of his lack of insurance and failed to have this notice signed by his clients.
36. Respondent currently maintains professional liability insurance.

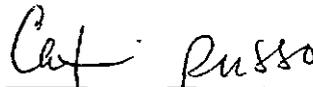
37. Respondent's conduct in Count Three violates the Ohio Rules of Professional Conduct: Prof. Cond. R. 1.4(c) [requiring a lawyer to provide notice to clients that he does not maintain professional liability insurance and requiring clients to sign the notice].

CONCLUSION

Wherefore, pursuant to Gov. Bar R. V, the Code of Professional Responsibility and Rules of Professional Conduct, relator alleges that respondent is chargeable with misconduct; therefore, relator requests that respondent be disciplined pursuant to Rule V of the Rules of the Government of the Bar of Ohio.



Scott J. Drexel (0091467)
Disciplinary Counsel

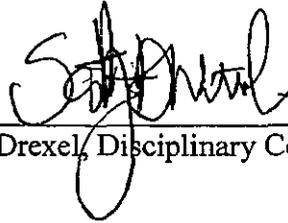


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CERTIFICATE

The undersigned, Scott J. Drexel, Disciplinary Counsel, of the Office of Disciplinary Counsel of the Supreme Court of Ohio hereby certifies that Catherine M. Russo is duly authorized to represent relator in the premises and has accepted the responsibility of prosecuting the complaint to its conclusion. After investigation, relator believes reasonable cause exists to warrant a hearing on such complaint.

Dated: March 19, 2015



Scott J. Drexel, Disciplinary Counsel

Waiver of Probable Cause

The Office of Disciplinary Counsel has informed me of its intent to file a formal complaint at the March 27, 2015, meeting of the Board of Professional Conduct. Under Gov. Bar R.V, Section 11(A), I understand that the Board must make a finding of probable cause before certifying the complaint.

I hereby waive probable cause and accept certification.

Signed on this 12th day of March, 2015



Daniel Joseph Guinn
Attorney Registration No. 0084686