

FILED

Oct 7, 2024

Disciplinary
Board

Docket # 014

DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION

In re

NATHAN L. MCALLISTER,
Lawyer (Bar No. 37964).

Proceeding No. 24#00050

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND HEARING OFFICER'S
RECOMMENDATION

The undersigned Hearing Officer held a default hearing via written submissions pursuant to Rule 10.6(b)(3) of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC).

**FINDINGS OF FACTS AND CONCLUSIONS OF LAW
REGARDING CHARGED VIOLATIONS**

1. The Formal Complaint (Bar File No. 5) charged Nathan L. McAllister with misconduct as set forth therein. A copy of the Formal Complaint is attached to this decision.

2. Under ELC 10.6(a)(4), the Hearing Officer finds that each of the facts set forth in the Formal Complaint is admitted and established.

3. Under ELC 10.6(a)(4), the Hearing Officer concludes that each of the violations charged in the Formal Complaint is admitted and established as follows:

1 **COUNT 1**

2 4. By failing to comply with Turner's reasonable requests for information about the
3 funds Respondent held, Respondent violated RPC 1.4(a) and RPC 1.4(b).

4 **COUNT 2**

5 5. By abandoning Respondent's practice without providing for Respondent's clients'
6 needs, Respondent violated RPC 1.3 and RPC 1.4(a).

7 **COUNT 3**

8 6. By converting approximately \$59,000-\$69,000 of Turner's money, Respondent
9 violated RPC 1.15A(b), RPC 8.4(b) (by committing the crime of theft, RCW 9A.56.020(1)(a),
10 9A.56.010(23)(b)), RPC 8.4(c), and RPC 8.4(i).

11 **COUNT 4**

12 7. By failing to respond to ODC's requests for a response related to Turner's grievance,
13 Respondent violated RPC 8.4(l) (by violating ELC 1.5, 5.3(f), and 5.3(g)).

14 **COUNT 5**

15 8. By failing to comply with Burnam's reasonable requests for information, and by
16 failing to take action on Burnam's probate matter, Respondent violated RPC 1.3 and RPC 1.4(a).

17 **COUNT 6**

18 9. By collecting a fee and then failing to perform the agreed upon work, Respondent
19 violated RPC 1.5(a).

20 **COUNT 7**

21 10. By failing to respond to ODC's requests for a response related to Burnam's
22 grievance, Respondent violated RPC 8.4(l) (by violating ELC 1.5, 5.3(f), and 5.3(g)).

23 **COUNT 8**

24 11. By failing to comply with Pearson and Kayl's reasonable requests for information,

1 and by failing to appear at the court proceeding on September 12, 2023, Respondent violated RPC
2 1.3 and RPC 1.4(a).

3 **COUNT 9**

4 12. By collecting a fee and then failing to perform the agreed upon work, Respondent
5 violated RPC 1.5(a).

6 **COUNT 10**

7 13. By failing to respond to ODC's requests for a response related to Pearsons's
8 grievance, and by failing to appear at ODC's deposition, Respondent violated RPC 8.4(l) (by
9 violating ELC 1.5, 5.3(f), and 5.3(g)).

10 **COUNT 11**

11 14. By failing to comply with Fillbrook's reasonable requests for information, and by
12 failing to take action on Fillbrook's probate matter, Respondent violated RPC 1.3 and RPC 1.4(a).

13 **COUNT 12**

14 15. By collecting a fee and then failing to perform the agreed upon work, Respondent
15 violated RPC 1.5(a).

16 **COUNT 13**

17 16. By failing to respond to ODC's requests for a response related to Fillbrook's
18 grievance, Respondent violated RPC 8.4(l) (by violating ELC 1.5, 5.3(f), and 5.3(g)).

19 **FINDINGS OF FACTS AND CONCLUSIONS OF LAW**
20 **REGARDING RECOMMENDED SANCTION**

21 17. Respondent acted knowingly with respect to the violations related to representing
22 clients and abandoning Respondent's practice.

23 18. Respondent acted negligently with respect to the violations related to failing to
24 cooperate with ODC's investigations.

1 19. Respondent caused serious injury to James Taylor, Sharman Burnam, Christopher
2 Pearsons and Mindy Kayl.

3 20. Respondent caused injury to Nola Fillbrook and ODC.

4 21. The following standards of the American Bar Association's Standards for Imposing
5 Lawyer Sanctions ("ABA Standards") (1991 ed. & Feb. 1992 Supp.) presumptively apply in this
6 case:

7 22. ABA Standard 4.4 applies to violations of RPC 1.3 and RPC 1.4; Counts 1, 2, 5, 8 and
8 11:

9 **4.4 Lack of Diligence**

10 4.41 Disbarment is generally appropriate when:

- 11 (a) a lawyer abandons the practice and causes serious or potentially serious
12 injury to a client; or
13 (b) a lawyer knowingly fails to perform services for a client and causes serious
14 or potentially serious injury to a client; or
15 (c) a lawyer engages in a pattern of neglect with respect to client matters and
16 causes serious or potentially serious injury to a client.

17 4.42 Suspension is generally appropriate when:

- 18 (a) a lawyer knowingly fails to perform services for a client and causes injury
19 or potential injury to a client, or
20 (b) a lawyer engages in a pattern of neglect and causes injury or potential
21 injury to a client.

22 23. The presumptive sanction for Counts 1, 2, 5, and 8 is disbarment.

23 24. The presumptive sanction for Count 11 is suspension.

24 25. ABA Standard 7.0 applies to violations of RPC 1.5 and RPC 8.4(l); Counts 4, 6, 7, 9,
10, 12 and 13:

21 **7.0 Violations of Duties Owed as a Professional**

22 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in conduct
23 that is a violation of a duty owed as a professional with the intent to obtain a benefit
24 for the lawyer or another, and causes serious or potentially serious injury to a
client, the public, or the legal system.

7.2 Suspension is generally appropriate when a lawyer knowingly engages in conduct

that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

7.3 Reprimand is generally appropriate when a lawyer negligently engages in conduct that is a violation of a duty owed as a professional and causes injury or potential injury to a client, the public, or the legal system.

26. The presumptive sanction for Counts 6 and 9 is disbarment.

27. The presumptive sanction for Count 12 is suspension.

28. The presumptive sanction for Counts 4, 7, 10 and 13 is reprimand.

29. ABA Standard 5.1 applies to violations of RPC 8.4(b), RPC 8.4(c) and RPC 8.4(i);

Count 3:

5.1 Failure to Maintain Personal Integrity

5.11 Disbarment is generally appropriate when:

- (a) a lawyer engages in serious criminal conduct, a necessary element of which includes intentional interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; or the sale, distribution or importation of controlled substances; or the intentional killing of another; or an attempt or conspiracy or solicitation of another to commit any of these offenses; or
- (b) a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer's fitness to practice.

30. ABA Standard 4.1 applies to violations of RPC 1.15A(b); Count 3:

4.1 Failure to Preserve the Client's Property

4.11 Disbarment is generally appropriate when a lawyer knowingly converts client property and causes injury or potential injury to a client.

31. The presumptive sanction for Count 3 is disbarment.

32. Under In re Disciplinary Proceeding Against Petersen, 120 Wn.2d 833, 854, 846 P.2d 1330 (1993), the "ultimate sanction imposed should at least be consistent with the sanction for the most serious instance of misconduct among a number of violations."

33. The following aggravating factors set forth in Section 9.22 of the ABA Standards

1 apply in this case:

- 2 (b) dishonest or selfish motive;
- 3 (c) a pattern of misconduct;
- 4 (d) multiple offenses; and
- 5 (i) substantial experience in the practice of law [Respondent was admitted in 2006].

6 34. It is an additional aggravating factor that Respondent failed to file an answer to the Formal Complaint as required by ELC 10.5(a).

7 35. The following mitigating factors set forth in Section 9.32 of the ABA Standards apply to this case:

- 9 (a) absence of a prior disciplinary record; and
- 10 (c) personal or emotional problems.

11 **RECOMMENDATION**

12 36. Based on the ABA Standards and the applicable aggravating and mitigating factors, the Hearing Officer recommends that Respondent Nathan L. McAllister be disbarred, and ordered to pay restitution as set forth below:

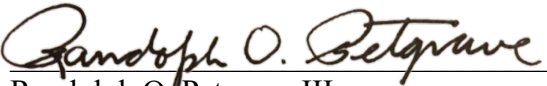
14 37. \$69,000 to James Turner.

16 38. \$3,286 to Sharman Burnam.

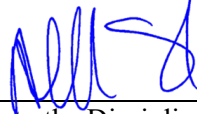
17 39. \$1,125 to Chrstopher Pearsons and Mindy Kayl.

18 40. \$1,280 to Nola Fillbrook.

19 DATED this 4th day of October, 2024.

20 
21 Randolph O. Petgrave III,
22 Chief Hearing Officer
23
24

I certify that I caused a copy of the FOF, COL and HO's Recommendation to be emailed to the Office of Disciplinary Counsel and to Respondent Nathan L. McAllister, at nathanmcallisteratty@gmail.com , on the 7th day of October, 2024.

A handwritten signature in blue ink, appearing to be 'NLM', is positioned above a horizontal line.

Clerk to the Disciplinary Board

FILED

Aug 19, 2024

Disciplinary
Board

Docket # 005

DISCIPLINARY BOARD
WASHINGTON STATE BAR ASSOCIATION

In re

NATHAN L. MCALLISTER,

Lawyer (Bar No. 37964).

Proceeding No. 24#00050

FORMAL COMPLAINT

Under Rule 10.3 of the Washington Supreme Court's Rules for Enforcement of Lawyer Conduct (ELC), the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association charges the above-named lawyer with acts of misconduct under the Washington Supreme Court's Rules of Professional Conduct (RPC) as set forth below.

ADMISSION TO PRACTICE

1. Respondent Nathan L. McAllister was admitted to the practice of law in the State of Washington on November 3, 2006.

FACTS REGARDING COUNTS 1-4

ODC File No. 23-01729

Respondent's Representation of James Turner

2. James Turner was incarcerated from 2012 through 2023.

1 3. While in prison, in 2019, Turner received an inheritance of around \$415,000 from
2 Turner's great aunt.

3 4. In 2019, Turner spoke with Respondent over the telephone. Respondent agreed to
4 put the inheritance in a trust account and disburse funds as necessary for Turner to purchase
5 property, pay bills, and pay for home renovations.

6 5. Turner received approximately three checks from Respondent, and Respondent
7 also paid bills directly for home services and renovations. Turner's friend, who did the home
8 renovations, spent approximately \$311,000 on the home and renovations.

9 6. Turner asked Respondent for an accounting of all of the expenditures, multiple
10 times, but Respondent never sent Turner anything.

11 7. In June 2023, Respondent told Turner \$70,000 or \$80,000 of the inheritance was
12 left.

13 8. Respondent has never provided Turner with a bill or any other accounting.

14 9. In August 2023, Turner was released from prison.

15 10. In September or October 2023, Turner asked Respondent for some money in order
16 to buy a car and go to school.

17 11. Turner asked for \$28,000 and an account balance.

18 12. Respondent told Turner that Respondent could only send \$11,000.

19 13. Respondent claimed that the rest of the money was in a Certificate of Deposit that
20 would mature in November 2023.

21 14. This was a false statement.

22 15. Respondent sent Turner check #2624, drawn on Respondent's trust account, dated
23 October 4, 2023, in the amount of \$11,000.

1 16. Beginning in November 2023, Turner tried to reach Respondent, but Respondent
2 never responded.

3 17. Respondent converted between and \$59,000-\$69,000 belonging to Turner.

4 Abandonment of practice

5 18. As of November 2023, Respondent was no longer a tenant in the building where
6 Respondent's office was located and has not been seen by the landlord since November 8, 2023.

7 19. On December 19, 2023, Seattle Legal Messengers went to Respondent's home and
8 spoke with Respondent's cousin, who told the process servers that Respondent had been
9 missing for a month.

10 20. By January 2024, Respondent's phone number on file with the Association was
11 disconnected.

12 21. In January 2024, the mail ODC sent to Respondent on January 9, 2024 was
13 returned to ODC, marked "Moved," "Not here," and "Unable to fwd."

14 22. Respondent's email mailbox is full and will no longer accept messages.

15 23. Respondent disappeared and left no way for to clients to contact Respondent.

16 24. Respondent abandoned Respondent's practice of law.

17 25. On March 7, 2024, the Chairperson of the Disciplinary Board issued an order
18 appointing a custodian to take over Respondent's client files and trust account.

19 Failure to cooperate with ODC's investigation

20 26. On November 30, 2023, Turner filed a grievance with the Office of Disciplinary
21 Counsel (ODC).

22 27. By letter dated December 7, 2023, ODC requested Respondent's response.
23 Respondent did not respond.

28. On January 8, 2024, ODC sent a letter to Respondent's requesting a response within ten days. Respondent did not respond.

29. On January 9, 2024, ODC filed a Petition for Interim Suspension with the Washington Supreme Court based in part on Respondent's failure to cooperate with the investigation of Turner's grievance.

30. On January 10, 2024, the Court entered an Order to Show Cause ordering Respondent to appear before the Court on February 15, 2024.

31. Respondent did not respond to the Order to Show Cause, and on February 15, 2024, the Court entered an order immediately suspending Respondent's license to practice pending compliance with disciplinary investigation requests.

32. Respondent has never provided a response to Turner's grievance or an explanation of where Turner's money went.

33. Respondent acted knowingly in failing to communicate with Turner, in abandoning Respondent's practice, and in converting Turner's funds.

34. Respondent's actions caused serious injury to Turner.

35. Respondent's failure to cooperate with ODC's investigation was negligent.

36. Respondent caused injury to ODC by impeding ODC's investigation of this matter and requiring the expenditure of time and resources to file a petition for interim suspension.

COUNT 1

37. By failing to comply with Turner's reasonable requests for information about the funds Respondent held, Respondent violated RPC 1.4(a) and/or RPC 1.4(b).

COUNT 2

38. By abandoning Respondent's practice without providing for Respondent's clients'

1 needs, Respondent violated RPC 1.3 and/or RPC 1.4(a).

2 **COUNT 3**

3 39. By converting approximately \$59,000-\$69,000 of Turner's money, Respondent
4 violated RPC 1.15A(b), RPC 8.4(b) (by committing the crime of theft, RCW 9A.56.020(1)(a),
5 9A.56.010(23)(b)), RPC 8.4(c), and/or RPC 8.4(i).

6 **COUNT 4**

7 40. By failing to respond to ODC's requests for a response related to Turner's
8 grievance, Respondent violated RPC 8.4(l) (by violating ELC 1.5, 5.3(f), and/or 5.3(g)).

9 **FACTS REGARDING COUNTS 5-7**

10 **ODC File No. 23-01636**

11 Respondent's Representation of Sharman Burnam

12 41. On October 2, 2023, Sharman Burnam hired Respondent to complete an
13 uncontested probate matter in Whatcom County Superior Court for the estate of Rose Mattox.

14 42. Burnam paid Respondent with a check in the amount of \$3,286.00, which
15 Respondent cashed.

16 43. On October 2, 2023, Respondent told Burnam that Respondent would file the
17 probate action and inform Burnam of the court date.

18 44. This was the last time Burnam met or spoke with Respondent. Respondent did not
19 respond to repeated messages or emails.

20 45. Respondent never filed the probate action.

21 Failure to cooperate with ODC's investigation

22 46. On November 16, 2023, Burnam filed a grievance with ODC.

23 47. By letter dated November 21, 2023, ODC requested Respondent's response.

Respondent did not respond.

48. On December 22, 2023, ODC sent a letter to Respondent requesting a response within ten days. Respondent did not respond.

49. Respondent never provided a response to Burnam's grievance.

50. Respondent acted knowingly in failing to communicate with Burnam and in failing to act with diligence in Burnam's case.

51. Respondent's actions caused serious injury to Burnam, who received no benefit from hiring Respondent, whose probate matter was delayed, and whose fee of \$3,286.00 has not been refunded.

52. Respondent's failure to cooperate with ODC's investigation was negligent.

53. Respondent caused injury to ODC by impeding ODC's investigation of this matter.

COUNT 5

54. By failing to comply with Burnam's reasonable requests for information, and/or by failing to take action on Burnam's probate matter, Respondent violated RPC 1.3 and/or RPC 1.4(a).

COUNT 6

55. By collecting a fee and then failing to perform the agreed upon work, Respondent violated RPC 1.5(a).

COUNT 7

56. By failing to respond to ODC's requests for a response related to Burnam's grievance, Respondent violated RPC 8.4(l) (by violating ELC 1.5, 5.3(f), and/or 5.3(g)).

FACTS REGARDING COUNTS 8-10

ODC File No. 23-01495

1 Respondent's Representation of Christopher Pearsons

2 57. In October 2022, Christopher Pearsons and spouse Mindy Kayl hired Respondent
3 to file a motion to vacate a default judgment in a medical debt case filed by Merchant's Credit
4 Corporation (Merchants) in San Juan County District Court.

5 58. Pearsons and Kayl had been unaware of the debt, and they did not receive notice or
6 a summons in the case. The debt was originally \$1,900, but after five years interest
7 accumulated, the amount due was over \$8,000.

8 59. Pearsons signed Respondent's fee agreement dated October 17, 2022. Respondent
9 agreed to provide legal services to vacate or set aside the default judgment in San Juan County.

10 60. Pearsons and Kayl paid Respondent by check in the amount of \$1,125.

11 61. After that, Pearsons and Kayl did not hear from Respondent for a long time, and
12 when they did hear from Respondent, Respondent had only excuses about why Respondent had
13 failed to file the motion to vacate.

14 62. On August 3, 2023, Kayl sent an email to Respondent threatening to file a
15 grievance.

16 63. On August 10, 2023, Respondent filed the motion to vacate.

17 64. Via email, Respondent told Pearsons that they would need to appear in court on
18 September 12, 2023.

19 65. In order for Pearsons and Kayl to attend court, they had to drive four hours, take a
20 long ferry ride twice, and stay over two nights for the hearing.

21 66. On September 12, 2023, Respondent did not appear in court.

22 67. While in court, Pearsons and Kayl learned they could have attended over Zoom.

23 68. The court continued the matter.

69. Pearsons called Respondent twice after Respondent failed to appear at the hearing and left messages, but Respondent never returned the calls.

70. Pearsons ended up paying the debt because Merchant had started to garnish Pearsons's wages.

Failure to cooperate with ODC's investigation

71. On October 10, 2023, Pearsons filed a grievance with ODC.

72. By letter dated October 24, 2023, ODC requested Respondent's response. Respondent did not respond.

73. On December 4, 2023, ODC sent a letter to Respondent requesting a response within ten days. Respondent did not respond.

74. On December 18, 2023, ODC served Respondent with a Subpoena Duces Tecum for a deposition set for January 4, 2024.

75. On January 4, 2024, Respondent failed to appear at the scheduled deposition.

76. Respondent has never provided a response to Pearsons's grievance.

77. Respondent acted knowingly in failing to communicate with Pearsons and Kayl and in failing to act with diligence in their case.

78. Respondent caused serious injury to Pearsons and Kayl, who paid \$1,125, had their wages garnished and paid significantly more than the original debt, and received no benefit from hiring Respondent.

79. Respondent's failure to cooperate with ODC's investigation was negligent.

80. Respondent caused injury to ODC by impeding ODC's investigation of this matter.

COUNT 8

81. By failing to comply with Pearson and Kayl's reasonable requests for information,

1 and/or by failing to appear at the court proceeding on September 12, 2023, Respondent violated
2 RPC 1.3 and/or RPC 1.4(a).

3 **COUNT 9**

4 82. By collecting a fee and then failing to perform the agreed upon work, Respondent
5 violated RPC 1.5(a).

6 **COUNT 10**

7 83. By failing to respond to ODC's requests for a response related to Pearsons's
8 grievance, and/or by failing to appear at ODC's deposition, Respondent violated RPC 8.4(l) (by
9 violating ELC 1.5, 5.3(f), and/or 5.3(g)).

10 **FACTS REGARDING COUNTS 11-13**

11 **ODC File No. 23-01706**

12 Respondent's Representation of Nola Fillbrook

13 84. Nola Fillbrook's husband died in February 2022. Fillbrook needed a lawyer to file
14 a probate to access some bank accounts.

15 85. Fillbrook is a member of Legal Shield, a legal services plan that is serviced
16 through the firm of Lombino Martino. After another lawyer represented Fillbrook, Lombino
17 Martino then referred Fillbrook to Respondent.

18 86. Fillbrook never met with Respondent, and only spoke with Respondent over the
19 telephone and communicated through emails.

20 87. On October 4, 2022, Fillbrook signed a flat fee agreement and paid Respondent
21 \$1,280.

22 88. Respondent told Fillbrook that they needed to first file an inventory, and that they
23 would then discuss next steps to close the probate.

1 89. Respondent filed the inventory, but this was the only work that Respondent did in
2 the matter.

3 90. On September 14, 2023, Fillbrook asked Respondent to speak with the real estate
4 agent and answer some questions about the contract. Respondent responded on September 18,
5 2023. Respondent agreed to help Fillbrook.

6 91. Fillbrook never heard from Respondent again.

7 Failure to cooperate with ODC's investigation

8 92. On November 24, 2023, Fillbrook filed a grievance with ODC.

9 93. By letter dated December 5, 2023, ODC requested Respondent's response.
10 Respondent did not respond.

11 94. On January 8, 2023, ODC sent a letter to Respondent requesting a response within
12 ten days. Respondent did not respond.

13 95. Respondent has never provided a response to Fillbrook's grievance.

14 96. Respondent acted knowingly in failing to communicate with Fillbrook and in
15 failing to act with diligence in Fillbrook's case.

16 97. Respondent's failure to cooperate with ODC's investigation was negligent.

17 98. Respondent caused injury to Fillbrook, who received minimal benefit from hiring
18 Respondent and the probate matter was delayed.

19 99. Respondent caused injury to ODC by impeding ODC's investigation of this matter.

20 **COUNT 11**

21 100. By failing to comply with Fillbrook's reasonable requests for information, and/or
22 by failing to take action on Fillbrook's probate matter, Respondent violated RPC 1.3 and/or
23 RPC 1.4(a).

1 **COUNT 12**


2 101. By collecting a fee and then failing to perform the agreed upon work, Respondent
3 violated RPC 1.5(a).

4 **COUNT 13**

5 102. By failing to respond to ODC's requests for a response related to Fillbrooks's
6 grievance, Respondent violated RPC 8.4(l) (by violating ELC 1.5, 5.3(f), and/or 5.3(g)).
7

8 THEREFORE, Disciplinary Counsel requests that a hearing be held under the Rules for
9 Enforcement of Lawyer Conduct. Possible dispositions include disciplinary action, probation,
10 restitution, and assessment of the costs and expenses of these proceedings.
11

12 Dated this 19th day of August, 2024.

13 
14 _____
15 Erica Temple, Bar No. 28458
16 Managing Disciplinary Counsel
17
18
19
20
21
22
23