

DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY
HEARING COMMITTEE NUMBER TWELVE



FILED

Jul 12 2023 9:33am

In the Matter of: :
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 JEFFREY B. CLARK, :
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 :
 Respondent. : Board on Professional Responsibility
 : Board Docket No. 22-BD-039
 : Disciplinary Docket No. 2021-D193
 A Member of the Bar of the :
 District of Columbia Court of Appeals :
 (Bar Registration No. 455315) :

ORDER

Respondent Jeffrey B. Clark has Lodged a Motion to Vacate Orders, in which he argues, among other things, that the Hearing Committee lacks jurisdiction because the Clerk of the United States District Court for the District of Columbia has not mailed a certified copy of the District Court’s June 8, 2023 remand order to the Hearing Committee. Respondent relies on 28 U.S.C. § 1447(c), which provides that

(c) A motion to remand the case on the basis of any defect other than lack of subject matter jurisdiction must be made within 30 days after the filing of the notice of removal under section 1446(a). If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded. An order remanding the case may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal. *A certified copy of the order of remand shall be mailed by the clerk to the clerk of the State court. The State court may thereupon proceed with such case.*

(emphasis added). Mr. Clark urges that, notwithstanding the District Court’s June 8, 2023 order remanding this case, proceedings before the Hearing Committee cannot resume unless and until the District Court Clerk mails a certified copy of the June 8 order (and preferably, until the certified copy is received). Motion to Vacate at 5.

Disciplinary Counsel opposes Mr. Clark’s motion on various grounds, and represents that the District Court Clerk has informed Disciplinary Counsel that “the clerk would not mail a certified copy of the order (or place a notation of remand on the docket indicating a certified copy was sent), because there is no state court clerk in this case to receive it.” Response at 5.

In reply, Mr. Clark argues, among other things, that the statement in Disciplinary Counsel’s brief attributed to the District Court Clerk, “is unsworn, the specific Clerk’s office attendant is not identified, and the specifics of the dialogue are not recounted.” Reply at 7. Mr. Clark’s Reply also notes that he has filed a copy of a motion seeking a stay pending appeal, which he has filed in the United States District Court for the District of Columbia.

Upon consideration of the foregoing, and it appearing that Disciplinary Counsel has not offered evidence of its conversation with the Clerk of the United States District Court for the District of Columbia, it is hereby

ORDERED that Mr. Clark’s Lodged Motion to Vacate Orders shall remain under advisement, pending receipt of an affidavit filed by Disciplinary Counsel identifying the Clerk’s Office employee referenced in Disciplinary Counsel’s

response, that employee's authority to speak on behalf of the Clerk's Office, and setting forth the specifics of the dialogue that was summarized in Disciplinary Counsel's motion; and it is further

ORDERED that Respondent's Lodged Motion for Reconsideration and for Postponement of Prehearing Conference is granted in part; and it is further

ORDERED that the pre-hearing conference set for July 12, 2023 is postponed, pending resolution of Respondent's Motion to Vacate.

HEARING COMMITTEE NUMBER TWELVE

By: Merril Hirsh
Merril Hirsh
Chair

cc:

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