

Supreme Court of Kentucky

2017-SC-0659-KB
2021-SC-0322-KB

KENTUCKY BAR ASSOCIATION

MOVANT

V.

IN SUPREME COURT

CHRISTY SMITH GRAYSON

RESPONDENT

OPINION AND ORDER

Christy Smith Grayson (Grayson) was admitted to the practice of law in the Commonwealth of Kentucky on May 1, 2000, and her Kentucky Bar Association (KBA) number is 88262. Her bar roster address is P.O. Box 2186, Inez, Kentucky 41224.

For the purposes of this opinion, this Court has consolidated two separate appeals: 2017-SC-0659 and 2021-SC-0322. In 2017-SC-0659, the KBA's trial commissioner recommends that Grayson be found guilty of fifty-one counts of violating the Supreme Court Rules across twelve disciplinary cases; that she be suspended from the practice of law in Kentucky for five years; that she be ordered to pay restitution to twelve former clients; and that she submit herself for evaluation and treatment of her alleged mental health conditions. In 2021-SC-0322, the KBA's Board of Governors (Board) recommends that Grayson be found guilty of twenty counts of violating the Supreme Court Rules

across six disciplinary cases; that she be permanently disbarred from the practice of law in Kentucky; and that she be assessed \$933.01, the total cost of that disciplinary proceeding. For the reasons stated below, we adopt the Board's recommendation.

I. FACTUAL AND PROCEDURAL BACKGROUND

The records of 2017-SC-0659 and 2021-SC-0322 are extensive and relatively complex. Consequently, we begin by providing a brief procedural history of those cases.

As they presently stand before this Court, the first appeal, 2017-SC-0659, involves twelve disciplinary cases: 17-DIS-0026; 17-DIS-0099; 17-DIS-0112; 17-DIS-0189; 17-DIS-0228; 17-DIS-0244; 17-DIS-0257; 17-DIS-0341; 17-DIS-0371; 17-DIS-0378; 17-DIS-0390; and 17-DIS-0410. The second appeal, 2021-SC-0322, involves six disciplinary cases: 17-DIS-0368; 17-DIS-0440; 17-DIS-0445; 18-DIS-0042; 18-DIS-0124 and 18-DIS-0022.

As will be discussed in more detail below, a litany of disciplinary Charges was filed against Grayson throughout 2017 and into early 2018. Grayson is currently under an indefinite suspension in relation to two of those Charges: 17-DIS-0026 and 17-DIS-0027. In *Kentucky Bar Ass'n v. Grayson*, rendered in September 2017, Grayson was indefinitely suspended under SCR¹ 3.380(2)² for

¹ Supreme Court Rule.

² SCR 3.380(2) ("In cases in which the Respondent has failed to answer a charge filed pursuant to Rule 3.200 . . . the Court may in its discretion, sua sponte or on motion by the Office of Bar Counsel, suspend the Respondent from the practice of law for an indefinite period of time.").

her failure to respond to the Inquiry Commission's Charges in 17-DIS-0026 and 17-DIS-0027.³

Following additional proceedings on remand, on December 12, 2017, the Board entered its Findings of Fact, Conclusions of Law, and Recommendation (Recommendation) concerning 17-DIS-0026; 17-DIS-0027; 17-DIS-0099; and 17-DIS-0112. The Board thereafter filed in this Court requesting disciplinary action against Grayson in accordance with its Recommendation.⁴ However, Grayson requested that the case be remanded so that she could further develop the record with regard to her primary argument for mitigation: her mental health conditions. Grayson claimed, *inter alia*, that she had been prescribed antidepressant medication for the last two years, and had recently sought comprehensive and aggressive mental healthcare assessment, evaluation, and treatment through a number of healthcare providers, including a psychiatrist. This Court agreed with Grayson and remanded the case in June 2018 "to allow filing of answers and development of the record so that the Court [could] determine the appropriate discipline."

Later, on July 18, 2018, the Inquiry Commission consolidated the twelve disciplinary Charges that now constitute 2017-SC-0659: 17-DIS-0026; 17-DIS-0099; 17-DIS-0112; 17-DIS-0189; 17-DIS-0228; 17-DIS-0244; 17-DIS-0257; 17-DIS-0341; 17-DIS-0371; 17-DIS-0378; 17-DIS-0390; and 17-DIS-0410. For the sake of brevity, we will refer to these Charges as "17-DIS-0026, *et al.*"

³ 530 S.W.3d 460, 463 (Ky. 2017).

⁴ We note that the case was designated under Supreme Court case number 2017-SC-0659.

On September 4, 2019, Grayson filed a Motion for Consensual Discipline with this Court. In it, she requested a global resolution of all of the Charges against her, *i.e.*, the twelve Charges under 17-DIS-0026, *et al*, and seven other Charges: 17-DIS-0027; 17-DIS-0368; 17-DIS-0440; 17-DIS-0445; 18-DIS-0042; 18-DIS-0124; and 18-DIS-0022. The KBA and Grayson had negotiated a sanction of a five-year suspension with conditions. The KBA accordingly had no objection to Grayson's motion and requested that Grayson's indefinite suspension be rendered moot upon the imposition of the five-year suspension.

However, in a Confidential Opinion and Order rendered on May 28, 2020, this Court rejected the parties' negotiated sanction.⁵ The rejection was due to a lack of evidence in the record regarding Grayson's mental health conditions and/or treatment. Once again, Grayson's primary argument in mitigation was that she suffered from chronic depression and anxiety, but there was still no evidence in the record to support Grayson's contention other than her own statements regarding diagnosis and treatment. In rejecting the sanction, this Court relied on *Kentucky Bar Association v. Hill's* holding that

[f]or evidence of a lawyer's disability to be accorded a mitigating effect in a KBA disciplinary case, it must be shown that the disability caused the misconduct. The attorney must also show a recovery from the condition demonstrated by meaningful and sustained proof of successful rehabilitation. Moreover, the misconduct must have stopped and recurrence proved to be unlikely. In this vein, consideration should also be given to the attorney's involvement in Alcoholics Anonymous and earnest participation in the Kentucky Lawyer's Assistance Program.⁶

⁵ This motion was also addressed under Supreme Court case number 2017-SC-0659.

⁶ 476 S.W.3d 874, 884 (Ky. 2015) (internal citations and quotation marks omitted).

This Court consequently rejected the parties' request for a negotiated sanction.

We reasoned:

Here, although Grayson did not cite *Hill* when requesting a remand of the disciplinary action before this Court in 2018, Grayson recognized the need to provide mental health mitigation evidence. In particular, she stated that she recognized the need to establish an appropriate connection between the conduct at issue in the Charges and any adverse health condition of hers which existed during that time. However, upon return of this case to the Court through a verified motion for consensual discipline, neither Grayson nor the KBA point to any medical proof in the record to sustain findings consistent with the rule expressed in *Hill*. Indeed, no medical proof in the form of medical records, a physician's report or even a letter is offered. Although it is widely known that depression is a serious mental illness, and lawyers are not immune to its debilitating effects, without sufficient medical evidence to explain the relationship between Grayson's depression and her numerous serious ethical violations, Grayson's depression claim cannot be viewed as mitigating.

The case was then remanded for further proceedings.

On remand, the disciplinary proceedings regarding 17-DIS-0026, *et al*, which had previously been held in abeyance due to the KBA's and Grayson's ongoing settlement discussions, resumed. Grayson's counsel withdrew from her representation in June 2020, and she was given thirty days to retain counsel or announce that she would proceed *pro se*. Thereafter, pre-hearing conferences were held in August, September, October, and November 2020. Grayson never retained counsel. On December 17, 2020, the trial commissioner ordered scheduling for all pre-hearing filings, and scheduled a hearing for March 16, 2021.

During a telephonic pre-hearing conference on February 1, 2021, Grayson told the trial commissioner that she would be retaining counsel that

afternoon. No attorney ever entered an appearance on Grayson's behalf, and Grayson did not participate in the March 16 hearing. The trial commissioner attempted to reach Grayson by cell phone and email, but she did not respond. The hearing consequently proceeded without her, and the trial commissioner subsequently entered her Report. The Report is currently before this Court by default, as neither the KBA nor Grayson filed an appeal.⁷ Review of the trial commissioner's Report is the focus of 2017-SC-0659.

Meanwhile, in the proceedings for the Charges not included in 17-DIS-0026, *et al*, in April 2021 the Inquiry Commission consolidated the six disciplinary Charges that now constitute 2021-SC-0322: 17-DIS-0368; 17-DIS-0440; 17-DIS-0445; 18-DIS-022; 18-DIS-0042; and 18-DIS-0124. Hereafter, we will refer to these consolidated cases as "17-DIS-0368, *et al*."

On May 12, 2021, the KBA filed a Notice of Submission by Default with the Board. The Notice stated that Grayson had been served with the six Charges comprising 17-DIS-0368, *et al*, but had failed to file Answers to any of them. The KBA therefore requested that the Board find that Grayson's failure to file Answers constituted an admission of the facts alleged in each of the six Charges; to find Grayson guilty of the rule violations alleged in each of

⁷ SCR 3.360(4) ("Within 30 days after the filing with the Disciplinary Clerk of ... the [trial commissioner's] report ... either party may file a notice of appeal with the Disciplinary Clerk. If no notice of appeal is timely filed, the entire record shall be forwarded to the [Supreme] Court for entry of a final order pursuant to SCR 3.370(9).").

the Charges; and to recommend appropriate discipline.⁸ The Board entered its Recommendation on August 13, 2021. Neither the KBA nor Grayson filed an appeal from the Board’s Recommendation, and it is accordingly before this Court by default as 2021-SC-0322.⁹

With that said, we will now address the trial commissioner’s Report before us under 2017-SC-0659, and the Board’s Recommendation before us under 2021-SC-0322, respectively.

A. 2017-SC-0659

To begin, with regard to Grayson’s Answers to the Charges alleged in 17-DIS-0026, *et al*, the trial commissioner’s report discusses that

[t]he Answers to all the charges refer to [Grayson’s] health condition as a defense and/or mitigation. The Answers state that [Grayson] has been under the care of physicians for depression and anxiety following traumatic events in her life. Additionally, the allegations state that [Grayson] has not been fully evaluated but was going to seek a comprehensive mental healthcare assessment. No evidence has been provided to supplement this information including no testimony from the respondent.

The trial commissioner then made the following findings of fact regarding Grayson’s misconduct and resulting violations of the Supreme Court Rules.

1. 17-DIS-0026 – The Williamson Charge

In April 2016, Ashley and Brandon Williamson (the Williamsons) retained Grayson to assist them with the private adoption of a then-unborn child; they

⁸ SCR 3.210(1) (“If no answer is filed after a Respondent is notified, the Inquiry Commission shall order the record, together with such investigative evidence as may have been obtained, to be submitted to the Board.”).

⁹ SCR 3.370(8) (“If no notice of review is filed by either party, the Court may notify Bar Counsel and Respondent that it will review the decision.”).

paid her \$1,500 for her services. Grayson agreed to refund the fee if the birth mother revoked her consent to the adoption. On the day the child was born, the birth mother signed an Entry of Appearance for the contemplated legal proceeding and an Agreed Order giving the Williamsons sole custody of the child. The next day, the birth mother's attorney contacted Grayson and informed her that the mother wanted to revoke her consent to the adoption. The following day, without consulting the Williamsons, Grayson filed a Petition for Sole Custody and the Entry of Appearance previously signed by the mother.

About a week later, Mrs. Williamson contacted Grayson regarding a refund, citing the revocation of the birth mother's consent. Grayson refused to refund the money and told Mrs. Williamson the case was not over. Mrs. Williamson testified that Grayson never consulted with her about whether to continue pursuing the adoption. Over the next several months, Mrs. Williamson made numerous unsuccessful attempts to contact Grayson regarding hearing notices and other court orders. The Williamsons filed a Bar Complaint on January 17, 2017, to which Grayson did not respond.

The trial commissioner found that Grayson violated SCR 3.130(1.3) by failing to act with reasonable diligence; SCR 3.130(1.4)(a)(3) and (4) by failing to promptly inform Mrs. Williamson about the status of the case and by failing to promptly respond to her inquiries about the case;¹⁰ SCR 3.130(1.16)(d) by not returning the fee she was paid once Mrs. Williamson requested it after learning

¹⁰ Grayson admitted to violating these rules in her Response to the Inquiry Commission's Charge.

about the birth mother's withdrawal of her consent; and SCR 3.130(8.1)(b) by failing to respond to Mrs. Williamson's Bar Complaint.

2. 17-DIS-0099 – The Fraley Charge

In January 2017, Samantha Fraley (Fraley) retained Grayson to begin custody proceedings regarding her seven-year-old daughter. Fraley paid Grayson a \$100 retainer fee and a \$176 filing fee. In their first meeting, Grayson had Fraley sign a Petition for Custody that she had prepared, but Grayson never filed the Petition. A little over two weeks after Fraley retained Grayson, the child's father filed a Petition for Custody. Fraley contacted Grayson about the case, but felt that Grayson was "brushing it off" and "dragging her feet." Therefore, Fraley fired Grayson and requested a copy of her client file from Grayson. Grayson told Fraley that she did not have a file regarding her case, and did not refund the retainer fee or filing fee. Fraley filed a Bar Complaint against Grayson on March 30, 2017; Grayson did not respond.

The trial commissioner found that Grayson violated SCR 3.130(1.3) by failing to act with reasonable diligence and promptness; SCR 3.130(1.4)(a)(4) by failing to promptly comply with Fraley's reasonable requests for information; SCR 3.130(1.16)(d) by failing to return the unearned attorney fee and unpaid filing fees after the representation ended; and SCR 3.130(8.1)(b) by failing to respond to Fraley's Bar Complaint.

3. 17-DIS-0112 – The Alexander Charge

In August of 2016, Sandra Alexander (Alexander) retained Grayson to represent her in ancillary probate proceedings in Kentucky. Alexander was the executrix of her mother's estate in West Virginia, which included real property located in Kentucky. Alexander lived in West Virginia. Alexander paid Grayson \$350 in attorney fees and, by separate check, \$61.50 in recording fees. Grayson deposited the \$350 check, but never deposited the \$61.50 check. Sometime after retaining Grayson, Alexander was unable to reach her by phone. So Alexander had her sister, who also lived in West Virginia, to drive to Grayson's office for an update. When Alexander's sister arrived at Grayson's office, Grayson told her she could not discuss the case with her. Eventually, Alexander sent Grayson a termination letter and requested a refund. The termination letter was returned after Grayson did not pick it up from the post office. Alexander filed a Bar Complaint on March 31, 2017, but Grayson did not respond.

The trial commissioner found that Grayson violated SCR 3.130(1.3) by failing to file the ancillary probate petition and failing to perform any work after she was retained; SCR 3.130(1.4)(a)(4) by not returning Alexander's phone calls or responding to her requests for information;¹¹ and SCR 3.130(8.1)(b) by failing to respond to Alexander's Bar Complaint.

¹¹ Grayson acknowledged she violated this rule in her Response to the Inquiry Commission's Charge.

4. 17-DIS-0189 – The Smith Charge

On August 2, 2016, Linda Smith (Smith) hired Grayson to help her seek custody of her grandson and paid her \$1,500. Over the next several months, Grayson made representations to Smith that she was talking to a judge and that the custody matter was moving forward. In reality, Grayson never filed a custody petition for Smith. Grayson went so far as to have Smith prepare for a home visit from CPS¹² that was never ordered, and had Smith sit through half a day of court proceedings. Smith never received a refund, an accounting of the time that Grayson claimed to have worked on the case, or a copy of her client file. Smith filed a Bar Complaint on May 30, 2017, but Grayson did not respond.

The trial commissioner found that Grayson violated SCR 3.130(1.3) by failing to file or pursue Smith's custody action; SCR 3.130(1.16)(d) by failing to perform work on the case and failing to return the unearned advance fee of \$1,500; SCR 3.130(8.1)(b) by failing to respond to Smith's Bar Complaint; and SCR 3.130(8.4)(c) by making multiple false representations to Smith about the custody matter.

5. 17-DIS-0228 – The Spence Charge

In November of 2015, Tracy Spence (Spence) hired Grayson to represent him in an uncontested divorce proceeding and paid her \$600 for her services. Grayson prepared several documents and had Spence and his wife sign them, but she did not file the Petition for Dissolution of Marriage. Spence ultimately

¹² Child Protective Services.

hired another attorney to file his Petition. Grayson never refunded Spence's \$600. Spence filed a Bar Complaint on June 22, 2017, but Grayson did not respond.

The trial commissioner found that Grayson violated SCR 3.130(1.3) by failing to file Spence's Petition; SCR 3.130(1.16)(d) by failing to inform Spence that she could no longer represent him before abandoning the case and failing to return the unearned advance fee of \$600; and SCR 3.130(8.1)(b) by failing to respond to Spence's Bar Complaint.

6. 17-DIS-0244 - The Siddell Charge

In November 2016 Lisa Siddell (Siddell) hired Grayson for an uncontested divorce and paid her \$600. Grayson prepared the Petition for Dissolution, Entry of Appearance, and a Settlement Agreement. Siddell and her husband signed the documents, and Grayson filed them on December 27, 2016. But Grayson failed to file a motion to submit the matter for decree of dissolution as required by a local family court rule.

By February 2017, Grayson had not provided Siddell with any updates regarding the case. Siddell therefore contacted Grayson; she told Siddell that the divorce was final and that she only needed to file it with clerk's office. After that conversation, Siddell attempted to contact Grayson several times but was unsuccessful. When Siddell later called the clerk's office to obtain a copy of her divorce decree, she was informed that nothing had ever been filed. The clerk then contacted Grayson on Siddell's behalf, and thereafter Grayson called Siddell. During that conversation Grayson assured Siddell that the Divorce

Decree had been signed by a judge and that it would be finalized within the week. Grayson also scheduled an appointment for her to come pick up the documents. When Siddell arrived for that appointment, Grayson's office door was locked, and she would not answer the phone. Siddell never heard from Grayson again. Grayson did not give Siddell her client file, did not provide an accounting of her time working on the matter, and did not give her a refund. Siddell filed a Bar Complaint on July 7, 2017, but Grayson did not respond.

The trial commissioner found that Grayson violated SCR 3.130(1.4)(a)(4) for failing to return calls and respond to requests for information concerning the status of the case; SCR 3.130(1.16)(d) by not completing the representation, failing to take action to protect Siddell's interests, and failing to return the unearned portion of her fee; SCR 3.130(3.2) by failing to take reasonable efforts to expedite litigation, specifically by failing to submit the matter for a decree so that the matter could be finalized; SCR 3.130(8.1)(b) by failing to respond to Siddell's Bar Complaint; and SCR 3.130(8.4)(c) by making misrepresentations to Siddell regarding the status of her case.

7. 17-DIS-0257 – The Fletcher Charge

In February 2017, Carol Sue Fletcher (Fletcher) hired Grayson for an uncontested divorce and paid her \$600. Fletcher and her husband signed the relevant documents. They believed, based on Grayson's assertions, that Grayson had filed them. Fletcher never received her decree. She therefore called Grayson's office numerous times and was given "excuse after excuse." Eventually, Grayson told Fletcher that she had the documents. When Fletcher

went to Grayson's office to get them the next day, Grayson met her at the office door but would not let Fletcher enter. She told Fletcher to come back in thirty minutes to an hour. When Fletcher returned, Grayson's vehicle was still there, but the office was locked, the shades were pulled, and Grayson would not answer the door. Fletcher attempted to contact Grayson numerous times after that day, but never spoke to her again. Fletcher never received a copy of her client file nor did she receive a refund. Fletcher filed a Bar Complaint on July 13, 2017, but Grayson did not respond.

The trial commissioner found that Grayson violated SCR 3.130(1.3) by failing to file Fletcher's divorce petition; SCR 3.130(1.4)(a) by not informing Fletcher that she did not file her petition and by not responding to Fletcher's inquiries about the status of her case; SCR 3.130(8.1)(b) by not responding to Fletcher's Bar Complaint; and SCR 3.130(8.4)(c) due to her misrepresentations and dishonesty.

8. 17-DIS-0341 - The Hall Charge

On August 3, 2017, Shonda Hall (Hall) hired Grayson to represent her in a post-divorce custody matter. Hall's former husband had filed a motion to modify custody, and the hearing on that motion was set for August 25, 2017. Hall paid Grayson \$500 on August 3. Grayson agreed to the representation but did not tell Hall she would be unable to attend the August 25 hearing. After their initial meeting, Hall attempted to contact Grayson several times to discuss her case but was unsuccessful. Hall attempted to contact Grayson on August 24 to confirm that Grayson would appear at the hearing the next day,

but she did not receive a response. Hall then terminated the representation and requested a refund. Hall never received a refund and later discovered through the clerk's office that Grayson was not listed as her attorney of record in the custody matter. Hall filed a Bar Complaint on September 14, 2017, to which Grayson filed a response through counsel.

The trial commissioner found that Grayson violated SCR 3.130(1.3) for failing to take action to represent Hall; SCR 3.130(1.4)(a)(2) by failing to inform Hall that she was not available on the scheduled hearing date, did not enter an appearance in the case, and was relying on Hall to inform her of the status of the case; SCR 3.130(1.4)(a)(4) when she failed to respond to Hall's requests to meet with her and discuss the custody matter; and SCR 3.130(1.16)(d) by failing to return the unearned portion of her fee following termination of the representation.

9. 17-DIS-0371 - The Dials Charge

On March 14, 2017, Jaclyn Dials (Jaclyn) hired Grayson to assist her in regaining custody of her daughter and paid her \$686. Jaclyn's aunt, Barbara Dials (Barbara), had custody of her daughter at that time. Barbara agreed with the proposed custody modification. Jaclyn lived in Ohio, but Barbara lived in Martin County, Kentucky, and knew Grayson and her family very well. Barbara was never Grayson's client, but she would try to facilitate contact between Grayson and Jaclyn and would attempt to visit Grayson's office to get status updates.

During their initial phone conversation, Grayson told Jaclyn that the custody modification would be completed by May, and that Jaclyn would not need to travel to Kentucky. But after that conversation, Jaclyn heard nothing from Grayson and unsuccessfully attempted to contact her several times. When Jaclyn was finally able to speak to Grayson on April 14, 2017, Grayson told her that she was waiting for the results of Jaclyn's background check before the case could move forward. Grayson further told her it would take six to eight weeks to complete the custody modification. Grayson did not communicate with Jaclyn after that April 14 call.

In June 2017, Barbara was able to contact Grayson through her personal phone number. Grayson told Barbara that Jaclyn's background check had been returned and "looked great." Grayson also told Barbara that the family court judge, the Commonwealth, and the state of Ohio all agreed Jaclyn should have custody of the child. Grayson sent Barbara documents for Jaclyn to sign and told her that the family court judge would sign an order on July 19. On July 18, Grayson called Barbara and told her the judge was busy and did not have time to hear the case but would still sign the order. Grayson did not communicate with Barbara again after July 18. Barbara and Jaclyn later learned that Grayson never filed a Petition for Modification of Custody. Jaclyn never received a refund or a copy of her client file.

The trial commissioner found that Grayson violated SCR 3.130(1.3) by failing to provide substantive representation to Jaclyn; SCR 3.130(1.4)(a)(2) by failing to consult with Jaclyn; SCR 3.130(1.4)(a)(3) by failing to respond to

Jaclyn's attempts to contact her and by failing to provide Jaclyn with status updates; SCR 3.130(1.16)(d) by failing to complete the representation, failing to notify Jaclyn of her inability or unwillingness to proceed, and failing to give Jaclyn a refund of the unearned portion of her fee; and SCR 3.130(8.4)(c) by misrepresenting the status of the case to Jaclyn and Barbara.

10. 17-DIS-0378 – The Chapman Charge

In 2016, Patricia and William Chapman (the Chapmans) hired Grayson to assist them with the adoption of their two grandchildren. Grayson had previously represented the Chapmans in 2013 when they obtained custody of their grandchildren. The Chapmans paid Grayson a \$1,500 fee for the adoption representation and provided her with paperwork related to the anticipated adoption and previous custody proceedings. Grayson prepared a document for the children's biological mother to sign. Mrs. Chapman had the children's mother sign the document. According to Mrs. Chapman's testimony, the document was an agreement that the biological mother was signing over her parental rights to the Chapmans.

The Chapmans received some updates from Grayson. First, Grayson told them that the paperwork had been sent to Frankfort. Later, she told them that the paperwork had been returned, everything was on track, and that she would contact them when a court date was scheduled. Grayson also told them that the court had determined that a home visit was not necessary. Subsequently, the Chapmans stopped receiving updates from Grayson. In the summer of 2017, they attempted to contact Grayson by phone and went to her office

several times. Each time they went to her office the doors were locked, and, though they could see Grayson inside the office, she would not come to the door to let them in.

In July 2017 Grayson told the Chapmans that a court date was scheduled for August 2. But, as the Chapmans were driving to the courthouse on the morning of August 2, Grayson called them and told them that the judge had an emergency and had to leave. Grayson indicated that she would attempt to reschedule the hearing for August 16. The Chapmans never heard from her again notwithstanding their attempts to contact her at her office and the courthouse. Grayson did not refund their money or return the documents they had provided her at the beginning of the representation. The Chapmans filed a Bar Complaint on October 17, 2017, and Grayson responded through counsel in December 2017.

The trial commissioner found that Grayson violated SCR 3.130(1.3) by failing to file for the adoption; SCR 3.130(1.4)(a)(3) by failing to inform her clients about the status of the matter; SCR 3.130(1.16)(d) when she discontinued the representation with no notice to her clients, did not refund their fee, and failed to return their papers to them; and SCR 3.130(8.4)(c) by making numerous misrepresentations to the Chapmans about the status of the adoption.

11. 17-DIS-0390 – The Maynard Charge

In April 2017, Justin Maynard (Maynard) hired Grayson to represent him in an uncontested divorce. Maynard paid Grayson \$750. Initially, Maynard

and his wife agreed to the terms of the divorce, including custody of their child. Grayson prepared documents reflecting the parties' agreement which were signed by Maynard and his wife. Grayson told them the divorce would be final after 60 days. After waiting for some time but not receiving an update, Maynard called Grayson. Grayson told him there had been a "mix up in Frankfort" and that the divorce had not been filed. By that time, notwithstanding their prior agreement regarding custody, Maynard's wife had moved to Ohio with their child. Maynard was unable to reach Grayson by phone, but he sent her a message via Facebook messenger asking if his case was on the docket for the next day. Grayson responded, "Not tomorrow. It's October 4." When Maynard went to the clerk's office to verify this date, he discovered that his divorce had never been filed. Grayson never returned any portion of the advance fee payment after Maynard terminated her. She did not provide him with a copy of his client file or the documents that he and his wife had signed. Maynard filed a Bar Complaint on October 23, 2017, which Grayson responded to through counsel in December 2017.

The trial commissioner found that Grayson violated SCR 3.130(1.3) by failing to perform the work for which she was paid and for failing to advise Maynard on how to proceed when the divorce became contested; SCR 3.130(1.4)(a)(2) by failing to inform Maynard that he and his wife needed to sign additional documents before the divorce could proceed; SCR 3.130(1.4)(a)(3) by failing to explain the status of the matter to Maynard; SCR 3.130(1.16)(d) by failing to return the unearned portion of her advance fee; and

SCR 3.130(8.4)(c) by falsely informing Maynard that the divorce had been filed and that a court appearance had been scheduled.

12. 17-DIS-0410 – The Davis Charge

Thelma Davis (Thelma) and her brother Don Davis (Don) were co-executors of their father's estate. In February 2016, their former stepmother filed a civil complaint that sought to enforce a judgment lien and alleged that Don and Thelma acted inappropriately as co-executors. Don and Thelma were initially represented by the same attorney, but that attorney had to withdraw due to a conflict. Don hired attorney Gordon Long (Long) to represent him, but Long was not hired to represent Thelma. Thelma hired Grayson to represent her on April 26, 2017. Don paid Grayson \$7,500 on Thelma's behalf for the representation. Shortly after Grayson was hired, Long sent her information through email concerning the case. Grayson also met with Thelma, Don, and Long to discuss the case. The meeting was the only time Grayson met with Thelma or spoke with her about the case. Thelma attempted to communicate with Grayson several times throughout the representation but did not receive any response.

When Grayson was hired, a trial was already scheduled for June 12, 2017. The plaintiff filed an amended complaint in April 2017; Grayson did not file a response on Thelma's behalf. Grayson also failed to inform Thelma about an order for continuance of trial that was entered in the case, failed to file an entry of appearance in the case, and failed to file any pleadings on Thelma's behalf. The representation ended when Thelma received a letter from Grayson

informing her about her suspension from the practice of law, effective October 9, 2017. Thelma requested a copy of her client file, but only received documents that Long emailed to Grayson to prepare for the case.

Thelma filed a Clients' Security Fund claim application on November 14, 2017. The claim was processed, and a Bar Complaint and disciplinary file was opened. Grayson filed a response through counsel on February 14, 2018.

The trial commissioner found that Grayson violated SCR 3.130(1.3) by failing to provide representation to Thelma; SCR 3.130(1.4)(a)(2) by failing to consult with Thelma regarding Grayson's role in the litigation; SCR 3.130(1.4)(a)(3) by failing to inform Thelma of motions to continue and orders concerning the trial date; SCR 3.130(1.4)(a)(4) by failing to respond to Thelma's requests for information concerning the litigation; and SCR 3.130(1.16)(d) by failing to return the unearned portion of the advance fee payment.

Based on the foregoing findings, the trial commissioner recommended the following sanctions:

1. That [Grayson] be suspended from the practice of law in the Commonwealth of Kentucky for Five (5) years. The KBA has requested this sanction so that the clients of [Grayson] may obtain restitution and the Trial Commissioner agrees that is appropriate.

The violations that have been proven are numerous, aggravating factors include the financial detriment she caused her clients and [for] some of the clients it negatively impacted their legal position. Mitigating factors would be the psychological status including anxiety and depression of [Grayson]. Although [Grayson] did not testify to the same, it is clear from her answers to the charges [that Grayson] has some issues that have not been resolved. [Grayson] is currently indefinitely suspended from the practice of law and is not currently practicing.

The trial commissioner further recommended that Grayson be required to pay restitution to all twelve of her former clients, and “that she submit herself for complete evaluation and treatment for the conditions she alleges she suffers from[.]”

B. 2021-SC-0322

As previously discussed, Grayson did not file Answers to any of the Charges alleged in 17-DIS-0368, *et al.* The Board made the following findings of fact regarding Grayson’s misconduct and resulting violations of the Supreme Court Rules.

1. 17-DIS-0368 – The Fletcher Charge

In 2014, Naomi Fletcher (Fletcher) hired Grayson to assist her in obtaining custody of and adopting her grandson. In May 2014, Grayson had the child’s parents sign an Agreed Order which recognized Fletcher and her husband as the child’s *de facto* custodians and granted them full custody. Grayson gave Fletcher a copy of the Order.

Later, Fletcher attempted to take the child to the dentist. The dentist wanted proof of custody and refused to accept the Agreed Order because it was not signed by a judge. Fletcher contacted Grayson who told her that the judge did not like her (Grayson) and was delaying signing documents in her cases. A few weeks later, Grayson gave Fletcher a copy of an Agreed Order that was purportedly signed by Judge Janie McKenzie-Wells.

Two years later, Fletcher went to the clerk’s office to ask about the status of the proceedings. The clerk checked the case number and informed Fletcher

that the number did not correspond with a family court case, nor was Fletcher a party to the case attached to that number. The clerk also told her that the signature on the Agreed Order was not Judge McKenzie-Wells' signature. The clerk's office had no record of adoption or custody proceedings filed on Fletcher's behalf.

The Board found by unanimous vote that Grayson violated SCR 3.130(1.3): "A lawyer shall act with reasonable diligence and promptness in representing a client[,]" and SCR 3.130(8.4)(c): "It is professional misconduct for a lawyer to . . . engage in conduct involving dishonesty, fraud, deceit, or misrepresentation."

2. 17-DIS-0440 – The Stacy Charge

In June 2015 Abraham Stacy (Stacy) hired Grayson to file a civil suit against his former accountant and the H&R Block franchise where the accountant was employed. The accountant had embezzled a substantial amount of money from Stacy's business. On June 11, 2015, Grayson filed the lawsuit on Stacy's behalf. On May 11, the circuit court entered a partial summary judgment in favor of the H&R Block franchise. On June 9, Grayson filed a motion for summary judgment against the accountant, which was granted on July 13. Grayson did not inform Stacy about either of the summary judgment orders, and instead told her that the case was sent to the Court of Appeals. Thereafter, Stacy was unable to contact Grayson: she would not return his phone calls and refused him entry into her office when he tried to meet with her.

The Board found by unanimous vote that Grayson violated SCR 3.130(1.4)(a)(3): “A lawyer shall . . . keep the client reasonably informed about the status of the matter[,]” SCR 3.130(1.4)(a)(4): “A lawyer shall . . . promptly comply with reasonable requests for information[,]” and SCR 3.130(8.4)(c): “It is professional misconduct for a lawyer to . . . engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.”

3. 17-DIS-0445 – The Chapman Charge

Grayson filed a medical malpractice lawsuit on Clyde Chapman’s (Chapman) behalf in January 2013. The case was dismissed on statute of limitations grounds in October of that year. Grayson successfully appealed the dismissal to the Court of Appeals. On remand, discovery began as the parties prepared for trial.

Grayson had difficulty locating her expert witness, Dr. Plotkin, after the case was remanded. On December 15, 2016, the defendants filed a Notice of Deposition for Dr. Plotkin to take place on January 16, 2017, in New Jersey. Grayson told Chapman that she did not have the time or money to travel to the deposition and would therefore try to participate by phone. Chapman gave Grayson \$4,000 in cash to cover her travel expenses. On the day before the deposition, Grayson sent an email to opposing counsel stating that Chapman had fired her, and that he had agreed to reimburse their plane tickets. When the defendants’ counsel received this notification, they immediately filed motions to recover their fees and expenses. They also filed motions asking the court to strike Dr. Plotkin as a witness and to dismiss the case. Grayson did

not respond to any of the defendants' motions as she claimed she had been fired and therefore lacked the authority to respond. She filed a motion to withdraw on January 26.

Four days later, the circuit court entered an order finding Grayson would remain Chapman's counsel of record until the court allowed her to withdraw, which had not yet happened. It also found that Grayson's last-minute cancellation of Dr. Plotkin's deposition was unjustified, and ordered that Grayson reimburse opposing counsel for their travel expenses: \$5,538.92 and \$1,698.89, respectively. Chapman was not informed that Grayson failed to attend the deposition until the hearing to consider Grayson's motion to withdraw.

The Board found by unanimous vote that Grayson violated SCR 3.130(1.4)(a)(2): "A lawyer shall . . . reasonable consult with the client about the means by which the client's objectives are to be accomplished[,]" SCR

3.130(1.16)(d):

Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law[,]

and SCR 3.130(8.4)(c): "It is professional misconduct for a lawyer to . . . engage in conduct involving dishonesty, fraud, deceit, or misrepresentation."

4. 17-DIS-0042 – The KBA’s Investigative File regarding the criminal charges related to 17-DIS-0368 and 17-DIS-0027¹³

On September 12, 2018, Grayson entered a guilty plea to second-degree criminal possession of a forged instrument, a Class D felony.¹⁴ The charge stemmed from an “Agreed Custody Judgment” which contained the forged signature of Martin Family Court Judge Janie McKenzie-Wells. Grayson was sentenced to one year in prison and probated for two years. She was also required to pay restitution to two former clients and send apology letters to them. Grayson was served with the Inquiry Commission’s Charge on January 13, 2021. Grayson did not respond to the Charge.

The Board found by a unanimous vote that Grayson violated SCR 3.130(8.1)(b): “A lawyer in connection with a disciplinary matter, shall not . . . knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority[.]” and SCR (8.4)(b): “It is professional misconduct for a lawyer to . . . commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects[.]”

¹³ Disciplinary Charge 17-DIS-0027 was an active Charge against Grayson when she filed her Motion for Consensual Discipline with this Court in September 2019. But, for reasons not discernable from the record, it appears it is no longer being pursued by the KBA. It was therefore not directly addressed in either the trial commissioner’s Report or the Board’s Recommendation.

Solely for context, we note that the misconduct alleged in 17-DIS-0027 was substantially similar to that discussed in 17-DIS-0368 (the Fletcher Charge). Namely, Grayson provided the client with a document bearing an inaccurate case number and Judge Janie McKenzie-Wells’ forged signature.

¹⁴ Pike Circuit Court, Case No. 18-CR-00213.

5. 18-DIS-0124 – The Robinson Charge

In May of 2016, Blanch Robinson (Robinson) hired Grayson to assist her in obtaining custody of, and thereafter adopting, her grandchild. Robinson paid Grayson \$826 for the representation. The child's father was incarcerated, and the child's mother did not object to the custody request. Grayson told Robinson that she filed an agreed custody order. After that, Robinson had difficulty getting updates from Grayson about the case. At some point, Grayson told her that the matter was pending and that she was speaking with the judge. There was no evidence that Grayson ever filed a petition for custody on Robinson's behalf.

The Board found by unanimous vote that Grayson violated SCR 3.130(1.3): "A lawyer shall act with reasonable diligence and promptness in representing a client[,]" SCR 3.130(1.4)(a)(2): "A lawyer shall . . . reasonably consult with the client about the means by which the client's objectives are to be accomplished[,]" SCR 3.130(1.4)(a)(3): "A lawyer shall . . . keep the client reasonably informed about the status of the matter[,]" SCR 3.130(1.4)(a)(4): "A lawyer shall . . . promptly comply with reasonable requests for information[,]" and SCR 3.130(8.4)(c): "It is professional misconduct for a lawyer to . . . engage in conduct involving dishonesty, fraud, deceit, or misrepresentation."

6. 18-DIS-0022 – The Slone Charge

In April of 2015, Lowanda and Chalice Slone (the Slones) hired Grayson to represent them in a medical malpractice suit. Grayson had the Slones sign several releases and told them that she would take care of their hospital bills.

She also told them that she would file the lawsuit within a month. She later told them that the suit had been filed. Mrs. Slone called and texted Grayson requesting updates, but Grayson did not respond. In March 2017, Grayson told the Slones that she was anticipating a settlement offer from the opposing party.

In May 2017, after the statute of limitations on the Slones' claim had expired, they learned that Grayson had not filed a lawsuit on their behalf and that their hospital bills had been turned over to a collection agency. Afterwards, Mrs. Slone attempted to contact Grayson through text message, but Grayson blocked her phone number. Mrs. Slone then hired new counsel, and sent a letter to Grayson requesting her client file. Grayson told Mrs. Slone that she would have to make an appointment and pay for Grayson's services before she would release her client file. Mrs. Slone made an appointment to do so, but on the day of the appointment Grayson canceled and claimed that she had court in Johnson County that day. Mrs. Slone called the Johnson Circuit Court Clerk's Office and was advised that there were no court proceedings that day. Grayson was served with the Inquiry Commission's Charge on February 23, 2021, but she did not file an Answer.

The Board found by unanimous vote that Grayson violated SCR 3.130(1.3): "A lawyer shall act with reasonable diligence and promptness in representing a client[,]" SCR 3.130(1.4)(a)(4): "A lawyer shall . . . promptly comply with reasonable requests for information[,]" SCR 3.130(1.16)(d):

Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests,

such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law[.]

SCR 3.130(8.1)(b): “A lawyer in connection with a disciplinary matter, shall not . . . knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority[.]” and SCR 3.130(8.4)(c): “It is professional misconduct for a lawyer to . . . engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.”

Based on the foregoing findings, the Board recommended that Grayson be permanently disbarred from the practice of law and pay the costs incurred by the proceedings (\$933.01).

II. ANALYSIS

To reiterate, for the Charges alleged in 17-DIS-0026, *et al*, the trial commissioner recommended a five-year suspension, payment of restitution to each client, and that Grayson submit herself to full evaluation and treatment for her mental health conditions. And, for the Charges alleged in 17-DIS-0368, *et al*, the Board recommended permanent disbarment and payment of the costs incurred for the proceedings.

Grayson stopped participating in both disciplinary proceedings and accordingly has not disputed the facts as set forth in Sections I(A) and (B) of this Opinion and Order. We therefore adopt the factual findings of both the trial commissioner and the Board and hold that Grayson is guilty of violating the following: twelve counts of SCR 3.130(1.16); fourteen counts of SCR

3.130(1.3); twenty-three counts of SCR 3.130(1.4); one count of SCR 3.130(3.2); nine counts of SCR 3.130(8.1); and twelve counts of SCR 3.130(8.4).

In addition, while we fully appreciate the trial commissioner's desire to compel Grayson to pay restitution to her former clients, a sanction that is unavailable upon disbarment,¹⁵ we reject the trial commissioner's recommendation. Instead, we agree with the Board that permanent disbarment is appropriate.

A. Prior Discipline

Grayson was indefinitely suspended pursuant to SCR 3.380(2) by an Opinion and Order dated September 28, 2017. She was also issued a private reprimand with conditions on May 21, 2018, for violating SCR 3.130(1.4)(a)(2); SCR 3.130(1.4)(a)(4); and SCR 3.130(1.16)(d).

B. Mitigating and Aggravating Circumstances

Due to her non-participation, Grayson offers no argument in mitigation to this Court. Both the trial commissioner's Report and the Board's Recommendation note that Grayson again pointed to her struggles with her mental health as mitigating. In the last four years this Court has twice remanded disciplinary cases against Grayson for the explicit purpose of allowing her to present evidence of her mental health conditions and how those conditions caused her misconduct. However, she has yet to produce a single

¹⁵ *Kentucky Bar Ass'n v. Chesley*, 393 S.W.3d 584, 602 (Ky. 2013) (“[O]ur Supreme Court Rules do not allow for us to order restitution when a disciplinary action leads to a permanent disbarment.”).

piece of evidence to that effect. We consequently cannot consider her struggles with mental health as mitigating.¹⁶ However, we do consider her relative lack of prior discipline to be mitigating.

In contrast, a number of aggravating circumstances are present in this case. First, there was a pattern of misconduct that resulted in a total of eighteen disciplinary Charges. This pattern included, almost invariably: accepting fees from a client, performing little to no work on the case, blatantly lying to the client about the status of the case, and then refusing to refund the client's fee or release the client's file. And, each Charge resulted in numerous violations of the rules of professional conduct. Grayson was also convicted of a criminal charge that reflected her dishonesty and unfitness to practice law. She pled guilty to second-degree criminal possession of a forged instrument, a Class D felony. That conviction stemmed from her forging a judge's signature on a Custody Order, which she then gave to a client. Grayson also engaged in bad faith obstruction in the disciplinary proceedings by failing to respond to six Inquiry Commission Charges and by failing to attend the March 16 hearing before the trial commissioner. Finally, we consider the vulnerability of the victims and the financial and legal hardships they endured due to Grayson's misconduct as aggravating circumstances.

Standing alone, any of the foregoing aggravating circumstances could arguably warrant a five-year suspension. However, when considering them together, this Court can justify nothing less than permanent disbarment.

¹⁶ See *Hill*, 476 S.W.3d at 884.

For example, in *Kentucky Bar Ass'n v. Taylor*, Phillip Taylor (Taylor) was permanently disbarred as a result of six disciplinary Charges that alleged conduct very similar to Grayson's: not performing work on cases, not keeping clients informed about their cases, failing to refund unearned fees, and failing to participate in the disciplinary process.¹⁷ His only prior discipline included two private admonitions.¹⁸ Here, Grayson's misconduct resulted in eighteen disciplinary Charges, she stopped participating in the disciplinary process, and has a prior private admonition and an indefinite suspension.

Additionally, in *Broadway v. Kentucky Bar Ass'n*, John Broadway (Broadway) was permanently disbarred after he pled guilty to one count of second-degree forgery.¹⁹ Like Grayson, Broadway forged a judge's signature on a custody order that he had prepared for one of his clients.²⁰ Broadway had previously been sanctioned with a ninety day suspension and an indefinite suspension.²¹ However it should be noted that, unlike Grayson, Broadway requested permanent disbarment.²²

Here, Grayson's conduct demonstrated her blatant disregard for her clients, the rules of professional ethics, and the Court of Justice. She was given two opportunities to provide an explanation for her conduct in the form of

¹⁷ 997 S.W.2d 464, 464-67 (Ky. 1999).

¹⁸ *Id.* at 466.

¹⁹ 8 S.W.3d 572 (Ky. 2000).

²⁰ *Id.* at 573.

²¹ *Id.* (citing *Kentucky Bar Ass'n v. Broadway*, 988 S.W.2d 33 (Ky. 1999)).

²² *Id.* at 572.

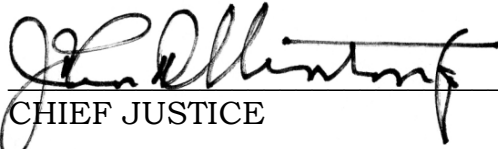
evidence of her mental health conditions, but she did not. And, she stopped participating in the disciplinary process altogether. We therefore believe her conduct is unlikely to be remedied by ordering a five-year suspension, and that disbarment is appropriate in order to protect the public and the administration of justice.

III. ORDER

It is hereby ORDERED that:

1. Christy Smith Grayson is adjudged guilty of violating twelve counts of SCR 3.130(1.16); fourteen counts of SCR 3.130(1.3); twenty-three counts of SCR 3.130(1.4); one count of SCR 3.130(3.2); nine counts of SCR 3.130(8.1); and twelve counts of SCR 3.130(8.4) as charged in 17-DIS-0026, *et al*, and 17-DIS-0368, *et al*;
2. Grayson is permanently disbarred from the practice of law. The period of disbarment shall commence on the date of entry of this Opinion and Order;
3. In accordance with SCR 3.450, Grayson shall pay all costs associated with these proceedings, said sum being \$933.01, for which execution may issue from this Court upon finality of this Opinion and Order.

All sitting. All concur.


CHIEF JUSTICE