

IN THE SUPREME COURT OF THE UNITED STATES

TIMOTHY L. ASHFORD,

CASE NO. 20-757

Petitioner,

MOTION TO
TAKE
JUDICIAL
NOTICE

vs.

Submitted by:
Timothy L. Ashford
P.O. Box 386
Omaha, Nebraska 68112
Attorney for Petitioner

OFFICE FOR COUNSEL FOR DISCIPLINE,

Respondent.

COMES NOW the Petitioner, Timothy L. Ashford, having filed for Petition for Rehearing before this Court in case number 20-757 and pursuant to Rule 21 and the Federal Rule of Evidence 201 requests the Court take judicial notice (appropriate at any stage of a proceeding including on appeal) of the documents which follow. The court may judicially notice a fact that is not subject to reasonable dispute. The purpose of this motion is to file court documents and publications which are relevant to the issue of the court.

This court is scheduled to discuss this case on March 19, 2021. The purpose of this motion is to advise the court that as of March 17, 2021 Petitioner has not received the bar disciplinary complaint or any documents from a special counsel assigned by the Nebraska Supreme Court on February 25, 2021. After the Nebraska Supreme Court filed the new charges on February 25, 2021 against Petitioner this

court placed the Petitioner's case on the docket on March 3, 2021 for discussion. The Nebraska Supreme Court and the special counsel have not contacted Petitioner for three weeks from 2/25/21 until 3/17/21 which states a lot about the disciplinary process in Nebraska. For the past three weeks 2/25/21-3/17/21, Petitioner has not received any information or documents regarding the new bar complaint.

In the past the bar disciplinary complaint was sent out the day after the bar complaint was filed. For example, please review the enclosed Office for Counsel for Discipline letter dated 10/4/16. Respondent and the state of Nebraska have three pending unresolved bar complaints (10/3/16)(3/19/19)(2/25/21) against Petitioner in five years and the Respondent has not dismissed any bar complaints.

At this time 3/17/21, the Petitioner has not been provided with a copy of a written grievance letter and a copy of the 2/25/21 complaint. Previously Petitioner was not successful in attempting to contact anyone regarding the disciplinary complaint. The Petitioner could not find the telephone number of the special counsel after calling the Clerk of the Nebraska Supreme Court and Petitioner could not locate the special counsel after calling the last known business number of the special counsel. Petitioner sent an email to the special counsel's gmail account without a response (not a government email).

The Office for Counsel for Discipline stated in a February 5, 2021 letter to Petitioner that they refuse to release to Petitioner pursuant to Petitioner's Freedom of Information Act request "...any and all documents of any written letters of complaint..." for the disciplinary investigation which they filed against Petitioner

on 10/3/16. A written letter of grievance does not exist and has never existed against Petitioner for the 10/3/16 complaint. The Respondent implicitly admitted in the 2/5/21 letter they never sent Petitioner a grievance letter and the Respondent does not possess a grievance letter for the preliminary inquiry on 10/3/16 to attempt to disbar Petitioner. The Respondent has received evidence to dismiss the 3/19/19 bar complaint but they have not dismissed the complaint.

By waiving the response brief in this court, the Respondent Office for Counsel for Discipline implied that a written letter of grievance existed against Petitioner, they implied they followed their own procedures of requiring a written grievance letter and their procedures do not violate Ruffalo. In the Matter of John Ruffalo, Jr., 391 U.S. 961 (1968). The Respondent withheld from this court the fact they did not have a written grievance letter on official judicial letterhead stationery from a judge for the 10/3/16 bar complaint and they did not follow their procedures. A detailed grievance letter is so important that if a written grievance letter existed from a judge the Office for Counsel for Discipline would have cited and referred to the written grievance letter from the judge in the 10/4/16 letter to the Plaintiff. The Office for Counsel for Discipline does not cite any written grievance letter from a complaining witness in their 10/4/16 letter to the Plaintiff. Therefore, no written grievance letter existed. The perpetration of the fraud is that no written grievance letter existed and the Respondent can not claim judicial immunity or quasi-judicial immunity. Just as a child can not state the dog ate my homework, the Office for Counsel For Discipline can not state any plausible rationale for the reason they did

not refer to, cite or mention a written grievance letter was received from anyone in their 10/4/16 letter to the Petitioner. The plain reading of the 2/5/21 Office for Counsel for Discipline letter is the non-existent written grievance letter for the 10/3/16 bar complaint is confidential from Petitioner. How can a non-existent grievance letter be confidential?

“A partial and fragmentary disclosure, accompanied with the willful concealment of material and qualifying facts, is not a true statement, and is as much a fraud as an actual misrepresentation, which, in effect, it is.” State of Nebraska ex rel. Counsel for Discipline of the Nebraska Supreme Court v. Brenda J. Council, 289 Neb. 33 (2014). One who responds to an inquiry is guilty of fraud if he or she denies all knowledge of a fact which he or she knows to exist. *Id.*

The Nebraska Attorney General and the Office for Counsel for Discipline represented to this court and represented in state court (CI 19 9165)(CI 19 3445) and in federal court (8:20 CV 36) that a written letter of grievance existed in compliance with their procedures and that all of their own disciplinary procedures were followed for the 10/3/16 complaint against Petitioner. The attorney general who filed the written waiver is no longer with the Respondent and Petitioner has not received any information on new counsel from Respondent. This case is the example that a separation of powers should hold that the Nebraska Supreme Court should not be the same entity that disciplines the attorneys and controls the Respondent because of the inherent conflict. Please take judicial notice of Nimmer v. Heavican Case No. 20-6546. Since the judge in the state case Ashford v. Office for

Counsel for Discipline (CI 19 3445) has not ruled on the Motion to Alter or Amend filed by Petitioner on 8/19/19 and the Office for Counsel For Discipline federal case was dismissed the Petitioner has no court in which to litigate Petitioner's case.

The reason for the retaliation from the state of Nebraska is Petitioner has sued judges for racial discrimination, represented former Black Panther Party Members for Self Defense, black people and poor people. Just as the world is concerned about rights of Alexei Navalny, this court should protect the rights of attorneys who represent defendants in unpopular cases.

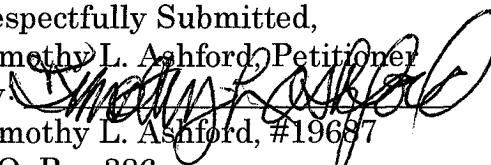
The court should order a brief from Respondent to explain the reason the Court should not grant the relief requested by Petitioner, the reason the Petitioner has not received a written grievance letter after five years, any allegations of fraud perpetrated upon any court and the other actions taken by the Respondent. If no brief is supplied the court can order the relief of proceeding in the U.S. District court with the dismissed complaint or any other relief. Now, although this court restrains from the state disciplinary action, this court can rule that the disciplinary prosecutor can not serve as judge in a disciplinary action, this court can grant certiorari to rule the disciplinary office and the court system have to be separate and this court can return the case to the Nebraska District Court (8:19-CV-243) with directions for a visiting judge outside of Nebraska to conduct the case.

The exhibits follow:

1. Office for Counsel for Discipline letter dated February 5, 2021

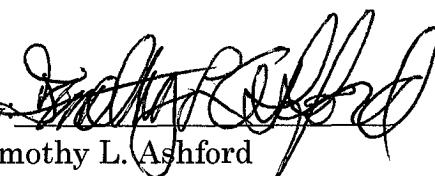
2. Nebraska Supreme Court Letter from the Nebraska Supreme Court dated February 25, 2021 from Justice Michael Heavican appointing a Special Counsel in State of Nebraska ex rel. Counsel for Discipline of the Nebraska Supreme Court (1 Page)
3. Clerk of the Nebraska Supreme Court and the Nebraska Court of Appeals letter of appointment of special counsel dated February 25, 2021 (1 page)
4. 10.4.16 Office for Counsel for Discipline Letter (1 page)
5. Order in PR 14 1483 dated September 29, 2016 (3 Pages)

Dated this 17th day of March, 2021.

Respectfully Submitted,
Timothy L. Ashford, Petitioner
By 
Timothy L. Ashford, #19687
P.O. Box 386
Omaha, Nebraska 68101
(402) 660-5544
Attorney for Petitioner

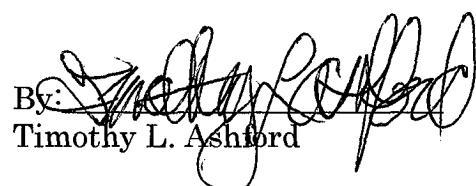
CERTIFICATE OF COUNSEL

I hereby certify that this motion to take judicial notice is presented in good faith and not for delay.

By 
Timothy L. Ashford

CERTIFICATE OF FILING AND SERVICE

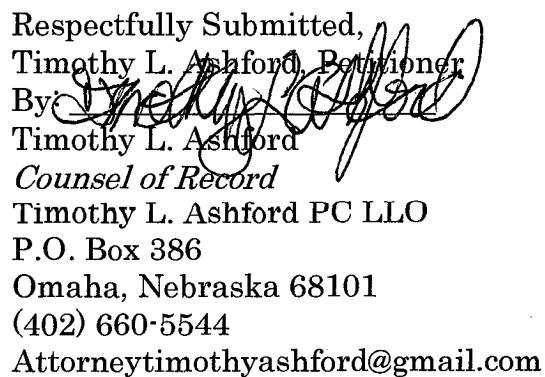
The undersigned certifies that on the 18th day of March, 2021 he served the foregoing Motion to Take Judicial Notice and the documents via U.S. First Class Mail, postage prepaid, as follows: the Supreme Court of the United States, 1 First Street, NE, Washington, DC 20543 (One original copy only as per Court's April 15, 2021 Covid Order) and mailed by U.S. First Class Mail Postage Prepaid to the Nebraska Attorney General Doug Peterson, 2115 State Capitol, Lincoln, NE 68509 on the 18th day of March, 2021. (1 Copy)

By: 
Timothy L. Ashford

CERTIFICATE OF COMPLIANCE WITH RULE 33

I, Timothy L. Ashford, counsel for Timothy L. Ashford and Timothy L. Ashford, PC LLO, hereby certify that the undersigned certifies that to the best of his knowledge the foregoing motion to take judicial notice does not exceed the word or page limitations of Rule 33.

Dated this 17th day of March, 2021.

Respectfully Submitted,
Timothy L. Ashford, Petitioner
By: 
Timothy L. Ashford
Counsel of Record
Timothy L. Ashford PC LLO
P.O. Box 386
Omaha, Nebraska 68101
(402) 660-5544
Attorneytimothyashford@gmail.com



STATE OF
NEBRASKA
JUDICIAL BRANCH

Counsel for
Discipline

Office of the Counsel for Discipline

Mark A. Weber
Counsel for Discipline

Julie L. Agena
Deputy Counsel for Discipline

John W. Steele
Assistant Counsel for Discipline

Kent L. Frobish
Assistant Counsel for Discipline

Mr. Timothy L. Ashford
P.O. Box 386
Omaha, NE 68101

February 5, 2021

Re: Public Records Request

Dear Mr. Ashford:

My office is in receipt of your public records request received on February 4, 2021. In the request you seek records of my office during the dates of September 28, 2016 until October 4, 2016, "which includes any and all documents of any written letters of complaint received by the Office of Counsel for Discipline...and which include written letters of complaint on official Douglas County judicial letterhead stationary received by the Office for Counsel for Discipline filed against Timothy L. Ashford..."

The records you seek, as stated above, are records relating to attorney discipline investigations. Pursuant to Neb. Ct. R. § 3-318(A), such records are not public records. This rule section states:

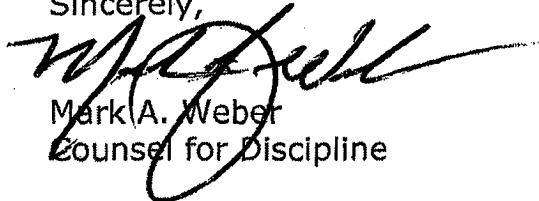
*(A) The hearings, records, or proceedings of the Counsel for Discipline, the Committee on Inquiry, and the Disciplinary Review Board **are confidential and shall not be made public** except that the pendency, subject matter, and status of an investigation may be disclosed by the Committee on Inquiry involved or the Disciplinary Review Board if*

- (1) the Respondent has waived confidentiality, either in writing or by public disclosure of information regarding the proceeding; or*
- (2) the proceeding is based upon conviction of a crime.*

Under the Public Records Act itself, any records developed by public bodies charged with duties of investigation of persons when the records are part of the investigation, may be withheld by the public body. See Neb. Rev. Stat. § 84-712.05(5). Counsel for Discipline is charged with the duty to investigate complaints of attorney misconduct, and any records relating to attorney discipline investigations that are in my possession may be withheld under statute.

Pursuant to Neb. Rev. Stat. § 84-712.04(1)(c), you are hereby notified you may have an administrative or judicial right of review under Neb. Rev. Stat. § 84-712.03.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Weber".

Mark A. Weber
Counsel for Discipline

MAW: M

NEBRASKA SUPREME COURT

MICHAEL G. HEAVICAN
CHIEF JUSTICE



P.O. BOX 98910
STATE CAPITOL BUILDING
LINCOLN, NEBRASKA 68509
(402) 471-3738

February 25, 2021

Teresa K. Luther
43 Sonja Drive
Doniphan, Nebraska 68832

*Re: State of Nebraska ex rel. Counsel for Discipline of the
Nebraska Supreme Court v. Timothy Ashford, No. S-21-510003*

Dear Ms. Luther:

On February 25, 2021, the Supreme Court appointed you to serve as Special Counsel in the proceedings in the above-referenced matter.

You will be reimbursed for your services at the rate of \$150 per hour. Thank you for agreeing to serve.

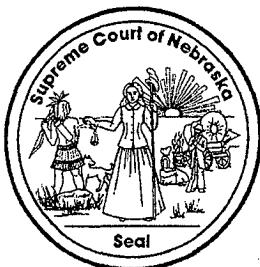
Sincerely,

A handwritten signature in black ink.

Michael G. Heavican

jmh

Handwritten signatures in black ink. The first signature is "Mark Weber", the second is "Michael G. Heavican", and the third is "Timothy Ashford". There is also a small "c" written near the bottom left of the block.



CLERK OF THE NEBRASKA SUPREME COURT
AND NEBRASKA COURT OF APPEALS
2413 State Capitol, P.O. Box 98910
Lincoln, Nebraska 68509-8910
(402) 471-3731
FAX (402) 471-3480

February 25, 2021

Honorable Teresa K. Luther
43 Sonja Drive
Doniphan, Nebraska 68832

FILED

FEB 25 2021

**NEBRASKA SUPREME COURT
COURT APPEALS**

Dear Judge Luther:

Re: No. S-21-510003, State of Nebraska ex rel. Counsel for Discipline of the State of Nebraska
Supreme Court v. Timothy Ashford

On February 25, 2021, you were appointed as Special Counsel by the Nebraska Supreme Court in the above-captioned matter. Please contact the Office of the Counsel for Discipline to obtain copies of documents and procedural instructions necessary to prosecute this complaint.

If you would like to receive further notices regarding the case, please contact our office at (402) 471-3731 to update your contact information.

Very truly yours,

Wendy A. Wussow
Clerk

cc: Counsel for Discipline, Mark Weber
Respondent Timothy Ashford

SUPREME COURT OF NEBRASKA



COUNSEL FOR DISCIPLINE

Mark A. Weber
Counsel for Discipline

John W. Steele
Assistant Counsel for Discipline

Kent L. Frobish
Assistant Counsel for Discipline

Julie L. Agena
Assistant Counsel for Discipline

October 4, 2016

Timothy L. Ashford
P.O. Box 386
Omaha, NE 68101

Dear Mr. Ashford:

The Counsel for Discipline is investigating a complaint against you received by this office on October 3, 2016.

Pursuant to Nebraska Court Rule 53-309(C), this office is conducting a preliminary inquiry. I would appreciate a written response from you addressing the issues raised. Specifically, please provide me with any information you have regarding your handling of the matter and the fees in question. Please provide me with copies of your billing statements for all work completed on the matter as well.

After your response is received, the entire matter will be reviewed and a determination made as to whether an investigation is warranted.

Sincerely,

Julie L. Agena
Assistant Counsel for Discipline

Enc.

IN THE COUNTY COURT OF DOUGLAS COUNTY, NEBRASKA

IN THE MATTER OF THE GUARDIANSHIP) Case No. PR 14-1483
AND CONSERVATORSHIP OF)
JOHNNY R. BROWN) ORDER
)

This matter came on for hearing on May 4, 2016 on the Motion for Payment of Attorney Fees and on the court's request for a detailed accounting of services rendered for fees totaling \$13,865.00 over a 19 month period.

Timothy Ashford appeared. Renault Brown appeared. Malachi Brown appeared.

Evidence was adduced and the court took the matter under advisement for review of documents.

Based on the evidence submitted, the court cannot conclude that the fees requested are fair and reasonable. It is therefore ordered that the motion is denied. It is further ordered that counsel reimburse the ward's estate \$8,265 by October 31, 2016

Dated this 29 day of September, 2016.

BY THE COURT:



Marcena M. Hendrix,
County Court Judge

Timothy L. Ashford
PO Box 386
Omaha, NE 68101

Billy R Brown
6623 North 41st Street
Omaha, NE 68112

Rita Brown
4522 Mewmore Avenue
Dallas, TX 75209

FILED
COUNTY COURT
PROBATE DIVISION

SEP 29 2016

Clerk of Court
DOUGLAS COUNTY COURT
OMAHA, NEBRASKA



P00447248C01

Renault Brown
1206 Cole Creek Drive
Omaha, NE 68114

Sarah Smith
2583 Pinkney Street
Omaha, NE 68111

Sarah Smith
MMH/kaw:PR14-1483

FILED
COUNTY COURT
PROBATE DIVISION

SEP 29 2016

Clerk of Court
DOUGLAS COUNTY COURT
OMAHA, NEBRASKA

CERTIFICATE OF SERVICE

I, the undersigned, certify that on September 30, 2016, I served a copy of the foregoing document upon the following persons at the addresses given, by mailing by United States Mail, postage prepaid, or via E-mail:

Billy R Brown
6623 North 41st Street
Omaha, NE 68112

Rita Brown
4522 Mewmore Avenue
Dallas, TX 75209

Renault Brown
1206 Cole Creek Drive
Omaha, NE 68114

Sarah Smith
2583 Pinkney Street
Omaha, NE 68111

Timothy L Ashford
tash178346@aol.com

Date: September 30, 2016 BY THE COURT:

Therese Connolly
CLERK

