

No.

In the Supreme Court of the United States

Cecelia F. Abadie, Petitioner
versus
La. Atty. Disciplinary Board,
Office of Disciplinary Counsel,
Respondent

On Petition for Writ of Certiorari to the
Louisiana Supreme Court

APPENDIX

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Weimer, C.J., concurs in part, dissents in part and assigns; Hughes, J., concurs in part, dissents in part for the reasons assigned by Weimer, C.J.; Crichton, J., additionally concurs and assigns reasons; Griffin, J. concurs in part, dissents in part for the reasons assigned by Weimer, C.J.

SUPREME COURT OF LOUISIANA NO. 2020-B-1276 IN RE: CECILIA F. ABADIE ATTORNEY DISCIPLINARY PROCEEDING PER CURIAM

This disciplinary matter arises from formal charges filed by the Office of Disciplinary Counsel (“ODC”) against respondent, Cecelia F. Abadie, an attorney licensed to practice law in Louisiana.

UNDERLYING FACTS

By way of background, Latasha Jackson gave birth to a child in September, 1997. Mark Jenkins was listed as the father of the child’s birth certificate, and he signed an acknowledgment of paternity. Whether the acknowledgment was an authentic act is unknown.

Mark and Latasha married after the child’s birth, but later divorced. Latasha sought child support through the Department of Children and Family Services (DCFS) which filed a case against Mark in

the Jefferson Parish Juvenile Court. Mark and Latasha eventually agreed that Mark would pay monthly support in the amount of \$220.74, and the judge handling the Juvenile Court case signed the consent judgment on October 27, 2003.

Sometime in 2011, Mark began to suspect he was not the biological father of the Latasha's child, and he hired respondent to represent him in attempts to end his child support obligation to Latasha. In August 2011, the Louisiana Department of Health and Hospitals provided respondent with a copy of the signed birth certificate of Latasha's child. The DHH also provided respondent with a letter verifying that Mark and Latasha signed an "acknowledgment of paternity," which was filed on November 4, 2012.

In February 2012, respondent filed a Petition for Revocation of Acknowledgment of Paternity, for Damages Due to Fraud, and for Restoration of Payments Not Due" against Latasha in the 24th Judicial District Court for the Parish of Jefferson. In November 2012, respondent amended the petition to include the DCFS as a defendant.

In June 2012, Latasha's counsel filed an Exception of Prescription on the issue of the revocation of the acknowledgment of paternity, claiming Mark had only two years from the date he signed the acknowledgment to revoke same. On January 22, 2013, Judge Raymond Steib, Jr. denied the exception of prescription and granted Mark's motion for paternity testing. On Latasha's application for

supervisory writs, the Fifth Circuit Court of Appeal reversed Judge Steib's ruling and granted the exception of prescription (1st Fifth circuit ruling). In light to this reversal, the Fifth Circuit also vacated the order for paternity testing and remanded the matter to the trial court. respondent filed a writ application in this court, but her application was denied as untimely on August 23, 2013. On June 30, 202114, respondent filed in the 24th JDC case a petition seeking to nullify the 1st Fifth Circuit ruling. However, she withheld service aof the petition and never followed up.

Meanwhile, on June 27, 2013, Judge Steib again ordered paternity testing in the 24th JDC case, which test proved Mark was not the father of Latasha's child. On August 19, 2013, attorney Kristyl R. Treadaway enrolled as Latasha's counsel of records in the 24th JDC case.

In October, 2014 respondent filed in the 24th JDC case a rule to show cause why Mark's name should not be removed from the birth certificate of Latasha's child. Following a shoe cause hearing, Judge Steib held that this not the proper procedure to alter or amend a birth certificate because the Louisiana Bureau of Viral Records was not a party to the 24th case.

Because respondent continued to filed pleading on the issue of Mark's revocation of paternity, on November 20, 2014, Ms. Treadaway filed a second exception of prescription. In a judgment dated

February 4, 2015, Judge Steib again denied the exception of prescription and made a finding that Mark was not the father of Latasha's child based on the paternity test result. Ms. Treadaway then filed a writ application with the Fifth Circuit Court of Appeal. Respondent opposed the writ application, essentially arguing that, because neither the BVR or the DCFS could produce a copy of a signed acknowledgment of paternity, the issue of whether Mark can revoke the acknowledgment was not prescribed. However, previous pleading filed by respondent in the 24th JDC case indicated that Mark signed the birth certificate and signed an acknowledgment of paternity (considered a judicial confession by the Fifth circuit) when Latasha's child was born, the Fifth Circuit reversed Judge Steib's ruling and granted the exception of prescription regarding the issue of Mark's revocation of his acknowledgment of legal paternity. (2nd Fifth circuit ruling). The Fifth Circuit, however, found no error in Judge Steib's finding that Mark is not the father of Latasha's child bas on the paternity test (which issue relates to Mark's claims for damages due to fraud and for restoration of payments not due.)

The Fifth Circuit's ruling was dated July 31, 2015 and was signed by Judges Robert M. Murphy, Stephen J. Windhorst, and Hans J. Lilejeberg. Respondent filed a writ application with this court, which the court denied on September 4, 2015.

While Ms. Treadaway's writ application was pending

with the Fifth circuit, respondent sent a copy of Judge Steib's February 4, 2015 judgment, in which he found that Mark was not the father of Latasha's child, to the BVR. Because the BVR as not aware of Ms. Treadaway's pending writ application, it reissued the birth certificate of Latasha's child on March 16, 2015, pursuant to respondent's request to remove Marks name as the father and to change the child's last name. Neither Latasha nor Ms.

Treadaway was aware of respondent's request to change the child's last name. Neither Latasha nor Ms. Treadaway was aware of respondent's request to the BVR.

After respondent received the altered birth certificate, she filed an ex parte motion in the Juvenile Court case on March 30, 2015, requesting that Mark's child support obligation be terminated. Respondent then had ex parte communications, in the form of a telephone call and a letter, with the secretary of Juvenile court Judge Barron Burmaster, asking the judge to address whether Mark is the legal father of Latasha's child.

Beginning in August 2013, respondent filed several other pleadings in the Juvenile Court case, raising some of the same issues she raised in the pleadings she filed in the 24th JDC case. According to respondent, she filed these duplicative pleadings in the two courts because she was not sure which court was the proper venue. Judge Burmaster ruled consistently that the Juvenile Court does not have

jurisdiction to revoke an acknowledgment of paternity and until the acknowledgment is revoked, Mark must pay child support. Nevertheless, an April 27, 2015 minutes entry in the Juvenile Court case indicated that the “parties stipulate there is no authentic act of acknowledgment.” On June 15, 2015, Ms. Treadaway requested and obtained a stay of the Juvenile court proceedings pending the 2nd Fifth Circuit ruling.

Thereafter, on September, 15, 2015, in light of the 2nd Fifth Circuit ruling, respondent drafted a letter addressed to the Jefferson Parish District Attorney Paul Connick and Louisiana Representative Chris Broadwater, (the “collusion letter”). In the collusion letter, respondent accused Fifth Circuit Judge Robert Murphy of collusion with the DCFS against Mark so Mark would not be reimbursed for the child support payments he made to Latasha. Respondent also accused Ms. Treadaway of requesting the stay in the Juvenile court case as a way to give the Fifth Circuit time to collude with the DCFS. Respondent sent a copy of the collusion letter to Ms. Treadaway and attorney Timothy O’Rourke, who represented the DCFS in the Juvenile Court case. However, according to respondent, she did not send the collusion letter to Mr. Connick or Mr. Broadwater even though it was addressed to them.

In the meantime, in another attempt to fight the 2nd Fifth Circuit ruling, on March 10, 2016, respondent filed in the 24th JDC case a petition to nullify the

2nd Fifth Circuit ruling for lack of jurisdiction and ill-practice in Ms. Treadaway's writ application. In response, Ms. Treadaway filed exceptions of no cause of action and res judicata, and asked for sanctions against respondent. In November 2016, Judge Steib granted the exceptions and dismissed the petition to nullify, but he denied the request for sanctions. The Fifth Circuit Court of Appeal affirmed this judgment on February 22, 2017, and this court denied respondent's writ application on September 6, 2017. In March 2018, respondent filed a complaint in the United States District Court for the Eastern District of Louisiana on Mark's behalf and against Judge Murphy and Mr. O'Rourke (the federal lawsuit). The federal lawsuit accused Judge Murphy, Mr. O'Rourke, and Ms. Treadaway of conspiring "to allow Judge Murphy to usurp the issue of legal paternity from Juvenile Court." More specifically, the federal lawsuit alleged that "the conspirators stopped Juvenile Court from deciding legal paternity so that it could take the place of biological paternity, which was the issue decide in the district court."

Respondent eventually added Ms. Treadaway and Judge Burmaster as defendants. The federal lawsuit was dismissed, but respondent appealed the dismissal. On January 10, 2020, the United States Fifth Circuit Court of Appeals affirmed the dismissal of the federal lawsuit. On December 14, 2020, the United States Supreme Court denied respondent's petition for writ of certiorari.

DISCIPLINARY PROCEEDINGS

In September 2015, Ms. Treadaway filed a disciplinary complaint against respondent. In September 2017, the ODC filed formal charges against respondent, alleging that her conduct as set forth above violated the following provisions of the Rules of Professional Conduct Rules 1.1 (failure to provide competent representation to a client), 3.1 (meritorious claims and contentions), 3.3 (candor toward the tribunal), 3.5 (engaging in conduct intended to disrupt a tribunal), 8.2 (a lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge), and 8.4 (a) (violation of the Rules of Professional Conduct). Respondent answered the formal charges, essentially denying any misconduct. Accordingly, the matter proceeded to a formal hearing on the merits.

Hearing Committee Report

After the testimony and evidence at the hearing, the hearing committee found all of the witnesses credible and that each witness appeared to believe they were testifying truthfully to the best of their abilities. The committee further found the respondent drafted a letter to Mr. Connick and Mr. Broadwater, accusing Judge Murphy of colluding with the Juvenile Court and DCFS, but respondent did not send the letter to its intended recipients. Instead, she sent the collusion letter to Mr. O'Rourke and Ms. Treadaway.

Therefore, the committee found respondent did attack the integrity of a judge and continues to do so. Additionally the committee found respondent did not provide competent representation to her client because she failed to file a writ application with the Supreme Court within the time delays, filed pleadings that were duplicative in both the Juvenile Court case and the 24th JDC case, confused matters with multiple pleadings, failed to request service on certain pleadings, failed to allow a waiver of service in the federal lawsuit, confused the pending litigation and disrupted the tribunal by filing numerous and duplicative pleadings, failed to know certain procedural rules and filed pleading that unduly complicated the proceedings.

Based on these facts, the committee determined respondent violated Rules 1.1 and 8.2 of the Rules of Professional Conduct and, violating these rules, also violated Rule 8.4(a). The Committee, however, determined ODC failed to prove by clear and convincing evidence that respondent violated Rules 3.1, 3.3, and 3.5 as alleged in the formal charges.

Specifically, regarding Rule 1.1, the committee found respondent testified that Mark's case may have been the only filiation case she worked on during her more than 29-year-long law career. The committee also found that, for the last several years, Mark appears to have been respondent's only client. According to the committee, the record is replete with several filings that are curious and support the allegations that respondent failed to provide competent

representation. One or two filings, procedural errors, or incidents do not rise to the level of incompetency in the committee's opinion, but in this case, there are numerous incidents that collectively rise to incompetent representation. First, respondent admitted she missed a crucial deadline to file a writ application on a ruling against her client, but she was not upset by it because as she testified, the missed deadline" had no effect on the case." Yet, Mr. O'Rourke, who worked with the DCFS in that specific area of practice, testified he told Respondent to file the writ application because he thought she had a cause of action. The committee determined that, after the missed deadline, respondent became determines to pursue an alternate theory of relief for her client, which led to multiple filings in different courts. Additionally, the case is procedurally convoluted due to respondent filing multiple pleadings and acts simultaneously in two separate courts, and she failed to establish that both courts had subject matter jurisdiction over all the issues upon which she was requesting relief.* Respondent also filed a motion to have the presiding judge correct the court minutes from a hearing without a contradictory hearing, without a certificate of service or requesting service on opposing counsel, and without requesting a transcript. Respondent requested that a lower court act as a supervisory court over its corresponding court of appeal.

Additionally, she wrote a letter to a judge's secretary concerning legal issues and procedural matters and

did not send a copy to opposing counsel. Respondent further showed her lack of legal knowledge and skill she when she filed pleadings but did not serve opposing counselor parties in the underlying cases. Respondent then filed the federal lawsuit but did not allow Ms. Treadaway and Mr. O'Rourke to waive service of the lawsuit, despite their testimony that they both filed waiver of service. Her actions were not only inconsiderate but also did not conform to federal court procedures. She filed a motion to dismiss child support retroactive to a particular date, but when she decided she could request that the dismissal be retroactive to any earlier date, instead of amending the motion, she dismisses and refiled it. Other pleadings showed respondent to be naïve and to not know the proper procedures. However, for the purpose of brevity, the committee chose the above specific incidents that were brought out at the hearing and illustrated respondent's lack of competence.

Specifically, regarding Rule 8.2, the committee noted that respondent acknowledges she wrote and transmitted the collusion letter, which attacked Judge Murphy's integrity. Her defense for sending the letter is that she only sent it to two people and did not publish it publicly. Respondent's unspoken defense however, seems to be that she believes the allegations contained in the collusion letter and the federal lawsuit. Respondent based her allegations against Judge Murphy on speculation and conjecture

rather than on any solid evidence. Therefore, the committee found the ODC met its burden of proving that respondent violated Rule 8.2.

With respect to Rule 3.1, the committee determined that, while neither Ms. Treadaway nor Mr. O'Rourke may have agreed with all of respondent's legal theories, the ODC did not prove by clear and convincing evidence that respondent filed frivolous pleadings. *

Regarding Rule 3.3, the committee determined that respondent intended to show candor to each tribunal. She appeared to believe the allegations she made in her pleadings and in the testimony she presented to the committee. Thus, the ODC did not establish that respondent knowingly made a false statement to a tribunal.

Finally, with respect to Rule 3.5, the committee determined the ODC did not prove that respondent intentionally disrupted court proceedings. All of respondent's action were fueled by a sincere desire to assist her client, to argue for him before the tribunal, and to convince each tribunal that her position was correct, even when she was wrong. No evidence was presented that respondent acted as she did for the intended purpose of causing disruption, chaos, or confusion.

The committee determined respondent knowingly and intentionally violated duties owed to the legal system and the public. Her conduct caused actual

harm to the judges and attorneys she wrote about and filed suit against by hearing their reputations, causing the stress and anxiety, and causing them to have to defend against the federal lawsuit.

Specifically, Ms. Treadaway had to pay a \$5,000 deductible towards her malpractice insurance to defend against the federal lawsuit. Mr. O'Rourke was distressed because he did not know if he would have to pay out of pocket to defend the lawsuit against him. If Mark had to pay for all of the filing fees and legal fees for respondent's duplicative filings and the legal fee for her untimely or improper filings, then he was also harmed.

In aggravation, the committee found substantial experience in the practice of law (admitted 1990) and a lack of remorse. In mitigation, the committee found the absence of prior disciplinary records and the absence of a dishonest or selfish motive.

After considering respondent's conduct in the light of this court's prior jurisprudence addressing similar misconduct, the committee recommended respondent be suspended from the practice of law for one year, with all but six months deferred. The committee further recommended that, following the active portion of the suspension, respondent be placed on supervised probation for two years, during which a probation monitor meet with her monthly to monitor her practice and review her client files and any pleadings she signs. Respondent filed an objection to the hearing committee's report.

Disciplinary Board Recommendation

The board determined respondent knowingly and intentionally violated duties owed to her client, the public, and the legal system. She caused harm to Judge Murphy, Judge Burmaster, Ms. Treadaway and Mr. O'Rourke by making unsupported "collusion" allegations against them. These individuals suffered stress, anxiety and damage to their reputations. They also had to spend time, and in Ms. Treadaway's circumstances, money to defend against the federal lawsuit. Respondent also harmed Latasha, who had to pay Ms. Treadaway to respond to respondent's duplicative and unnecessary pleadings. Mark could have been harmed as well if he had to pay legal and filing fees for these pleadings. Citing the ABA's Standards for Imposing Lawyer Sanctions, the board determined the baseline sanction is ... reprimand to suspension.

The board agreed with the aggravating factors found by the committee. In additional aggravation, the board found a refusal to acknowledge the wrongful nature of the conduct. The board also agreed with the mitigating factors found by the committee. In additional mitigation, the board found that respondent has a good character and reputation.

After considering respondent's conduct in light to this court's prior jurisprudence addressing similar misconduct, the board recommended be suspended from the practice of law for a year and one day.

Respondent filed an objection to the disciplinary board's recommendation. Accordingly, the case was docketed for oral argument pursuant to Supreme Court Rule XIX, Sec. 11(G)(1)(b).

DISCUSSION

Bar disciplinary matters fall within the original jurisdiction of this court. La. Const. art V, sec. 5(B). Consequently, we act as triers of fact and conduct an independent review of the record to determine whether the alleged misconduct had been proven by clear and convincing evidence. *In re Banks* ,09-1212 (La.10/2/09), 18 So.3d 57. While we are not bound in any way by the findings and recommendations of the hearing committee and disciplinary board, we have held the manifest error standard is applicable to the committees 's factual findings. See *In re Caulfield*, 96-1401 (la. 11/25/96). 683 So.2d 714; *In re Pardue*, 93-2865 (La. 3/11/94), 633 2d 150.

The record of this matter supports a finding that respondent failed to provide competent representation to a client and made false statements about the integrity of a judge. The record is replete with examples, as listed by the hearing committee, of the improper pleadings filed by the respondent and her failure to understand and follow court procedures. The record also contains a copy of the collusion letter, in which respondent attacked judge Murphy's integrity with reckless disregard for the truth or falsity of her statement. her explanation as to why she focused her allegations of collusion on

Judge Murphy makes little sense in light of the fact that Judge Windhorst and Judge Lilejeberg also signed the 2nd Fifth Circuit ruling. Respondent then filed a federal lawsuit against Judge Murphy, later adding judge Burmaster as a defendant, alleging the same collusion. Respondent has provided absolutely no evidentiary support for these allegations of collusion by members of the judiciary, yet she continues to make them, even in her brief and oral argument presented to this court. Based on these facts, respondent has violated the Rules of Professional Conduct as found by the committee and adopted by the disciplinary board.

Having found evidence of professional misconduct, we now turn to a determination of the appropriate sanction for respondent's actions. In determining a sanction, we are mindful that disciplinary proceedings are designed to maintain high standards of conduct, protect the public, preserve the integrity of the profession, and deter future misconduct. Louisiana State Bar Ass'n v. Reis, 513 So.2d 1173 (La.1987) the discipline to be imposed depends upon the facts of each case and the seriousness of the offenses involved considered in light of any aggravating and mitigating circumstances. Louisiana State Bar Ass'n v. Whittington, 459 So.2d 520 (La.1984).

Respondent knowingly and intentionally violated duties owed to her client, the legal system, and the legal profession. Her conduct caused significant

actual harm. The baseline for this type of misconduct is suspension.

Aggravating factors, include a pattern of misconduct, multiple offenses, refusal to acknowledge the wrongful nature of the conduct, and substantial experience in the practice of law. Mitigation factors include the absence of a prior disciplinary records, the absence of a dishonest or selfish motive, and character or reputation.

The heartland of respondent's misconduct is her violation of Rule 8.2, which prohibits a lawyer from making a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the integrity of a judge. It is clear respondent was frustrated that her client did not obtain the relief to which she believed he was legally entitled. It is an unfortunate fact that in many instances, litigation leaves one of the parties and its counsel disappointed by the court outcome. However, this does not give an attorney license to make unsupported and reckless allegations of collusion and conspiracy on the part of the judges who participated in the matter. Rather, lawyers are expected to be professionals and to honor their obligations to the legal system and to the professions. Respondent failed to do so, and for this misconduct she must be sanctioned.

Based on this reasoning, and considering the respondent's complete lack of remorse, we find the boards recommended sanction is appropriate.

Accordingly, we will suspend respondent from the practice of law for one year and one day.

DECREE

Upon review of the findings and recommendation of the hearing committee and disciplinary board, and considering the record, briefs, and oral argument, it is ordered that Cecilia F. Abadie, Louisiana Bar Roll number 19874, be and she hereby is suspended from the practice of law for one year and one day. All costs and expenses in the matter assessed against respondent in accordance with Supreme Court Rule XIX, sec. 10.1, with legal interest to commence thirty days from the date of finality of this court's judgment until paid.

Supreme Court
State of Louisiana
New Orleans
November 5, 2020

LOUISIANA ATTORNEY DISCIPLINARY
IN RE: CECELIA F. ABADIE
DOCKET NO. 17-DB-056

REPORT OF HEARING COMMITTEE # 27

...

PROCEDURAL HISTORY

... For the following reasons, the Committee finds that Respondent did violate Rules of Professional Conduct 8.2, 1.1, 8.4(a). The hearing committee

recommends a sanction of a one-year suspension, with all but six months deferred conditioned on a two-year period of supervised probation. During the period of probation, Respondent should be supervised by a probation monitor who will meet with her monthly to monitor her practice and review her client files and any pleadings she signs.

FINDINGS OF FACT

The committee found that all of the witnesses were credible and that each appeared to believe that they were testifying truthfully to the best of his/her abilities.

The committee found that Respondent did draft a letter to Mr. Connick and Mr. Broadwater that accused Judge Murphy of collusion with the Juvenile Court and Department of Children and Family Services, but Respondent did not send it to its intended recipient s. Rather, she sent it to Mr. Rourke and Ms. Treadaway. The committee found Respondent did attack the integrity of a judge and continues to do so.

The committee found that Respondent did not provide competent representation to her client because she failed to file a writ within the time delays, did file pleadings that were duplicative in both the Juvenile Court and 24th Judicial District Court, did confuse matters with multiple pleadings filed, did fail to request service on certain pleadings when it should have been requested, did fail to allow a waiver of service in the Federal Court suit when

she should have allowed it, did confuse the pending litigation and disrupt the tribunal by filing the numerous and duplicative, did fail to know certain procedural rules and did file pleadings that unduly complicated the proceedings.

... Her Federal Court suit alleges a conspiracy between opposing counsel and the ruling judges and alleges the corruption of the Louisiana legal system. As Timothy O'Rourke testified, the allegations in the letter Respondent sent were similar to those made in the Federal Court suit she filed against him, Ms. Treadway, Judge Burmaster and Judge Murphy. (Transcript page 123) Respondent did not introduce any evidence of an actual conspiracy or collusion at the hearing, just her own opinion and speculation. However, despite the lack of evidence to support the belief, Respondent must still believe there is collusion and a conspiracy because at the time of the hearing she was still pursuing her Federal Court without remorse. As she testified, "actually, I'm sorry because they have – they brought this against me." But she is not sorry she made the allegations against them and has not stopped making the allegations. While Respondent states that she believes there was collusion, did not prove it and the facts do not support it.

... However, the continued slurs and litigation against opposing counsel and Judge Murphy and Burmaster coupled with the competency violation do justify a harsher sanction than a public reprimand, which will not aid Respondent in the continued

practice of law in a professional manner. ...

CONCLUSION

... The hearing committee recommends a sanction of a one-year suspension, with all but six months deferred conditioned on a two-year period of supervised probation. During the period of probation, Respondent should be supervised by a probation monitor who will meet with her monthly to monitor her practice and review her client files and any pleadings she signs. Respondent shall be assessed with the costs and expenses of the proceeding pursuant to Rule XIX, §10.1.

This opinion is unanimous and has been reviewed by each committee member, who fully concur and who have authorized Edythe L. Koonce, to sign on their behalf.

Baton Rouge, Louisiana, this 4 day of December, 2019.

Louisiana Attorney Disciplinary Board
Hearing Committee #27
Edythe L. Koonce, Committee Chair
H. Price Mounger, Lawyer Member
James R. Mobley, Public Member

**DISCIPLINARY BOARD RECOMMENDATION TO
THE SUPREME COURT**

IN RE: CECELIA F. ABADIE

No: 2020-B-1276

Dear Counsel:

This is to advise that Findings and Recommendations (Final Charges) was filed in the above entitled matter. With kindest regards, I remain,

Very truly yours,

Signed: John Tarlton Oliver
Clerk of Court

By: Bryan Chan
Deputy Clerk of Court

FINDINGS AND RECOMMENDATIONS

... As for the mitigating factors, Respondent introduced into evidence two character letters which show that she has good character and a good reputation in her community. Therefore, this mitigating factor is found, along with the mitigating factors of absence of prior disciplinary record and absence of a dishonest or selfish motive as found by the Committee.

As to aggravating factors, the Board adopts the Committee's finding that Respondent shows no remorse for her misconduct. As explained by the Committee, Respondent filed a federal court lawsuit,

pleadings, and memoranda regarding the alleged conspiracy even after ODC filed its formal charges. She maintained at the disciplinary hearing that she intended to continue to pursue the federal court case, despite its dismissal by the district court. In her application for admission to the federal Fifth Circuit Court of Appeals, without any substantiation, she again references the alleged “collusion” in the state court paternity/child support proceeding and maintains that Ms. Treadaway and disciplinary counsel have improperly “puffed up” Ms. Treadaway’s complaint filed with ODC. In its pre-argument brief, ODC asserts that Respondent’s continued lack of remorse and asserting of baseless claims and allegations could be considered ongoing misconduct. Indeed, the Board notes that, during her presentation at oral argument, Respondent again showed no remorse and demonstrated a lack of understanding of the improper conduct that was the subject of the formal charges brought against her.

... Here, Respondent wrote a letter to District Attorney Paul Connick and State Representative Chris Broadwater in which she accused Judge Murphy, the Juvenile Court system, the Department of children and Family Services of “collusion.”¹² Timothy O’Rourke of the Department of Children and Family Services and Kristyl Treadaway were both carbon copied on the correspondence.

Respondent faxed the correspondence to Mr. O’Rourke and Ms. Treadaway, but did not actually mail the letter to Mr. Connick or Representative Broadway. While this letter was not directly submitted to a court, it was submitted to counsel

involved in the Jenkins v. Jackson litigation. It caused injury to the individuals accused of being involved in “collusion” in the form of damage to their reputation, stress, anxiety, and caused Ms. Treadaway to expend time and resources in filing a complaint against Respondent with ODC.

12 Respondent states in her letter, in pertinent part, that:

“I am an attorney representing Mark Jenkins, Sr., in the above referenced actions. Recently, DCFS and Judge Murphy appear to have colluded to prevent the hearing of the issue of legal paternity in Juvenile Court on June 15, 2015. Ms. Treadaway, attorney for Ms. Jackson, requested and obtained a legally unnecessary continuance from Juvenile Court so that her writ application from a February 4, 2015 judgment of the 24th JDC, could be used as the opportunity for the Fifth Circuit to decide the legal paternity issue *de novo*. The issues of the existence of an authentic act of acknowledgment or legal paternity were not related to the Judgment from which the writ was taken.

This extraordinary maneuver was needed by DCFS because DCFS and Treadaway had already confessed in Juvenile Court that that [sic] there was not authentic act of acknowledgment. By not having that evidence in the record of the 24th JDC, where the issue of an authentic ac had never been litigated or decided, Judge Murphy was able to ignore the

evidence in the Juvenile Court record and pick from the record of the 24th JDC selected evidence of a “judicial confession” to “an acknowledgment of legal paternity.” Jenkins was thus deprived of the right to have the evidence in the Juvenile Court applied to the issue of an authentic act.

This maneuver could not have happened by chance: it had to be planned by DCFS and Judge Murphy. DCFS saw the confession in Juvenile Court to the non-existence of an authentic act of acknowledgement as an open door to possible reimbursement of child support for Mr. Jenkins. It consulted with Judge Murphy and it was only a matter of getting a continuance to stop Juvenile Court from deciding the issue of legal paternity, and then using the writ application taken by Ms. Treadaway to have Judge Murphy to decide it.

I will be happy to send you a copy of my application for a writ of certiorari, which describes what happened and why. Also, I can forward Judge Murphy’s decision. It contains deliberate misrepresentations of the facts and law in an exercise to justify deciding the issue that was not within the scope of the writ application. Judge Murphy had to find a “judicial confession” to signing an authentic act of acknowledgment as a substitute for an actual authentic act of acknowledgment because only an authentic act of acknowledgment could make Mr. Jenkins the legal father under former C.C. Art. 203.”

... *In re Mire*, 2005-1453 (La. 2/19/16), 197 So.3d 656, offers guidance as to the 8.2(a) violation (lawyer shall not make a statement she knows to be false or with reckless disregard as to its truth or falsity concerning the integrity of a judge) found in this matter. In *Mire*, the Court held that the respondent's statement on a writ application, referring to "incompetence and/or corruption" of the district and appellate court judges, which arose out of the alleged splicing of a court reporter's tapes, and her suggestion that their decisions were driven by political gain, constituted a violation of Rule 8.2(a). *Mire*, 2005-1453, pp. 3-4, 18, 197 So.3d 659, 666. In reaching its decision, the Court relied upon the case of *LSBA v. Karst*, 428 So.2d 406 (La. 1983) in explaining the objective standard to be used in analyzing whether a statement is knowingly or recklessly false, and hence, a violation of Rule 8.2. As explained in *Karst*:

In our opinion, DR 8-102(B) [the predecessor of Rule 8.2(a) is violated when an attorney intentionally causes accusations to be published which he knows to be false or which with the exercise of ordinary care, he should know to be false. The rationale for DR 8-102(B) appears in Ethical Consideration 8-6, the pertinent part of which provides:

Adjudicatory officials, not being wholly freed to defend themselves, are entitled to receive the support of the Bar against unjust criticism. While a lawyer as a citizen has a right to criticize such official publicly, he should be certain of the merit of

his complaint, use appropriate language and avoid petty criticisms, for unrestrained and intemperate statements tend to lessen public confidence in our legal system. Criticisms motivated by reasons other than a desire to improve the legal system are not justified.

This provision clearly illustrates that it is not the genuineness of an attorney's belief in the truth of his allegations, but the reasonableness of that belief and the good faith of the attorney in asserting it that determines whether or not one has "knowingly" made false accusations against a judge within the meaning of DR 8-102(B). Consequently, where it is shown that an attorney knew, or in good faith should have known of the falsity of his accusations, that attorney's unsubstantiated, subjective belief in the truth of those accusations, however genuine, will not excuse his violation of DR 8-102(B).

Similar to Ms. Mire, Respondent has made unsubstantiated, disparaging remarks concerning the judiciary in both her September 15, 2015 letter addressed to Mr. Connick and Representative Broadwater and in her federal court lawsuit brought on Mr. Jenkins' behalf against Judge Murphy, Judge Burmaster, Ms. Treadaway, and Mr. O'Rourke. Respondent based her allegations against those individuals on speculation and conjecture rather than on any solid evidence. While Ms. Abadie disagreed with the state Fifth Circuit Court of Appeals July 31, 2015 ruling in its writ disposition finding a judicial confession of legal paternity by Mr. Jenkins, the Louisiana Supreme Court denied her

writ on this issue, with Justice Hughes dissenting. Respondent's further legal action taken in the state courts on this issue was unsuccessful. During this time, instead of objectively accepting the fact that not all issues were won, she launched her conspiracy charges against the judiciary and counsel involved in the paternity/child support....

[cannot find signature page]

2. Rulings necessary to ascertain the grounds of the judgment.

Jefferson Parish Juvenile Court for the State of Louisiana

Dept. of Children & Family Services.

In the Interest of Mark Jenkins, Jr. v. Mark Jenkins, Sr., No. 2003-NS-1371-0, Section C, Date 7/7/2014

JUDGE Baron C. Burmaster
ADA John Fitsmorris
FILED; July 7, 2014
MINUTE ENTRY – JUDGMENT
PETITION FOR CHILD SUPPORT
DISAGREEMENT HEARING
07/07/2014 TAKEN UP

PRESENT WERE; ADA JOHN FITZMORRIS;
KRYSTYL TREADAWAY, ATTY RECIPIENT;

CECELIA ABADIE, ATTY DEFENDANT
COURT CANNOT VACATE ACT OF
ACKNOWLEDGEMENT PATERNITY IN THIS
COURT; HOWEVER, THE COURT CAN VACATE
THE COURT ORDER OF THIS COURT.
ATTY. ABADIE ADVISED IF THE ORIGINAL
COURT ORDER WAS BASED ON FRAUD AND
THERE NEVER WAS AN ACKNOWLEDGEMENT
THEN SHE MAY HAVE AN ARGUMENT.
PARTIES ADVISED IF THERE NEVER WAS AN
ACKNOWLEDGEMENT THEN THERE MIGHT BE
SOME KIND OF FRAUD; HOWEVER, IF THERE
TRULY IS AN ACKNOWLEDGEMENT THERE IS
NO FRAUD.
COURT IS HEREBY ORDERING THE MOTION
FILED BY ATTY ABADIE TO ANNUL THE
JUDGMENT THAT WAS DENIED BE SERVED
AND SET FOR HEARING.
COURT ORDERS THE STATE IS TO PROVE
THERE WAS AN ACKNOWLEDGEMENT.
COURT ORDERS THE STATE TO OBTAIN
SOMETHING FROM VITAL RECORDS
INDICATING DEFENDANT ACKNOWLEDGED
THE CHILD EITHER BY ACKNOWLEDGEMENT
BY AUTHENTIC ACT OR BY DEFENDANT
SIGNING PAPERWORK IN ORDER TO HAVE THE
BIRTH CERTIFICATE COMPLETED.

COURT ORDERS THE CHILD SUPPORT STAY SUSPENDED AS THERE IS GOOD CAUSE FINDINGS BY PREVIOUS JUDGE. COURT ORDERS MOTION FOR SANCTIONS TO BE HELD OPEN.

ATTY FITZMORRIS HEREBY ENTERS A QUALIFIED OBJECTION AS HE DOES NOT FEEL GOOD CAUSE HAS BEEN SHOWN WHY THE SUPPORT SHOULD BE SUSPENDED. ATTY TREADAWAY JOINS THE OBJECTION. ADA PERPETUATES HIS OBJECTION.

PARTIES PRESENT NOTIFIED IN COURT OF HEARING ON PETITION FOR ANNULMENT OF JUDGMENT ALONG WITH AMENDMENT TO PETITION SET FOR 09/15/2014 09:00 AM IN SECTION C.

PETITION FOR CHILD SUPPORT

RULE TO SHOW CAUSE WHY CHILD SUPPORT SHOULD NOT BE REINSTATED AND WHY DEFT SHOULD NOT BE SANCTIONED.

07/07/2014 TAKEN UP

A TRUE COPY OF THE ORGINIAL OF FILE IN THIS OFFICE

s/JUDGE BARRON C. BURMASTER

DEPUTY CLERK, JUVENILE COURT, PARISH OF JEFFERSON LOUISIANA

24TH JUDICIAL DISTRICT COURT
FOR THE PARISH OF JEFFERSON
STATE OF LOUISIANA
NO: 711-419, DIV A
MARK ANTHONY JENKINS VERSUS LATASHA
JACKSON

JUDGMENT

The Exception of Prescription and Rules to Show Cause why: 1) the DNA Test Report should not be admitted into evidence; 2) plaintiff should not be found not to be the father of Mark Anthony Jenkins Jr.; 3) the birth certificate should not be altered to remove defendant's name as father; 4) defendant should not reimburse costs incurred to prove paternity; 5) the Department of Child and Family Services should not be ordered to authorize DNA Diagnostics to calculate the probability of paternity; and DNA Diagnostics should not be appointed by the court to do so; came on for hearing on January 21, 2015.

PRESENT: Cecelia Farace Abadie, attorney for/and Mark Anthony Jenkins; Kristyl R. Treadaway, atty for/Latasha Jackson. Department of Child and Family Services was served with notice but did not attend.

After reviewing the pleadings and hearing the argument of counsel, the Court, considering the law,

evidence, and testimony of the witness; and for the reasons this day orally assigned,

IT IS ORDERED, ADJUDGED, AND DECREED that the Exception of Prescription filed herein by the plaintiff, LATASHA JACKSON, be and the same is hereby denied.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the DNA Test Report on the parties is admitted into evidence.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that MARK ANTHONY JENKINS SR. is not the father of Mark Anthony Jenkins Jr.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Latasha Jackson Tuchson reimburse MARK ANTHONY JENKINS SR. the total costs incurred to obtain the DNA Test, including attorney fees, test and court costs.

IT IS FURTHER ORDERED that the rule to show cause why the birth certificate should not be altered to remove defendant's name as father; and the rule to show cause why DCFS should not authorize DNA Diagnostics to calculate the probability of paternity of Samuel Scott using a DNA Test Report in the Juvenile Court record; and why DNA Diagnostics should not be ordered to perform the calculation are taken under advisement.

IT IS FURTHER ORDERED that a full accounting

for attorney's fees and costs to obtain the DNA test be filed withing 30 days; and any memorandum on the issue of the DNA Report of Samuel Scott be submitted within 15 days.

JUDGMENT REDERED AND SIGNED at Gretna, Louisiana, this 4th day of February, 2015.
Signed: R. Steib, Judge.

JEFFERSON PARISH JUVENILE COURT
PARISH OF JEFFERSON
State of Louisiana

STATE OF LOUISIANA
DEPT. OF CHILDREN & FAM. SER.

IN THE INTEREST OF
MARK JENKINS JR. VERSUS MARK JENKINS SR
DOCKET NO. 2003-NS-1371-0
SECTION C

DATE 4/27/2015

JUDGE Barron C. Burmaster
ADA Leita Robertson
Filed :4/27/15 Signed: Deputy Clerk
MINUTE ENTRY – JUDGMENT
PETITION FOR CHILD SUPPORT
CONTRADICTORY HEARING
04/27/2015 TAKE UP

PRESENT WERE:

CECELIA ABADIE, ATTY DEFT
KRISTYL R. TREADAWAY, ATTY RECP
LATASHA JACKSON TUCHSON, Recipient
LEKITA JACKSON, ADA

THE 24TH JDC HAS RULED THAT THE DEFT IS
NOT THE BIOLOGICAL FATHER.

COURT ORDERED ATTY TREADAWAY HAS 30
DAYS TO RESPOND IN WRITING WHY THE
DEFT SHOULD BE HELD LIABLE AS THE
LEGAL FATHER.

COURT ORDERED ATTY ABADIE WILL HAVE 7
DAYS TO RESPOND TO ATTY TREADAWAY'S
MOTION.

ATTY ABADIE MOVED ON GOING SUPPORT
PAYMENTS BE SUSPENDED PENDING ATTY
TREADAWAY'S MOTION.

COURT GRANTED ATTY ABADIE'S MOTION.

COURT ORDERED A POSTING HOLD ON ANY
PAYMENTS THAT ARE CURRENTLY IN THE
SYSTEM.

PARTIES STIPULATE THERE IS NO AUTHENTIC
ACT OF ACKNOWLEDGEMENT AND THE
SIGNING OF THE BIRTH CERTIFICATE WAS
ACCEPTED.

PNIC: STATUS HEARING SET FOR 06/15/2015
09:00 AM IN SECTION C.

CLERK OF COURT NOTIFY ALL PARTIES WITH
A COPY OF ENTRY BY U.S. MAIL ALONG WITH
NOTICE OF SIGNING JUDGMENT.

CLERK: Scott D. Alwert

JUDGE Barron C. Burmaster

JEFFERSON PARISH JUVENILE COURT
PARISH OF JEFFERSON
STATE OF LOUISIANA

DEPT. OF CHILDREN & FAM. SER.
IN THE INTEREST OF MARK JENKINS JR.
VERSUS MARK JENKINS SR

DOCKET NO. 2003-NS-1371-0
SECTION C

DATE 6/15/2015

JUDGE Barron C. Burmaster
ADA Leita Robertson
Filed: 6/15/15 Signed: Deputy Clerk

MINUTE ENTRY – JUDGMENT
PETITION FOR CHILD SUPPORT
STATUS HEARING
06/15/2015 TAKE UP

PRESENT WERE;
CECELIA FARACE ABADIE, ATTY DEFT
KRISTYL R. TREADAWAY, ATTY RECP
LEKITA ROBERTSON, ADA
TIM O'ROURKE, ADA

ATTY TREADAWAY REQUESTED ALL MATTERS
BE STAYED PENDING THE APPEAL RULING.
VITAL RECORDS REMOVED THE DEFT'S NAME
FROM THE CHILD'S BIRTH CERTIFICATE.
CHILD'S NAME WAS CHANGED TO THE
MOTHER'S MAIDEN NAME.

COURT ORDERED ANY AND ALL SUPPORT
PAYMENTS ARE HEAREBY SUSPENDED
PENDING THE 5TH CIRCUIT COURT OF APPEAL
RULING.

ATTY ABADIE IS SEEKING REIMBURSEMENT
FOR THE DEFT.

COURT ORDERED REIMBURSEMENT ISSUES
WILL BE ADDRESSED AT THE TRIAL IF THE
DEFT IS DECLARED AS NOT THE LEGAL
FATHER BY THE 5TH CIRCUIT COURT OF
APPEALS.

COURT ORDERED INCOME ASSIGNMENT IS TO
BE STOPPED AND ANY FUNDS BEING HELD IN
POSTING ARE TO BE RELEASED TO THE DEFT.

COURT ORDERED SUSPENSION OF ONGOING
SUPPORT IS RETROACTIVE TO DATE THE

FATHER'S NAME WAS REMOVED FROM THE
BIRTH CERTIFICATE, 3/16/15.

STATE TO FILE FOR HEARING AFTER A
RULING HAS BEEN MADE IN THE 5TH CIRCUIT.

CLERK OF COURT NOTIFY
DEFENDANT/RECIPIENT WITH A COPY OF
ENTRY BY U.S. MAIL A LOGN WITH NOTE OF
SIGNING JUDGMENT.

Signed

CLERK Scott D. Alwert
JUDGE Barron C.Burmaster
A true copy of the original on file in this office
Juvenile Court
Parish of Jefferson, LA.

On Application For Writs, No. 15-C-399

COURT OF APPEAL, FIFTH CIRCUIT
STATE OF LOUISIANA
JUNE 23, 2015

Signed: Susan Buchholz, Deputy Clerk

MARK ANTHONY SR. VERSUS LATASHA
JACKSON

IN RE LATASHA JACKSON

APPLYING FOR SUPERVISORY WRIT FROM THE

TWENTY-FOURTH JUDICIAL DISTRICT COURT,
PARISH OF JEFFERSON, STATE OF LOUISIANA,
DIRECTED TO THE HONORABLE RAYMOND S.
STEIB, JR. DIVISION "A". NUMBER 711-419.

Attorneys for the Relator: Kristyl R. Treadaway,
Sandray S. Salley, Laurel A. Salley, Dixon C. Brown,
Attorneys at Law
3445 North Causeway Boulevard, Suite 510
Metairie, LA 70002 (504) 837-5499

Attorneys for Respondent: Timothy P. O'Rourke,
Assistant District Attorney, 1546 Gretna Boulevard,
Harvey, LA 70058 (504) 364-3630

Cecelia F. Abadie, Attorney at Law, 20 White Drive,
Hammond, LA (985) 542-7859.

WRIT GRANTED IN PART AND DENIED IN PART
(SEE ATTACHED DISPOSITION)

Gretna, Louisiana, this 31st day of July, 2015

MARK ANTHONY JENKINS, SR. VERSUS
LATASHA JACKSON
NO. 15-C-399
FIFTH CIRCUIT COURT OF APPEAL
STATE OF LOUISIANA

WRIT GRANTED IN PART AND DENIED IN PART
On February 15, 2012, respondent, M.J., Sr. filed a
petition for revocation of acknowledgment of
paternity, wherein he also asserted claims for

damages due to fraud under La. C.C. Art. 2315, for restoration of payments not due under La. C.C. art. 2299, and for genetic testing of relator, L.J., and her minor child, M.J., Jr.

As an initial matter, we note that on May 14 2013 this Court ruled on a prior writ application filed by relator seeking review of the trial court's January 22, 2013 denial of her exception of prescription, wherein she claimed that respondent's claim to revoke his acknowledgment of paternity was prescribed. M.J., Sr. v L.J., 13-C-296 (La. App. 5 Cir. 5/14/13) (unpublished writ disposition). In that writ disposition, this Court applied the two-year prescriptive period of La. R.S. 9:406 regarding authentic acts of acknowledgment, and held that "[respondent's] cause of action to revoke his acknowledgement of paternity has prescribed." Id at 2. As a result, this Court granted relator's writ of application in part, thereby granting relator's exception of prescription as to respondent's claim for revocation of his acknowledgment of paternity. Id.

In light of this Court's finding that respondent's cause of action for revocation was prescribed under La. R.S. 9:406, this Court vacated the portion of the trial court's judgment that ordered relator to submit to genetic testing under La. R.S. 9:396. Id. At 3. On June 26, 2013, the trial court ordered respondent, relator, and M.J., Jr. to submit to genetic testing in accordance with La. R.S. 9:396.

In the instant writ application, relator seeks review

of the trial court's February 4, 2015 judgment, which denied relator's second exception of prescription, found that respondent, M.J., Sr. was not the father of M.J., Jr., and ordered relator to reimburse respondent for costs incurred to obtain the genetic testing, attorney's fees, and court costs. Relator contends that the trial court erred in denying her second exception of prescription, filed on November 20, 2014, wherein she again claimed that respondent's claim to revoke is acknowledgment of paternity was prescribed. Relator also contends in her writ application that the trial court erred in ordering her to reimburse respondent for costs occurred in obtaining the DNA test, attorney's fees, and court costs.

In opposition to this writ application, respondent notes that this Court's May 14, 2013 writ disposition granted relator's first exception of prescription under La. R.S. 9:406, which involves authentic acts of acknowledgement of paternity. Respondent now contends that there is no evidence of an authentic act of acknowledgment, but rather, the birth certificate is the only evidence of any acknowledgment of paternity on his behalf. As such, respondent claims that this Court's prior writ disposition does not preclude his claim to rebut the presumption of legal paternity created by signing the birth certificate, which he contends is imprescriptible under former Article 203 of the Louisiana Civil Code.

Our review of the evidence regarding the form of the acknowledgment in this case shows that in

respondent's February 15, 2012 petition and in his opposition to relator's first exception of prescription, he stated that after M.J., Jr. was born on September 18, 1997, respondent signed the birth certificate and "the acknowledgment of paternity," which was filed in Louisiana. Respondent further alleged that according to the Bureau of Vital Records, a copy of the acknowledgment was unavailable due to Hurricane Katrina.

More than one year after this Court's May 14, 2013 writ disposition, respondent filed a "Rule to Show Cause Why [Respondent's] Name Should not be Removed from the Birth Certificate and Why an Expert Should Not be Appointed to Calculate Probability of Paternity" and supporting memorandum on October 17, 2014, wherein he alleged as follows:

"Except for the birth certificate, [respondent] could not remember if he signed any other acknowledgment at the hospital in 1997. Finally on September 15, 2014, the Department of Child and Family Services, formerly the Department of Social Services, reported to Judge Burmaster that it could not find any acknowledgment of paternity, authentic or otherwise in its records. DCFS receives hospital acknowledgments after they are executed since 1997 when the hospital acknowledgment program was begun. That fact along with the fact that hospital acknowledgments were not by authentic act in 1997 was discovered after the appeal to the Fifth Circuit

on the issue of prescription of the right to revoke an authentic act was over.”

On November 20, 2014, relator filed an exception of prescription claiming that respondent’s claim to revoke his acknowledgment of paternity was prescribed. In opposition to relator’s exception, respondent alleged that since filing his original petition for revocation of acknowledgment of paternity, he “learned that there was never a notarial act or an authentic act of acknowledgment – only a signed birth certificate.”

A declaration that expressly acknowledges an adverse fact and is made by a party in a judicial proceeding is a judicial confession that constitutes full proof against the party who made it. *La Louisiane Bakery Co. v. Lafayette Ins. Co.*, (La. App. 5 Cir 2/8/11), 61 So.3d 17, 26. An admission in a pleading falls within the scope of a judicial confession and is full proof against the party making it. *Id* at 27. A judicial confession must be explicit and not merely implied. *Id*. In the instant case, we find that respondent judicially confessed in more than one pleading that he signed both the birth certificate and an acknowledgment of paternity at the time of M.J., Jr.’s birth in 1997. Therefore, we find that respondent’s confession constitutes full proof against him, such that his subsequent allegations suggesting that he could not remember signing any acknowledgment other than the birth certificate, or that neither a notarial, nor an authentic act of

acknowledgment exists, cannot be considered for purposes of pursuing another attempt to revoke or to rebut his acknowledgment of legal paternity in this case.

Moreover, we note that our May 14, 2013 writ disposition held that “[respondent’s] cause of action to revoke his acknowledgment of paternity has prescribed.” M.J., Sr., 13-C-296 at 2. Respondent neither contested the form of his acknowledgment at the time that writ application was considered by this Court, nor did he file a timely writ of review to the Louisiana Supreme Court regarding that decision. Accordingly, we find that respondent cannot circumvent this Court’s prior ruling regarding the prescriptive period applicable to his acknowledgment of paternity by filing a rule to show cause in the trial court, which attempts to re-characterize the nature of that acknowledgment in a manner contrary to respondent’s judicial confession made at the time of our prior writ disposition. Therefore, we find that the trial court erred in denying relator’s exception of prescription because we have already held that respondent’s cause of action to revoke his acknowledgment of legal paternity has prescribed. Accordingly, we reverse the ruling of the trial court and grant relator’s exception of prescription as to respondent’s claim to revoke or rebut his acknowledgment of legal paternity.

Relator also contends that the trial court erred in finding that respondent was not the father of M.J., Jr., and ordering her to reimburse respondent for costs incurred in obtaining genetic testing, attorney’s

fees, and court costs, as set forth in its February 4, 2015 judgment.

Our review shows that on June 26, 2013, the trial court ordered relator, respondent, and M.J., Jr. to submit to genetic testing in accordance with La. R.S. 9:396, which authorizes an order for genetic testing in any civil action in which paternity is a relevant fact. Although we have found that respondent's claim to revoke or rebut his acknowledgment of legal paternity has prescribed respondent has also asserted additional claims related to the issue of biological paternity that has not yet been resolved, specifically his claims for damages due to fraud under La. C.C. art. 2315, and for restoration of payments not due under La C.C. art 229. Therefore, we find no error in the portion of the trial court's February 4, 2015 judgment that admitted the DNA test report into evidence and found that respondent is not the father of M.J., Jr. based upon that report. This finding is consistent with the trial court's June 26, 2013 order for genetic testing under La. R.S. 9:396, as the issue of biological paternity may, or may not, relate to respondent's additional claims that have not yet been determined.

Moreover, we find no error in the portion of the trial court's February 4, 2015 judgment that ordered relator to reimburse respondent for costs incurred in obtaining genetic testing, and for court costs. La. R.S. 9:397.1 provides that the court "shall tax the costs to the party against whom judgment is rendered." However, we find that the trial court erred in

ordering relator to pay respondent's attorney's fees. "Louisiana courts have long held that attorney's fees are not allowed except where authorized by statute or contract." *Sher v. Lafayette Ins. Co.*, 07-2441 (La. 4/8/08), 988 So. 2d 186, 201. In this case, there is no statute or contract authorizing respondent's recovery of attorney's fees. Although respondent claims that La. R.S. 9:398.1 allows for the recovery of attorney's fees." Louisiana courts have long held that attorney's fees are not allowed except where authorized by statute or contract." *Sher v. Lafayette Ins. Co.*, 07-2441 (La. 4/8/08), 988 So. 2d 186, 201. In this case, there is no statute or contract authorizing respondent's recovery of attorney's fees. Although respondent claims that La. R.S. 9:398.1 allows for the recovery of attorney's fees, we disagree as that statute only authorizes attorney's fees where "the court renders a judgment in favor of a party seeking to establish paternity." (Emphasis added). Because respondent is not seeking to establish paternity in this case, we find this statute is not applicable. Accordingly, we find that the trial court erred in awarding attorney's fees in favor of respondent and against relator, and we vacate that portion of the trial court's February 4, 2014 judgment.

In conclusion, we grant this writ application in part and reverse the trial court's February 4, 2015 denial of relator's exception of prescription and dismissing with prejudice respondent's claim to revoke or rebut his acknowledgment of legal paternity of M.J., Jr. We further grant this writ application in part and vacate

the portion of the trial court's February 4, 2015 judgment that order relator to pay respondent's attorney's fees. The write application is denied in all other respects, therefore, the portion of the trial court's February 4, 2015 judgment ordering relator to reimburse respondent for costs incurred for the genetic testing and for court costs remains in effect.

Gretna, Louisiana, this 31st day of July, 2015.

Signed: Judge Robert M. Murphy
Judge Stephen J. Windhorst
Judge Hans J. Liljeberg
A true copy, Gretna, July 31, 2015

Signed: Susan Buccholz, Deputy Clerk
Court of Appeal, Fifth Circuit

REHEARINGS REQUESTS

06/29/2021 "See News Release028 for any
Concurrences and /or Dissents

THE SUPREME COURT OF THE STATE OF
LOUISIANA

IN CECELIA F. ABADIE NO. 2020-B-01276

IN RE: Cecelia F. Abadie-Applicant Other; Applying
for Rehearing, Office of Disciplinary Board
Number(s) 17-DB-056

June 29, 2021
Application for rehearing denied.
WJC
SJC
JTG
JBM
Weimer, C.J., would grant.
Hughes, J., would grant.
Griffin, J., would grant.

Supreme Court of Louisiana
June 29, 2021
Signed: Katie Marjanoic, Chief Deputy Clerk of
Court
For the Court

FIFTH CIRCUIT COURT OF APPEAL FOR THE
STATE OF LOUISIANA

THE FIFTH CIRCUIT
POST OFFICE BOX 489
101 DERBIGNY STREET
GRETNNA, LA 70054
www.fifthcircuit.org
September 02, 2015
DEAR SIR/MADAM:
REHEARING WAS THIS DAY DENIED IN THE
CASE ENTITLED.

MARK ANTHONY JENKINS, SR.
VERSUS LATASHA JACKSON

NO: 15-C-399

RMM

SJW

HUL

Signed: Cheryl Q. Landrieu, Clerk of Court

THE SUPREME COURT OF THE STATE OF
LOUISIANA

MARK ANTHONY JENKINS, SR.
VERSUS
LATASHA JACKSON No. 2015-CJ-1622

IN RE: Mark Anthony Jenkins, Sr. – Plaintiff
Applying for Writ of Certiorari and/or Review, Parish
of Jefferson, 24th Judicial District Court Div. A, No.
711-419; to the Court of Appeal, Fifth Circuit, No. 15-
C-39;

September 4, 2015

Stay denied. Writ denied.

JTK

JLW

GGG

MRC

SJC

HUGHES, J., dissents and would grant for assigned
reasons.

Supreme Court of Louisiana

September 4, 2015

Signed: Katie Marjanovic
Second Deputy Clerk of Court for the Court

SUPREME COURT OF LOUISIANA

2015-CJ-1633

MARK ANTHONY JENKINS, SR.

VERSUS

LATASHA JACKSON

ON WRIT OF CERTIORARI TO THE COURT OF
APPEAL, FIFTH CIRCUIT PARISH OF
JEFFERSON

Hughes, J., dissents and would grant the writ.

“Respectfully, this seemingly untimely review and intervention of the Court of Appeal to decide an issue not addressed in the trial court’s judgment, based on the concept of a “judicial confession,” is clearly wrong given the DNA evidence, the multiple pleadings and amendments hereto, the stipulation of the parties, and the inability of DCFS to produce an authentic act of acknowledgment. This is not justice but “judicial gotcha.” These matters are best left to the trial court for trial on the merits and development of a full record.

The continued efforts of DCFS given the DNA results in the record are also questionable.”

FIFTH CIRCUIT COURT OF APPEAL
STATE OF LOUISIANA
MARK ANTHONY JENKINS
VERSUS LATASHA JACKSON
NO: 16-CA-w82

March 22, 2017
Susan Buchholz, First Deputy Clerk

ON APPLICATION FOR REHEARING
Panel composed of Marc E. Johnson, Robert M.
Murphy, and Stephen J. Windhorst
REHEARING DENIED: MEJ, RMM, SJW

SUPREME COURT OF THE STATE OF
LOUISIANA
NO. 2017-C-0652
MARK ANTHONY JENKINS
VERSUS LATASHA JACKSON

IN RE: Mark Anthony Jenkins, Sr. – Plaintiff;
Applying for Writ of Certiorari and/or Review, Parish
of Jefferson, 25th Judicial District Court Div. A, No.
711-419: to the Court of Appeal, Fifth Circuit, No. 16-
CA-482.

September 6, 2017

Denied.
GGG
BJJ
JLM
MRC

SJC

JTG

HUGHES, J., would grant.
Supreme Court of Louisiana
September 6, 2017
Signed: Deputy Clerk of Court for the Court

Case: 19-30112 Document 00515319261, filed 2/21/20

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 19-30112

MARK ANTHONY JENKINS, Plaintiff – Appellant

v.

TIMOTHY O'ROURKE, Jefferson Parish Assistant
District Attorney, Jefferson Parish Juvenile Court;
ROBERT M. MURPHY, Former Judge of the
Louisiana Fifth Circuit Court of Appeal; KRISTYL
TREADAWAY; BARRON BURMASTER, Judge
Defendants – Appellees

Appeal from the United States District Court for the
Eastern District of Louisiana

ON PETITION FOR REHEARING EN BANC

(Opinion 1/10/2020, 5 Cir __, __, F.3d __)

Before DENNIS, GRAVES, and WILLETT, Circuit
Judges.

PER CURIAM

(X) Treating the Petition for Rehearing En Banc as a
Petition for Panel Rehearing, the Petition for Panel
Rehearing is DENIED. No member of the panel nor

judge in regular active service of the court having requested that the court be polled on Rehearing En Banc (FED. R. APP. P. and 5th CIR. R. 35), the Petition for Rehearing En Banc is DENIED.

() Treating the Petition for Rehearing En Banc as a Petition for Panel Rehearing, the Petition for Panel Rehearing is DENIED. The court having been polled at the request of one of the members of the court and a majority of the judges who are in regular active service and not disqualified not having voted in favor (Fed. R. App. P and 5th Cir. R. 35), the Petition for Rehearing En Banc is DENIED.

ENTERED FOR THE COURT:

Signed: United States Circuit Judge

*Judge Kurt D. Engelhardt, did not participate in the consideration of the rehearing en banc.

v) previous pleadings that raised the issues

SUPREME COURT
STATE OF LOUISIANA DOCKET NO 2020-B-1276
(Disciplinary)
IN RE: CECELIA F. ABADIE
LOUISIANA DISCIPLINARY BOARD
NUMBER 17-DB-056

BRIEF IN OPPOSITION TO THE
RECOMMENDATION TO THE LOUISIANA
SUPREME COURT

Cecelia F. Abadie # 19874,
20 White Drive
Hammond, Louisiana 70401
Phone & Fax 985-542-7859
cfabadie@gmail.com
December 21, 2020

p.4

Obviously, the appellate court's ruling on legal paternity was made without supervisory jurisdiction over that issue. "Persons whose rights may be affected by State action are entitled to be heard, and in order that they may enjoy that right they must first be notified. *Baldwin v. Hale*, 68 U.S. (1 Wall.) 223, 17 L.Ed. 531 (1864)

...

p.11

B. The Disciplinary Committee's Report Refused to Recognize Any of the Facts of the Defense to the Charge of Impugning the Integrity of the Judge.

1. Pages 5-9 of respondent's post-hearing memorandum presented respondent's defense to the charge of impugning the integrity of the judge. It cited the transcript of the hearing, and the court records to support the facts. It is incredible that the Committee Report ...actually claimed that "Respondent did not present any proof of any misconduct, and did not defend against the Rule 8.2 violation." The Committee pretended it did not see

Judge Murphy's ruling in the absence of supervisory jurisdiction over the legal paternity issue. Willful blindness was employed in the courts and disciplinary system to protect Judge Murphy.

2021 May 26 PM 2:19
Clerk of Court

SUPREME COURT OF LOUISIANA
IN RE: CECELIA ABADIE
NO. 2020-B-1276
ATTORNEY DISCIPLINARY PROCEEDING

APPLICATION FOR REHEARING

MAY IT PLEASE THE COURT:

I was charged with impugning the integrity of Judge Robert M Murphy, who as an appellate judge intentionally ruled on an issue that had not been decided in a trial. My allegation is proven in the following court records that were accepted into evidence.

33

ODC-8p The 24th JDC's Judgment of February 4, 2015 decided that Mark Jenkins was not the biological father ...based on DNA paternity test results. [ODC put the other judgment of February 4, 2015 under this number.] Comment added.

p

R-8 Juvenile Court Minutes of April 27, 2015

R-10 Transcript excerpts from Jefferson Parish Juvenile Court, State of La., in the Interest of Mark Jenkins Jr. v. Mark Jenkins Sr. No. 2003-NS-1371, Sec. "C", hearing of June 15, 2015....

R-11 Attorney Treadaway's writ application from the 24th JDC's February 4, 2015 Judgment was filed on June 23, 2015

ODC-14b Fifth Circuit Judge Murphy wrote the Disposition of July 31, 2015

...

CONSIDERING THE EVIDENCE IS REQUIRED FOR DUE PROCESS (page 4)

A judgment on the merits is "a judgment rendered through analysis and adjudication of the factual issues presented." Barron's Law Dictionary, 2nd. Edition, 1984, Steven H. Gifis, p. 252. Adjudication is "the determination of a controversy and a pronouncement of a judgment based on the evidence presented." Id. p. 11.

A rehearing should be granted because the "judgment," rendered by this court is not an adjudication. If my exhibits submitted into evidence, and referenced in my brief, are not relevant to determine whether I supported my allegation with objective and reasonable evidence, then the court should be willing to discuss the exhibits and explain why they are insufficient. To hide the court records I

put into evidence by pronouncing them “not evidence” is arbitrary and capricious. It is the antithesis of due process of law, and amounts to suppression of evidence.

A discussion of the exhibits that I put into evidence allows the court to explain how those exhibits are not relevant to the allegation of collusion. Of course, the court records conclusively prove that Judge Murphy violated supervisory subject matter jurisdiction. Judge Burmaster and attorney Treadaway may have been unwilling participants.

CONCLUSION

Finding a way to avoid or refuse to consider the evidence is violation of due process of law. I was eager to present my case to this court, because the Committee and Board avoided the evidence.

Considering the objective evidence provides support for the reasonable allegation I made. Furthermore, the allegation was made in a private letter to opposing attorneys and not to anyone else. My efforts to obtain nullification were justified in view of the unjust ruling made without jurisdiction. I respectfully ask for rehearing. (p.8)

s/Cecelia Abadie
Cecelia Farace Abadie, La. Bar No. 19874
20 White Drive, Hammond, La. 70401
985-542-7859 phone & fax
cfabarie@gmail.com

CERTIFICATE OF SERVICE

I certify that I served Chief Disciplinary Counsel with this application for rehearing on May 26, 2015 by faxing it to 225-293-3300.

s/Cecelia Abadie

Louisiana Attorney Disciplinary Board 2019 Aug 12
pm 2:11

LOUISIANA ATTORNEY DISCIPLINARY BOARD
IN RE: CECELIA F. ABADIE, DOCKET NO. 17-DB-
56

RESPONDENT CECELIA FARACE ABADIE POST -HEARING MEMORANDUM

p.5

On October 17, 2014, Jenkins filed a Rule to Show Cause why the birth certificate should not be corrected. The rule asked for admission of the paternity test results and a ruling that Jenkins was not the father based on the test results. (ODC-7F) Treadaway filed an exception of prescription to rebutting the presumption of paternity created by the birth certificate. She claimed the right to rebut had prescribed ten years after the birth certificate was signed in 1997. (ODC-7H) Respondent argued, and it was settled law, that the right to rebut the birth certificate was not subject to prescription, citing Rousseve v. Jones et al, 704 So.2d (La. 1997) See attachment "C" ... After the stipulation,

Treadaway was ordered to explain in writing within 30 days why Jenkins was the legal father, as the Minutes of April 27, 2015 Prove. (R-8)....

Treadaway's memorandum did not present an argument for legal paternity at the June 15, 2015 hearing She knew legal paternity would not be decided in juvenile court. (Tr. 51. L.2-9) Instead, she and Judge Burmaster both stated repeatedly that Judge Steib had decided legal paternity, R-10, ...) and that the request for review was pending in the fifth circuit. Attempts to correct them were ignored. Those lies were to give Judge Burmaster an excuse for not deciding legal paternity. ... Seven days after the hearing Treadaway filed her application for writ. ...Her assignment of error stated: "The district court erred when it overruled the exception of prescription filed by Latasha Jackson and found Mark Anthony Jenkins Sr. to not be the legal father of the minor child."

...Treadaway's lie in the assignment of errors was what Judge Murphy needed. It gave the appearance of supervisory jurisdiction. Murphy ignored the court record that showed only biological paternity had been before the trial court; the rule to Show Cause, (ODC-7F), the Exception of Prescription, (ODC-7H), and the Judgment of Feb. 4, 2015, (ODC-8P).....

Respondent sent the draft letter (ODC-1A) to opposing counsel that cited her concerns about the legal machinations because the actions taken by the Juvenile Court judge and the appellant judge flew in

the face of due process for her client. p17

If respondent had accepted the private reprimand (R-21, not in ODC exhibits) to end the disciplinary process, she would have undercut the truth of her client's allegations against Judge Murphy, Judge Burmaster, Treadaway, and O'Rourke in a suit for their violation of due process of law. P.19

Respectfully submitted,
/s/Cecelia Farace Abadie
Respondent, La Bar No. 19874

...

Received, Date 04/10/2018 By. Amy D. Panepinto

LOUISIANA ATTORNEY DISCIPLINARY BOARD
IN RE: CECELIA F. ABADIE, (Bar No. 19874)
DOCKET NO. 17-DB-56
(ODC Investigative No. 0033656)

TIME LINE

II. JUDGE ROBERT MURPHY DECIDED THE ISSUE OF LEGAL PATERNITY WITHOUT JURISDICTION TO DO SO; IGNORED THE LAW AND DEPRIVED MARK JENKINS OF HIS CONSTITUTIONAL RIGHT TO HAVE HIS EVIDENCE BEFORE THE COURT DECIDING LEGAL PATERNITY. P.10

4. The disposition violated Mark Jenkins' Fourteenth Amendment right to be heard when it decided legal paternity that was not in the scope of review of the February 4, 2015 Judgment. P.14

s/Cecelia Abadie

[Because of the extensive history of the Jenkins case, respondent put the timeline first and continued into the argument.] added by respondent

Filed June 30, 2015
FIFTH CIRCUIT COURT OF APPEALS
COURT OF APPEAL
STATE OF LOUISIANA
DOCKET NO 15-C 399

MARK ANTHONY JENKINS SR., Plaintiff
Respondent
VERSUS LATASHA JACKSON, Defendant
Applicant
A CIVIL PROCEEDING

OPPOSITION TO LATASHA JACKSON'S
APPLICATION FOR WRIT OF REVIEW OF THE
DECISION OF THE 24TH JUDICIAL DISTRICT
COURT

JUDGE RAYMOND S. STEIB, DOCKET NO 711-419

RENDERED IN OPEN COURT ON JANUARY 21, 2015 AND SIGNED ON FEBRUARY 4, 2015.

PLAINTIFF MARK ANTHONY JENKINS SR.'S
OPPOSITION TO APPLICATION FOR
SUPERVISORY WRITS

....

5. Defendant is asking this Court to decide de novo the legal father issue which she and DCFS have deliberately avoided addressing in a lower court.

The District Court judgment dealt only with the biological father issue.

Filed 6/30/15

Appeal for the Fifth Circuit

Filed Mar 09 2017

Cheryl Quirk, Clerk

COURT OF APPEAL FOR THE FIFTH CIRCUIT
STATE OF LOUISIANA
DOCKET NO.16-CA-482
MARK ANTHONY JENKINS, SR., PLAINTIFF &
APPELLANT
VERSUS
LATASHA JACKSON, DEFENDANT & APPELLEE

PLAINTIFF/APPELLANT'S
REQUEST FOR RECONSIDERATION FROM
GRANTING OF EXCEPTIONS & DISMISSAL OF
PETITION IN 24TH JUDICIAL DISTRICT

DISTRICT COURT PARISH OF JEFFERSON,
STATE OF LOUISIANA
THE HONORABLE RAYMOND S. STEIB
PRESIDING
DIVISION "A" DOCKET NUMBER 711-419

ATTORNEY FOR PLAINTIFF/APPELLANT
MARK ANTHONY JENKINS
20 White Drive
Hammond, Louisiana 70401
Telephone & Facsimile: 985-542-7859

May it please the Court:

The Disposition handed down on January 22, 2017 totally ignored, and failed to address, consider or decide the issue, presented in this appeal, of whether this court denied plaintiff his civil right to be heard. Plaintiff's appeal argued that by improperly taking up the legal paternity issue that was not in the scope of review of the February 4, 2015 Judgment, this court denied Mark Jenkins his civil right to have material evidence before this court improperly took up the legal paternity issue and ruled "de novo" on whether there was a signed authentic act of acknowledgment, which it discretely called an "acknowledgment of legal paternity," it "fail(ed) to

give the litigants notice of its *sua sponte* determination or to provide the litigants with an opportunity to be heard on the issue.” *Wooley v. Lucksinger*, LEXIS 1863, 14 So.3d 311, 364 (La. 2008). Fair notice to the plaintiff in the instant case, in which the defendant lied in her Assignment of Issues, had to be implemented by this court by confining its review to the issues contained in the Judgment of February 4, 2015. Respondent was blindsided, and notice to the Court in the Opposition Brief and in the Request for Reconsideration was ignored. As alleged in the Petition, denial of the right to be heard is a sufficient basis for nullification of the Fifth Circuit’s rulings. (16 CA 482, v.1, p.131). The Supreme Court held:

“Even had there been justification for the court of appeal’s re-determination of the choice of law decision, the appellate court committed error in failing to give the litigants notice of its *sua sponte* determination or to provide the litigants with an opportunity to be heard on the issue. HN 175, at 364. The court of appeal’s failure to provide notice to the parties was especially egregious,” *Id.* at 335.

When Wooley was brought up in argument on May 16, 2016, the district court opined, “You had notice. In fact, it was your appeal.” (16 CA 482, vol.1, p. 241, l. 4-6) That was not correct. The record clearly shows defendant took a writ application from the February 4, 2015 Judgment. Defendant misrepresented the

contents of the Judgment by listing legal paternity as an issue. Even though the record showed, and plaintiff argued in two briefs to the court, that those issues were not contained in the Judgment, this court proceeded to improperly take up those issues on what it knew was an incomplete record.

“Scope of review” is a limitation on this court’s supervisory authority designed to protect litigants from what happened in this case. The court violated the jurisprudential rule and that allowed it to violate Mark Jenkins’ civil right.

Scope of review on a supervisory writ limits the subject matter over which this court has jurisdiction. Scope of review gives protection to the civil rights of the parties. Simply taking up an issue *sua sponte* when it is not in the scope of review is egregious and a basis for annulment of the judgment as provided in C.C.P. Art. 2002 A(3). Plaintiff used the term “subject matter jurisdiction” as it applies to scope of review. Clearly plaintiff was not discussing the subject matter jurisdictional limitation provided in La. Const. art. V, sec 10. Supreme Court jurisprudence also puts jurisdictional limits on supervisory review.

CONCLUSION

The court denied plaintiff the opportunity to present his evidence to this court, which evidence was in the Juvenile Court where legal paternity was set to be decided before the issue was usurped by this court.

Respectfully submitted,
s/Cecelia Abadie _____
Cecelia Farace Abadie, Bar. No. 19874
20 White Drive, Hammond, La. 70401
Phone and fax: 985-542-7859

CERTIFICATION

I certify that a copy of this pleading was either mailed or faxed to the following on the 8th day of March, 2017.

s/Cecelia Abadie

Attorney Willie M. Zanders, Sr.
For Latasha Jackson Tuchson
25912 Stonehenge Drive
Denham Springs, LA 70726

Amanda L. Calogero
Assistant District Attorney
Juvenile Court, 46 Gretna Blvd., Harvey, Louisiana

Case 2:18-cv-03122BWA-JVM
Document 1 Filed 03/22/18 Page 1 of 20

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
Mark Anthony Jenkins, Plaintiff
Versus Civil Docket No.
Robert M. Murphy 2:18-cv- 03122
Former judge of the Sect.
Louisiana Fifth Circuit Judge: NJB

And Timothy O'Rourke,
Jefferson Parish ADA
Defendants

MAG: JVM

Attorney for Plaintiff
Mark Anthony Jenkins
Cecelia Farace Abadie
20 White Drive
Hammond, LA 70401
985-542-7859 phone & fax
cfabadie@gmail.com

COMPLAINT

...

35. ...Her [Treadaway's] lie was needed to give a semblance of supervisory jurisdiction. (clarification added)

...

40. ...Judge Murphy had a duty to rule within the limits of supervisory jurisdiction to afford Jenkins the right to be heard.

42. ...In this situation, the District Court had not ruled on whether there was an authentic act of acknowledgment for there to be an error of fact.

52. Judge Murphy saw to it that the issues presented in plaintiff's writ application were not reviewed. The Disposition of February 22, 2017, dodged the issue of lack of jurisdiction by claiming the Fifth Circuit had jurisdiction over legal paternity on July 31, 2015 because it reviews ruling of lower courts which have

jurisdiction over “civil matters including family and juvenile court matters in La. Const. art. V, sec. 10.”

That is not subject matter jurisdiction for supervisory review.

55.e It refused to recognize that on writ applications, litigants are given notice and the opportunity to be heard by the court’s adherence to the rules on supervisory jurisdiction and scope of review.

...V. DAMAGES

77. As a direct and proximate result of the actions described above, Mark Anthony Jenkins has incurred damages including:...

2) violation of his right under the Fifth and Fourteenth Amendments to the United States Constitution to be given the opportunity to be heard in the determination of legal paternity.

Respectfully submitted,

“s/ Cecelia Farace Abadie”

Cecelia Farace Abadie, La. Bar No. 19874

FILE FOR RECORD JUNE 30, 2015,

(Respondents note: The Complaint was considered an attack on Judge Murphy by the Supreme Court.)

vi ESSENTIAL MATERIAL CIVIL CODE OF LOUISIANA

Section 2. OF THE ACKNOWLEDGMENT OF ILLEGITIMATE CHILDREN

Art. 203 Methods of making acknowledgment; legal effect

A. The acknowledgment of an illegitimate child shall be made by a declaration executed before a notary public, in the presence of two witnesses, by the father and mother or either of them, or it may be made in the registering of the birth or baptism of such child.

B. (1) An acknowledgment or declaration by notarial act is deemed to be a legal finding of paternity and is sufficient to establish an obligation to support an illegitimate child without the necessity of obtaining a judgment of paternity.

C. An acknowledgment by registry creates a presumption of paternity which may be rebutted if the alleged father proves by a preponderance of the evidence facts which reasonably indicates he is not the father, provided such facts are susceptible of independent verification or of corroboration by physical data or evidence.

Amended by Acts 1995, No. 425 Sec.1; Acts 1997, No. 1244, sec.1, Repealed by Acts 2005

24TH JUDICIAL DISTRICT COURT FOR THE
PARISH OF JEFFERSON

STATE OF LOUISIANA

NO. 711-419

MARK ANTHONY JENKINS SR.

VERSUS

LATASHA JACKSON

Filed for Record Oct. 17, 2014

**RULE TO SHOW CAUSE WHY PLAINTIFF'S
NAME SHOULD NOT BE REMOVED FROM THE
BIRTH CERTIFICATE AND WHY AN EXPERT
SHOULD NOT BE APPOINTED TO CALCULATE
PROBABILITY OF PATERNITY**

NOW INTO COURT undersigned counsel comes MARK ANTHONY JENKINS, plaintiff in this suit for damages for paternity fraud, and on suggesting that:

1. Plaintiff learned that the Department of Child and Family Services receives copies of all executed hospital-based acknowledgments of paternity from the Department of Vital Records since the hospital-based acknowledgment program was initiated.
2. Juvenile Court ordered DCFS, to produce their copy of the Jenkins' acknowledgment to see if it was in authentic form or not. It also ordered Jackson's attorney to present a signed birth certificate.
3. In the hearing on September 15, 2014, Assistant District Attorney John Fitzmorris stated that DCFS does not have a copy of any act of acknowledgment of paternity signed by plaintiff.
4. Since there is no authentic act of acknowledgment the Fifth Circuit's decision that the prescriptive period of R.S.9:406 applied to an authentic act of acknowledgment signed in 1997, has no legal effect on this suit or the one in Juvenile Court.

5. Latasha Jackson's attorney presented a signed birth certificate and Juvenile Court ruled that the birth certificate is a legitimate acknowledgment of paternity, which it does not have authority to revoke.
6. This court has jurisdiction to order the removal of plaintiff's name as father of defendant's son from the birth certificate and there is no prescriptive period to revoke acknowledgment by signing the birth certificate.
7. C.C. Art. 203, which was in effect in 1997, when the birth certificate was signed, provides that acknowledgment by registry of the birth certificate creates a "presumption of paternity" which "may be rebutted by proof that he is not the father by physical data or evidence."
8. The DNA Report, ordered by this court and filed in the record as required by statute, shows that Mark Anthony Jenkins cannot be the father of Latasha Jackson's son. Therefore, under former C.C. Art. 203 and the jurisprudence interpreting it, the birth certificate had no legal effect and the presumption of paternity is rebutted.
9. Mark Anthony Jenkins paid all costs of the DNA test, and is entitled to receive reimbursement after judgment is rendered on paternity.
10. The witness, who testified that he learned that

Mark Jenkins was not Mark Jr.'s father from Samuel Scott, can testify that Scott said Jackson told him he was the father when her son was an infant.

11. That hearsay statement can come in under an exception to hearsay when the statement is made by the father of the child-

12. Genetic information on the Jackson-Jenkins DNA report combined with a DNA Report on Samuel Scott in the record of the Juvenile Court, case number 12 NS 1421 entitled, "In the Interest of Tyron Houston, Minor Child of Shante Houston" would allow an expert to compute the probability of Scott's paternity of Jackson's son.

13. A layman can compare the allele sizes of Mark Anthony Jenkins Jr. with those of his mother and those of Samuel Scott and see that every allele size of Mark Anthony Jenkins Jr. is found in either his mother's profile, Samuel Scott's or both. However, if the court wants the exact probability of paternity, an expert must be appointed.

14. Both DNA reports were produced by DNA Diagnostics Center (DDC) by court order. DDC would compute the probability of paternity using Scott's DNA information, which is in the public record at Juvenile Court, if DCFS gives authorization to use the Houston-Scott report.

15. Plaintiff served a Request for Production on DCFS on March 14, 2014 requesting that DCFS sign an enclosed authorization for DDC to use Samuel Scott's DNA Report to calculate the probability of his paternity, and it refused.

MARK ANTHONY JENKNS moves that Jackson and the Department of Child and Family Services show cause why: 1) the DNA Test Results for the parties should not be admitted into evidence, and why the birth certificate should not be denied legal effect and declared rebutted; 2) why Mark Anthony Jenkins Jr. 's birth certificate should not be altered to show Mark Anthony Jenkins is not his father; 3) why Latasha Jackson hould not pay all costs for the DNA testing as provided in La. R.S. 9:371.1 by a date set by this court; 4) why the court should not order DCFS to authorize use of the DNA information on Samuel Scott, of order DDC or another expert to use the DNA information of Samuel Scott, which is in the public record, to calculate the probability of paternity; and 8) why DCFS should not be ordered to pay attorney fees and costs for this rule to compel them to authorize the calculation.

s/Cecelia F. Abadie Cecelia Farace Abadie,

Bar #19874

Attorney for Mark Anthony Jenkins

20 White Drive, Hammond, LA 70401

Phone 985-542-7859

CERTIFICATE OF SERVICE

I certify that a copy of this Rule to Show Cause was faxed to both opposing counsel at 504-837-5411 and 504-364-3559 this day of October, 2014.

s/Cecelia F. Abadie

Please serve:

Department of Child and Family Services

Latasha Jackson

through attorney of record

Kristyl R. Treadaway

3445 North Causeway Blvd, Suite 510

Metairie, LA 70002

and

Timothy O'Rourke

1546 Gretna Blvd.

Harvey, LA 70058

24TH JUDICIAL DISTRICT COURT FOR THE

PARISH OF JEFFERSON

STATE OF LOUISIANA

NO. 711419, DIV. "A"

MARK ANNONY JENKINS SR.

VERSUS

LATASHA JACKSON

ORDER

Considering the above and foregoing,

IT IS ORDERED THAT Latasha Jackson and the Department of Child and Family Services show cause on the 18th day of November, 2014 at 9 o'clock a.m. why. 1) the DNA Test Report of the parties should not be admitted into evidence, and why the signing

of Mark Anthony Jenkins Jr.'s birth certificate by Mark Anthony Jenkins should not be declared to have no legal effect, and the presumption of paternity rebutted; 2) why Mark Anthony Jenkins should not be found not to be the father of Mark Anthony Jenkins Jr.; 3) why the birth certificate should not be altered to show that Mark Anthony Jenkins is not the father of Mark Anthony Jenkins Jr. ; 4) why Latasha Jackson should not be ordered to reimburse Mark Anthony Jenkins for all costs of the DNA test; 5) why DCFS should not be ordered to sign an authorization allowing DNA Diagnostics Center to use the Houston-Scott DNA Report, in the public record at Juvenile Court, to compute the probability that Samuel Scott is the father of Mark Anthony Jenkins Jr., or the Court should not order DNA Diagnostics Center or another expert to use the Houston-Scott report to compute the probability of paternity, 6) why DCFS should not be ordered to pay attorney fees and costs for this rule to show cause.

Gretna, Louisiana, this _____ day of October, 2014.
S/ RAYMOND S. STEIB, JR., JUDGE

Please serve:

Department of Child and Family Services
Through attorney of record:
Timothy O'Rourke
1546 Gretna Blvd.
Harvey, LA 70058

Latasha Jackson, through
Kristyl R.Treadaway

3445 North Causeway Blvd., Suite 510
Metairie, LA 70002

True copy of the original on file in this office
Giselle Le Bule
Deputy Clerk
24th Judicial District Court
Parish of Jefferson

FILE FOR RECORD 2015 FEB 24 AM 11:18
Deputy clerk, PARISH OF JEFFERSON, LA

24TH JUDICAL DISTRICT COURT FOR THE
PARISH OF JEFFERSON
STATE OF LOUISIANA
NO. 711-419, DIVISION

MARK ANTHONY JENKINS
VERSUS
LATASHA JACKSON
FILED _____

MOTION AND ORDER FOR APPEAL
NOW INTO COURT, through undersigned counsel,
comes Latasha Tuckson, formerly Latasha Jackson,
who respectfully represents:

1. On February 4, 2015, this Honorable Court
signed a judgment denying the Exception of
Prescription filed by Latasha Tuckson, finding that
Mark Anthony Jenkins, Sr. was not the father of
Mark Anthony Jenkins Jr., and ordering Latasha
Tuckson pay for Mark Anthony Jenkins, Sr.'s
attorney fees and costs incurred to prove paternity.

2. ...
3. Latasha Tuckson respectfully disagrees with the Court's February 4, 2015 Judgment. Accordingly, she desires to suspensively appeal said Judgment. ...

Respectfully submitted,
SALLY & SALLY
Attorneys at Law

...
By: s/ Kristyl R. Treadawy

...

**JUVENILE COURT
FOR THE PARISH OF JEFFERSON
STATE OF LOUISIANA**

**DEPARTMENT OF CHILDREN &
FAMILY SERVICES
IN THE INTEREST OF MARK JENKINS, JR.
V. MARK JENKINS, SR.
2003-NS-1371, SEC. C**

**STATUS HEARING
TESTIMONY AND PROCEEDINGS TAKEN
BEFORE THE HONORABLE BARRON C.
BURMASTER, JUDGE, PRESIDING IN THE 15TH
DAY OF JUNE, 2015**

**APPEARANCES:
Cecelia Abadie, Esq. for the Defendant
Kristyl Treadaway, Esq. for the Recipient
Tim O'Rourke, Esq. Assistant District Attorney**

LeKita Robertson, Esq. Assistant District Attorney

page 4

MS TREADAWAY:

"It would be our position, Your Honor, that since Judge Steib's finding that Mr. Jenkins is not the legal father of the child and that judgment is on appeal, --and like I asked in my memo that the Court ordered that I submit—I would ask that the Court not do anything on this case until the appellate court review of Judge Steib's ruling is complete. Because as the Court previously stated that if the Fifth Circuit overturns Judge Steib's ruling, he's still going to be the legal father and that child support is still going to be a valid child support order".

THE COURT: "Okay."

.....page 21

THE COURT:

"See, I don't have my whole court record because it's on-- the Fifth Circuit has asked for our records....."

April 12, 2018

To Whom It May Concern,

Attached, please find the requested transcript of the June 15, 2015 hearing in case number 2003-NS-1371.

This transcription was prepared by Taylor C. Jobes, Court reporter for Jefferson Parish Juvenile Court. This transcription is unable to be certified at this time, specifically, the language of such a certification states that the court reporter is the officer before whom the testimony was taken. Due to the fact that this hearing did not take place before me, Taylor C.

Jobs, and the reporter present at the time of the hearing is no longer employed in the capacity of court reporter with the Jefferson Parish Juvenile Court system. A certified copy of the transcript is not available.

Sincerely,
s/ Taylor C. Jobes
Court Reporter, Section C
Jefferson Parish Juvenile Court

FILE FOR RECORD R11
2015 JUN 23 PM 3:32
DEPUTY CLERK
FIFTH CIRCUIT COURT OF APPEAL
STATE OF LOUISIANA

COURT OF APPEAL
FIFTH CIRCUIT
STATE OF LOUISIANA
15-C-399
MARK ANTHONY JENKINS, SR., Plaintiff-
Respondent
Versus
LATASHA JACKSON, Defendant-Applicant

A CIVIL PROCEEDING

APPLICATION OF LATASHA JACKSON, FOR
SUPERVISORY WRIT OF REVIEW OF THE
DECISION OF THE TWENTY-FOURTH JUDICIAL
DISTRICT COURT

JUDGE RAYMOND S. STEIB,
DOCKET NO. 711-419, RENDERED IN OPEN
COURT ON JANUARY 21, 2015 AND SIGNED
FEBRUARY 4, 2015

...
Respectfully submitted,
Kristyl R. Treadaway, (#32648)

...
...
ISSUES AND QUESTIONS OF LAW

1. Did the Trial Court err when it found Mark Anthony Jenkins, Sr.'s cause of action not prescribed and found Mark Anthony Jenkins Sr. to not be the legal father of the minor child?
2. Did the Court properly order that Latasha Jackson reimburse Mark Anthony Jenkins, Sr. all costs incurred in obtaining the DNA test, including attorney's fees and court costs?

ASSIGNMENT OR SPECIFICATION OF ERROR

1. The District Court erred when it overruled the Exception of Prescription filed by Latasha Jackson and found Mark Anthony Jenkins Sr. to not be the legal father of the minor child.
2. The District Court erred when it ordered that Latasha Jackson reimburse Mark Anthony Jenkins, Sr. all costs incurred in obtaining the DNA test, including attorney's fees and court costs.

...

24TH JUDICIAL DISTRICT COURT
PARISH OF JEFFERSON
STATE OF LOUISIANA

MARK ANTHONY JENKINS, SR. v. LATASHA
JACKSON, NO. 711-419, DIV. A

PROCEEDINGS
MOTION HEARING
Held on Monday, May 16, 2016
Before the Honorable Raymond S. Steib, Jr.
Judge Presiding in Gretna, Louisiana

APPEARANCES;
CECELIA F. ABADIE, ESQ.
Representing Mark Anthony Jenkins
KRISTYL R. TREADAWAY
Representing Latasha Jackson

Reported by:
Karen H. Frazer, CCR, CDR, OCR
Certified Court Reporter

Page 21. Line 1

“Your Honor, you did not decide legal paternity in that judgment. You decided biological paternity. And it is obvious because the decision on paternity was based on the D.N.A. report.”

THE COURT
“Okay. But what they were looking at was the prescriptive period to apply....”

REPORTER'S PAGE

I, KAREN H. FRAZER, Certified Court Reporter in and for the State of Louisiana, the officer, as defined in Rule 28 of the Federal Rules of Civil Procedure and /or Article 1434(B) of the Louisiana Code of Civil Procedure, before whom this proceeding was taken, do hereby state on the Record: That due to the interaction in the spontaneous discourse of this proceeding, dashes (-) have been used to indicate pauses, changes in thought, and /or talkovers; that same is the proper method for a Court Reporter's transcription of proceedings , and that the dashes(-) do not indicate that words or phrases have been left out of this transcript; That any words and /or names which could not be verified through reference material have been denoted with the phrase"(spelled phonetically)."

s/Karen H. Frazer
Karen H. Frazer, CCR, CDR, OCR

Case 2:18-cv- 03122-BWA-JVM Document 58 Filed
11/27/18

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
MARK ANTHONY JENKINS v. ROBERT M.
MURPHY, CIVIL ACTION NO. 18-3122, sec. M(1)
ORDER & REASONS

Before the Court is a Motion to Dismiss filed by defendant Barron Burmaster, to which plaintiff Mark Anthony Jenkins responds in opposition, and in support of which Burmaster replies, a Motion to

Dismiss filed by defendant Kristyl Treadaway, to which Jenkins responds in opposition, and in support of which Treadaway replies, a Motion to Dismiss filed by defendant Robert M. Murphy to which Jenkins responds in opposition, and in support of which Murphy relies, and in further opposition to which Jenkins has filed a sur-reply, and a Motion to Dismiss filed by defendant Timothy O'Rourke, to which Jenkins responds in opposition, and in support of which O'Rourke replies. Having considered the parties' memoranda and the applicable law the Court issues this Order & Reasons.

I. BACKGROUND

This action is a collateral attack on a state court judgment. The pertinent facts and procedural history of this case were recited in the Louisiana court of appeals for the fifth circuit in an appeal stemming from the underlying state-court litigation

[“BACKGROUND” consisting of 8 pages is taken word-for-word from Louisiana Fifth Circuit, Mark Anthony Jenkins Sr. v. Latasha Jackson, 216 So.3d 1082, 1082-89 (La. App), writ denied, 224 So.3d 984 (La. 2017).] Respondent’s note.

when it affirmed the state district court’s dismissal of the petition to nullify the ruling on legal paternity of July 31, 2015 legal paternity in its disposition

On March 22, 2018, Jenkins filed this action in federal court again arguing that the Louisiana court of appeal for the fifth circuit lacked subject matter jurisdiction to determine legal paternity in its July 31, 2015 order regarding Jackson’s writ application.

Jenkins names as defendants: O’Rourke, an assistant district attorney involved in the state-court litigation; Murphy, a judge on the Louisiana court of

appeal for the fifth circuit; Treadaway, Jackson's attorney in the state-court litigation; and Burmaster, * a judge on the 24th Judicial District Court Parish of Jefferson, State of Louisiana. [*Burmaster is a judge in Juvenile Court. This interjection was made by Respondent.] Jenkins alleges that the defendant conspired to deprive him of his rights secured by the Fifth and Fourteenth Amendments to the Constitution of the United States of America by procuring the July 31, 2015 order from the Louisiana court of appeal when that court allegedly lacked subject matter jurisdiction to rule on the issue of paternity. Jenkins asserts that his claims are brought under 42 U.S.C. sections 1893, 1985, 1986, and 1988, and that he seeks a judgment that the July 31, 2015 ruling of the state court is null and void for lack of subject- matter jurisdiction, and monetary damages.

II. PENDING MOTIONS

Burmaster, Treadaway and O'Rourke filed motions to dismiss, arguing that this court lacks subject-matter jurisdiction over Jenkins' action by operation of the *Rooker-Feldman* doctrine. The defendants argue that Jenkins is a "state-court loser" who filed this action in federal court to collaterally attack a state-court judgment. Jenkins argues that his claims are not barred by the *Rooker-Feldman* doctrine because the state-court judgment he attacks, the July 31, 2015 order issued by the Louisiana court of appeal for the fifth circuit, is void for lack of subject - matter jurisdiction.

III. LAW & ANALYSIS

Rule 12(b)(1) of the Federal Rules of Civil Procedure

permits a “party to challenge the subject matter jurisdiction of the district court to hear a case.” *Ramming v. United States*, 281 F.3d 158, 161 (5th Cir. 2001); see also Fed. R. Civ. P. 12(b)(1). “lack of subject matter jurisdiction may be found in any one of three instances: (1) the complaint alone; (2) the complaint supplemented by undisputed facts evidenced by in the record; or (3) the complaint supplemented by undisputed facts plus the court’s resolution of disputed facts.” *Id.* The party seeking jurisdiction bears the burden of proof that jurisdiction does in fact exist. *Id.*

...In this case, because it is clear that the July 31, 2015 order Jenkins questions is not void for lack of subject matter jurisdiction, it isn’t necessary now for this court to deduce the Fifth Circuit’s position on the void ab initio exception.

New Orleans, Louisiana, this 27th day of November 2018.

s/ BARRY W. ASHE
UNITED STATES DISTRICT COURT

Filed January 10, 2020
Lyle Cayce, Clerk
THE UNITED STATES COURT OF APPEALS FOR
THE FIFTH CIRCUIT
No. 19-30112
D.C. Docket No. 2:18-CV-30112

MARK ANTHONY JENKINS, plaintiff-Appellant v.
TIMOTHY O'ROURKE, Jefferson Parish Assistant
District Attorney, ROBERT M. MURPHY, Former
Judge of the La. Fifth Circuit Court of Appeal.
KRISTYL TREADAWAY; BARRON BURMASTER,
Judge, Defendants- Appellees

Appeal from the United States District Court for the
Eastern District of Louisiana
Before DENNIS, GRAVES, and WILLETT, Circuit
Judges

JUDGMENT

This cause was considered on the record on appeal
and the briefs on file. It is ordered and adjudged that
the judgment of the District Court is affirmed.
IT IS FURTHER ORDERED that Appellant pay to
Appellees the costs on appeal to be taxed by the
Clerk of this Court.

Certified as a true copy issued as the mandate on
May 2. 2020. Attest: Lyle W. Cayce, Clerk, U.S.
Court of Appeals. Fifth Circuit
IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT
Filed January 10, 2020
Lyle Cayce, Clerk
No. 19-30112
D.C. Docket No. 2:18-CV-3122
MARK ANTHONY JENKINS, plaintiff-Appellant v.
TIMOTHY O'ROURKE, Jefferson Parish Assistant
District Attorney, ROBERT M. MURPHY, Former

Judge of the La. Fifth Circuit Court of Appeal.
KRISTYL TREADAWAY; BARRON BURMASTER,
Judge, Defendants- Appellees
Appeal from the United States District Court for the
Eastern District of Louisiana
Before DENNIS, GRAVES, and WILLETT, Circuit
Judges
PER CURIAM *

Appellant Mark Anthony Jenkins brought suit in
Louisiana state court in 2012 contesting his
paternity of Mark Anthony Jenkins Jr. and seeking,
inter alia, nullification of an earlier child support
judgment and removal of his

(*Pursuant to 5th Cir. R. 47.5 the court has
determined that this opinion should not be published
and is not precedent except under limited
circumstance set forth in 5th Cir. R. 47.5.4) emphasis
added.

name from Mark Anthony Jenkins, Jr.'s birth
certificate. Jenkins v. Jackson, 216 So. 3d 1082,
1084-86 (La. Ct. App. 2017). In July 2015, the
Louisiana appellate court found that Appellant had
judicially confessed that "he signed both the birth
certificate and an acknowledgment of paternity at
the time of [Mark Anthony Jenkins, Jr.'s] birth in
1997", such that Appellant's "cause of action to
revoke his acknowledgment of legal paternity has
prescribed." In a later appeal, the state appellate
court reaffirmed this ruling, and noted it had
jurisdiction to issue the earlier ruling pursuant to its
supervisory jurisdiction over district courts within its
circuit. Jenkins, 216 So.3d 1090 ("because the 24th

Judicial District Court is a district court within our circuit, this court has the supervisory jurisdiction to render determinations relevant to Mr. Jenkins' petition, which included the legal and biological paternity of [Mark Anthony Jenkins Jr.]""); LA. CONST. ART. V, sec.10 9[A] court of appealhas supervisory jurisdiction over cases which arise within its circuit.")

Appellant then filed this federal lawsuit against an assistant district attorney involved in the underlying litigation, a judge on the state appellate court, his ex-wife's attorney, and the state district court judge, arguing the state appellate court lacked subject matter jurisdiction to determine his legal paternity and seeking relief under 42 U.S.C. sections 1983, 1985, 1986, and 1988. The district court dismisses Appellant's action under Federal Rule of Civil Procedure 12(b)(1), holding that it lacked jurisdiction under the Rooker-Feldman doctrine because (1) Appellant lost in the state court." (2) he alleges injuries caused by that judgment," (3) that judgment "was rendered before [appellant] filed this action," and (4) Appellant "specifically asks this [C]ourt to reverse that judgment." See Exxon Mobile Corp. v. Saudi Basic Indus. Corp., 544 U.S. 280, 284 (2005). The Rooker-Feldman doctrine applies to "cases brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." The district court further determined

that the state appellate court had jurisdiction to determine that the state appellate court had jurisdiction to determine Appellant's legal paternity.

After careful review of the record in this case, full consideration of the parties' briefs, and the district court's thorough order and reasons, we affirm the district court's judgment for essentially the reason stated by that court. AFFIRMED.

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COURT OF LOUISIANA

LOUISIANA ATTORNEY DISCIPLINARY BOARD
SUPREME OFFICE OF DISCIPLINARY COUNSEL

In the matter of: Cecelia Farace Abadie

Docket No. 17-DB-056

The hearing in the above-entitled matter commenced, pursuant to notice herein, reported at Associated Reporters, Inc. 2431 South Acadian Thruway, Suite 550, Baton Rouge, Louisiana 70808, on Friday, May 31, 2019, beginning at 9:05 a.m.

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RESPONDENT EXHIBIT BINDER PAGE 25

- R.1 La. R.S. 40:46.1D "Hospital-based paternity Program;
- R.2 La C.C. Art. 203 Formal Acknowledgments;
- R.3 La. R.S. 46: 236.1.2 "Family and child support programs; responsibilities." to establish paternity;

- R.4 La. R.S. 46: 236.1.7 liability for gross negligence or recklessness, wanton, or intentional misconduct;
- R.5 Hearing Officer Recommendation and Order for Support, 1997;
- R.6 Letter f. DHH
- ODC-5A Petition for Revocation of Acknowledgment

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et cetera;

R.7 DNS Report; (DNA Report) correction by respondent

R.7A Discovery;

ODC-7f Jenkins' Rule to Show Cause;

ODC-7h Treadaway's Exception of Prescription;

ODC-8p District Court Judgment of 2/4/2015

ODC-8j Treadaway's Brief for Appeal;

ODC-15e Order of Fifth Circuit denying appeal;
allowing writ app.:

R.8 (page 277) Juvenile Court Minutes 4/27/2015

ODC-8m Motion to Amend a Third Time;

R.9 Correspondence of 5/28/2015

ODC-13p Treadaway's Memo

ODC-13n Motion to Return the Record;

R.10 Transcript of 6/15/2015 hearing in Juvenile Court, excerpts;

ODC-13q Juvenile Court Minutes 6/15/2015;

R.11 Treadaway's Writ Application, filed
6/23/2015

R.12 Louisiana Constitution Art. 5, sec. 10;,

R.13 Uniform Rules of Louisiana – Courts of Appeal, Rule 1-3

- R.14 Gonzales v. Xerox Corp, 320 So.2d 163,165, (La. 1975)
- R.15 Wooley v. Lucksinger et al., 61 So.3d 507 (La. 04/01/11) Lexis 706
- R.16 Jenkin's Opposition brief;

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- ODC-14b Disposition of 7/31/2015
- R.17 Request for Reconsideration/ Rehearing ;
- ODC-17b App. for Certiorari;
- R.17 (page 465) Justice Hughes' Dissent;
- ODC-8r Motion to dismiss suit against DCFS;
- R-18 Pages from transcript of 5/16/2016;
- R.19 Subpoena to Judge Burmaster
- R-20 Letter from DA;
- R-21 Offer of admonition;
- R-22 Character references

.... Page 312
s/Donna Duet Hagen, C.C.R.
Louisiana Attorney Disciplinary Board
Office of the Disciplinary Counsel
4000S. Sherwood Forest Blvd., Suite 607
Baton Rouge, Louisiana 70816
(225)-293-3900. 1-800-326-8022. Fax (225) 293-3300
December 13, 2016
Via Certified Mail: 9214 7969 0099 9790 1611 9820
51
Cecelia Farace Abadie
20 White Drive
Hammond, LA 70401

Re: Respondent: Cecelia Farace Abadie
Complainant: Kristyl R. Treadaway
ODC File No.: 0033656

Dear Ms. Abadie:

We have concluded our investigation into the above referenced matter. Upon review of your file, it appears that there is clear and convincing evidence that you violated Rule 8.2(a) of the Rules of Professional Conduct. Specifically, you made a written statement of reckless disregard as to the integrity of Judge Robert Murphy and did transmit the same to at least two other individuals.

I have discussed this complaint with Chief Disciplinary Counsel and we are prepared at this time to resolve this matter by private admonition. An admonition would require you to pay all costs and expenses associated with this matter. Those costs include the investigative expense for service of the subpoena for your statement, cost of deposition taken on August 25, 2016, and \$250.00 expense for issuance of the admonition, pursuant to Supreme Court Rule XIX, Sec. 10.1C(1). In addition, you are required to pay a \$10.00 fee for service to each party, pursuant to Rule XIX, Appendix A, Rule 7B, for an estimated total of \$588.87. Should you accept this offer for a private admonition, the Louisiana Attorney Disciplinary Board will send a finalized cost statement once the Order issued.

Pursuant to Louisiana Court Rule XIX, Section 11D, the Office of Disciplinary Counsel

hereby formally recommends resolution of this matter by way of private admonition. Please note you have the right to reject this offer and demand that this matter be disposed of by formal proceeding. Such a demand must be in writing within 14 days of your receipt of this notice.

Please advise us in writing no later than 14 days from your receipt of this notice whether you accept this offer of admonition or whether you demand to resolve this matter by formal proceeding. Please further note that pursuant to Rule XIX, Sec. 11D, a failure to demand a formal hearing within 14 days of this notice constitutes consent to the admonition.

Your prompt attention to this matter will be greatly appreciated. Should you have any questions, please do not hesitate to contact me.

Sincerely,
s/Karen H. Green
Deputy Disciplinary Counsel
KHG/rm 1

Louisiana Attorney Disciplinary Board
Office of the Disciplinary Counsel
4000 S. Sherwood Forrest Blvd., Suite 607
Baton Rouge, Louisiana 70816
(225) 293-3900. 1-800-326-8022. FAX (225) 293-3300

January 12, 2018

Via E-MAIL without attachments Via regular mail
with attachments.

Cecelia F. Abadie
Attorney at Law
20 White Drive
Hammond, LA 70401
Re: 17-DB 056

Dear Ms. Abadie:

In response to your recent request regarding discovery, please be advised that pursuant to Louisiana Supreme court Rule XIX, disciplinary proceedings, except for specified exceptions, are not subjected to the procedural rules of ordinary proceedings, except for specified exceptions, are not subjected to the procedural rules of ordinary proceedings, as governed by the Louisiana Code of Civil Procedure. Rule XIX governs the procedure of discovery in disciplinary proceedings. Discovery in disciplinary proceedings are intended to be limited and focused, not broad and wide ranging. See. La. S. Ct. Rule XIX, Section 15. Specifically, section 15© of Rule XIX provides that interrogatories, requests for production of documents and other ordinary discovery requests, do not apply to disciplinary proceedings. The exceptions are with regards to those provisions governing depositions and subpoenas.

Further be advised that disciplinary proceedings are

neither criminal nor civil, but are *sui generis*; La. S. Ct. Rule XIX, Sec. 18A. Also, the Code of Criminal Procedure has no applicability to bar discipline cases. The Civil Code and Rules of Evidence are applicable except as otherwise provided by Rule XIX; La. S. Ct. Rule XIX, Section 18(B) and as limited by the jurisprudence of the Louisiana Supreme Court.

Both the Office of Disciplinary Counsel and the Respondent are required to provide minimal post answer discovery under La. S. Ct. Rule XIX, Section 15, including the mandatory exchange of prospective witnesses. On December 1, 2017, this office sent you initial disclosures in compliance with section 15 of Rule XIX. This includes a list of prospective witnesses, which you may depose prior to the deadlines set forth in the scheduling order.

Sincerely
s/Karen H. Green
Deputy Disciplinary Counsel