

ORIGINAL

No. 26-

481

IN THE
Supreme Court of the United States

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SUPREME COURT, U.S.

KELLY JOHN BARLEAN,

Petitioner,

v.

STATE OF OKLAHOMA *ex rel.*
OKLAHOMA BAR ASSOCIATION,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF OKLAHOMA

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

The Oklahoma Supreme Court exercises exclusive, nondeferential jurisdiction over attorney discipline. By its own announcement in this case, it reviews the record de novo, and misconduct must be established by clear and convincing evidence. 2026 OK 30 ¶¶5, 31 (App. A). Before final discipline, the court directed that disputed material facts raised by Petitioner be weighed by its trial tribunal and that mitigation and severity be addressed in the final order of discipline. App. C. The disciplinary hearing proceeded in Petitioner's absence. The court then imposed disbarment — the maximum sanction, exceeding the minimum discipline its own tribunal and the Bar had recommended — through an opinion stating that the only mitigating evidence in the record was Petitioner's own claims raised in pleadings, although the record, including exhibits the Bar itself offered and the tribunal admitted, contained documentary evidence of program completion, medical condition, and the terms of the underlying criminal disposition. The questions presented are:

1. Whether a State's highest court denies due process of law under the Fourteenth Amendment when, in a quasi-criminal disbarment proceeding, it announces independent review of the whole record under a clear-and-convincing standard and imposes the maximum professional sanction on the stated premise that mitigating record evidence does not exist.
2. Whether Title II of the Americans with Disabilities Act, 42 U.S.C. § 12132, and the Due Process Clause require a state tribunal

to consider a disability raised in its record — here, a service-connected disability alleged in a verified pleading and acknowledged in the court's opinion — before imposing the maximum professional sanction in a proceeding conducted in the respondent's absence.

3. Whether a State may rest professional discipline on speech characterized as threatening without any finding that the speaker intended the communications as threats or consciously disregarded a substantial risk they would be so understood, as *Counterman v. Colorado*, 600 U.S. 66 (2023), requires before speech may be punished as a true threat.

PARTIES TO THE PROCEEDING

Petitioner is Kelly John Barlean, the respondent in the disciplinary proceedings below. Respondent is the State of Oklahoma ex rel. Oklahoma Bar Association, the complainant below.

RELATED PROCEEDINGS

State of Oklahoma ex rel. Oklahoma Bar Association v. Barlean, SCBD No. 7652 (consolidated with SCBD No. 7779) (Okla.): Order of Immediate Interim Suspension, 2024 OK 36 (May 20, 2024); Order Denying Request to Lift Immediate Interim Suspension and Directing Hearing (July 15, 2024); Opinion, 2026 OK 30 (Apr. 28, 2026); Order Denying Rehearing (June 23, 2026).

In re the Disbarment of Kelly John Barlean, Misc. No. 7 (W.D. Okla. July 9, 2024) (reciprocal order, Western District of Oklahoma).

Barlean v. Oklahoma County Criminal Justice Authority, No. CIV-23-00488-JD (W.D. Okla.) (pending civil action referenced in the opinion below at ¶10).

TABLE OF CONTENTS

	<i>Page</i>
QUESTIONS PRESENTED	i
PARTIES TO THE PROCEEDING	iii
RELATED PROCEEDINGS	iv
TABLE OF CONTENTS	v
TABLE OF APPENDICES	vii
TABLE OF CITED AUTHORITIES	ix
PETITION FOR A WRIT OF CERTIORARI	1
OPINIONS BELOW	1
JURISDICTION	1
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	2
STATEMENT OF THE CASE	2
A. The criminal cases and their disposition	2
B. The disciplinary proceedings through referral	5
C. Discovery, scheduling, and the hearing	6

Table of Contents

	<i>Page</i>
D. The opinion.....	7
E. Rehearing and finality	9
REASONS FOR GRANTING THE PETITION.....	9
I. The judgment below imposes the maximum professional sanction on the stated premise that record evidence does not exist. That is a denial of due process, demonstrable from the face of the opinion and the record.	9
II. The Title II question warrants review alongside the due process question.....	15
III. The Counterman question presents a recurring conflict over the standard governing attorney speech.....	16
IV. This Court is the only forum in which these questions can ever be decided	17
CONCLUSION	18

TABLE OF APPENDICES

	<i>Page</i>
Appendix A — Opinion, State ex rel. Oklahoma Bar Ass'n v. Barlean, 2026 OK 30, SCBD No. 7652 (cons. w/ 7779) (Okla. Apr. 28, 2026)	1a
Appendix B — Order of Immediate Interim Suspension, 2024 OK 36 (Okla. May 20, 2024)	20a
Appendix C — Order Denying Request to Lift Immediate Interim Suspension and Directing Hearing (Okla. July 15, 2024)	23a
Appendix D — Order of the Professional Responsi- bility Tribunal (Nov. 18, 2024)	26a
Appendix E — Report of the Trial Panel (Apr. 25, 2025)	30a
Appendix F — Order Denying Rehearing (Okla. June 23, 2026)	56a
Appendix G — Pertinent rule provisions (RGDP; ORPC)	58a
Appendix H — Exhibit C to Respondent's verified response to show-cause order (CBI Service Termination Report) (filed May 31, 2024)	67a
Appendix I — Plea and deferred-sentence documents, Case Nos. CF-2021-3557 and CM- 2022-4468 (excerpt)	71a

Table of Appendices

	<i>Page</i>
Appendix J — Special Appearance and Objection (Aug. 28, 2024) (excerpt).....	91a
Appendix K — In re the Disbarment of Kelly John Barlean, Misc. No. 7 (W.D. Okla. July 9, 2024)	97a

TABLE OF CITED AUTHORITIES

	<i>Page</i>
Cases	
<i>Addington v. Texas</i> , 441 U.S. 418 (1979)	10
<i>Anderson v. City of Bessemer City</i> , 470 U.S. 564 (1985)	12
<i>Armstrong v. Manzo</i> , 380 U.S. 545 (1965)	9
<i>Bose Corp. v. Consumers Union</i> , 466 U.S. 485 (1984)	10
<i>Counterman v. Colorado</i> , 600 U.S. 66 (2023)	16
<i>District of Columbia Court of Appeals v. Feldman</i> , 460 U.S. 462 (1983)	17
<i>Hicks v. Oklahoma</i> , 447 U.S. 343 (1980)	10
<i>In re Ruffalo</i> , 390 U.S. 544 (1968)	9
<i>Mullane v. Central Hanover Bank & Trust Co.</i> , 339 U.S. 306 (1950)	9
<i>Mullaney v. Wilbur</i> , 421 U.S. 684 (1975)	10

Cited Authorities

	<i>Page</i>
<i>New York Times Co. v. Sullivan</i> , 376 U.S. 254 (1964).....	16
<i>Santosky v. Kramer</i> , 455 U.S. 745 (1982).....	10
<i>Schwartz v. Board of Bar Examiners</i> , 353 U.S. 232 (1957).....	9
<i>State ex rel. Oklahoma Bar Ass'n v. Lockard</i> , 2023 OK 110	8, 13
<i>Tennessee v. Lane</i> , 541 U.S. 509 (2004).....	15
<i>Thompson v. City of Louisville</i> , 362 U.S. 199 (1960).....	14
<i>Willner v. Committee on Character & Fitness</i> , 373 U.S. 96 (1963).....	9

Statutes and Other Authorities

U.S. Const. amend. I	2, 16
U.S. Const. amend. XIV	2, 10
28 U.S.C. § 1257(a).....	1
42 U.S.C. § 12132	1, 2, 9, 15

Cited Authorities

	<i>Page</i>
28 C.F.R. § 35.130(b)(7).....	15
Okla. Rules Governing Disciplinary Proceedings, Rule 6.....	1, 6
Okla. Rules Governing Disciplinary Proceedings, Rule 7.2	5, 8, 14
Okla. Rules of Professional Conduct, Rule 8.2	16
Sup. Ct. R. 13.1	1
Sup. Ct. R. 13.3	1

PETITION FOR A WRIT OF CERTIORARI

Kelly John Barlean respectfully petitions for a writ of certiorari to review the judgment of the Supreme Court of Oklahoma.

OPINIONS BELOW

The opinion of the Supreme Court of Oklahoma is reported at 2026 OK 30 and reproduced at App. A. The order denying rehearing (June 23, 2026) is unreported and reproduced at App. F. The Order of Immediate Interim Suspension is reported at 2024 OK 36 and reproduced at App. B. The Order Denying Request to Lift Immediate Interim Suspension and Directing Hearing (July 15, 2024) is unreported and reproduced at App. C.

JURISDICTION

The Supreme Court of Oklahoma issued its opinion on April 28, 2026, and denied a timely petition for rehearing on June 23, 2026. App. F. This petition is filed within 90 days of the denial of rehearing. Sup. Ct. R. 13.1, 13.3. This Court has jurisdiction under 28 U.S.C. § 1257(a). The federal questions presented were pressed below, including in Petitioner's verified response to the show-cause order, his answer to the Rule 6 complaint (citing and attaching *Counterman v. Colorado*), and his Fourth Notice of Supplemental Authority (June 4, 2026), which expressly presented the due process, Title II, and *Counterman* questions; rehearing was denied without any statement of a state procedural ground.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourteenth Amendment to the United States Constitution provides in relevant part: "nor shall any State deprive any person of life, liberty, or property, without due process of law." The First Amendment provides in relevant part: "Congress shall make no law . . . abridging the freedom of speech." Title II of the Americans with Disabilities Act, 42 U.S.C. § 12132, provides in relevant part: "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." Pertinent provisions of the Oklahoma Rules Governing Disciplinary Proceedings and the Oklahoma Rules of Professional Conduct are reproduced at App. G.

STATEMENT OF THE CASE

A. The criminal cases and their disposition

Petitioner is a retired lawyer. He was honorably medically discharged from the Army and is rated 100% disabled by the Department of Veterans Affairs, with a 50% rating for post-traumatic stress disorder. First Am. Compl. ¶62, CIV-23-00488-JD (certified copy in the disciplinary record as Exhibit A to Petitioner's verified response to the show-cause order).

On January 5, 2023, Petitioner entered guilty pleas in two Oklahoma County misdemeanor cases, CF-2021-3557 (reduced from a felony charge as part of the

plea agreement, 2026 OK 30 n.2) and CM-2022-4468. Sentencing was deferred for three years, to January 4, 2026. 2024 OK 36 (App. B); CEX 01 & CEX 02, Jan. 5, 2023 plea papers. The plea agreement imposed conditions including supervised probation for two years, restitution, twenty hours of community service, a 52-week batterers' intervention program, an alcohol and drug assessment with completion of any treatment recommended, and anger management classes. CEX 01 & CEX 02, Jan. 5, 2023 conditions form. The factual basis, in Petitioner's handwriting, states that he "struck" the complaining witness, with whom he was in a dating relationship.

The record of the criminal cases — certified court files the Bar itself later offered and the trial tribunal admitted, see Part C below — documents the following sequence. Restitution was paid in full on February 1, 2023, and the District Attorney's 991 prosecution-reimbursement fees were paid in full on February 2, 2023. Community service was completed on April 30, 2023, ahead of the May 1, 2023 deadline, per the completion report filed May 5, 2023. On June 16, 2023, the State filed an application to accelerate the deferred sentence in CM-2022-4468; on February 23, 2024, that application was dismissed after Petitioner presented payment receipts and attendance records. A CBI Service Termination Report dated February 19, 2024 records completion of all 52 sessions of the batterers' intervention program, with the program's standard caveat. App. H. A Court Assistance Programs certificate dated June 28, 2024 records, in the Bar's own later description, Petitioner's "successful completion of 26 anger management-related classes he was required to take following his guilty plea." Complainant's Br. 16; see 2026 OK 30 ¶23. All of the foregoing appears within

the certified court files admitted at the hearing as CEX 01 and CEX 02.

On August 14, 2024, the State filed an application to accelerate the deferred sentence in CF-2021-3557, alleging failure to follow up on the drug/alcohol assessment, failure to complete anger management classes, and failure to pay 991a fees. On September 30, 2024, the State filed a First Amended Application that no longer alleged non-completion of anger management classes and no longer alleged non-payment of fees; it alleged failure to follow up on the drug/alcohol assessment, failure to submit to random drug/alcohol testing, and non-completion of two additional class programs. CEX 01, First Amended Application; Tr. 60; Complainant's Br. 6-7 & n.10 (describing the 26-week class as "an additional probation requirement imposed upon Respondent"). No evidentiary hearing was ever held on the alleged violations. On November 22, 2024, on an agreed disposition, Petitioner pled no contest to the amended application; the deferred sentences — terminated more than thirteen months before their scheduled end — were reduced to misdemeanor convictions, and Petitioner was fined \$100 in each case, with no other conditions. CEX 01 & CEX 02, OCIS Case Summaries at 12; Nov. 22, 2024 disposition papers; Tr. 60. Petitioner waived a hearing as part of that disposition.

By order signed August 6, 2025, and filed August 7, 2025, the District Court of Oklahoma County granted expungement on the affirmative consent of the District Attorney (signing also for the Sheriff's Office), the Oklahoma State Bureau of Investigation, and the Oklahoma City Police Department.

B. The disciplinary proceedings through referral

The Oklahoma County Court Clerk did not report the criminal cases to the Bar; the Bar discovered them while investigating a judicial grievance. 2026 OK 30 19. In April–May 2024 the Bar filed its Rule 7.2 notice and amended notice, transmitting the charging documents and the January 2023 deferred-sentence papers. The amended notice recites the facts of both cases “[a]ccording to the Probable Cause Affidavit” in each. On May 20, 2024, the court entered an immediate interim suspension. 2024 OK 36 (App. B).

On May 31, 2024, Petitioner filed a verified, notarized response to the show-cause order. It stated on its first page that he has never represented a client in Oklahoma; it attached as Exhibit A a certified copy of the First Amended Complaint in CIV-23-00488-JD, whose ¶62 alleges his service-connected disability, and as Exhibit C the CBI Service Termination Report documenting the 52-session program. App. H.

On July 15, 2024, the court denied Petitioner’s request to lift the interim suspension and referred the matter to the Professional Responsibility Tribunal. App. C. The order found that Petitioner “has raised material facts which are in dispute and should be weighed by the Professional Responsibility Tribunal and a recommendation made to this Court,” and stated separately that “mitigation and the severity of discipline are more appropriate in a final order of discipline.”

On September 27, 2024, at the direction of the Professional Responsibility Commission, the Bar filed a

Rule 6 complaint (SCBD No. 7779) alleging three counts arising from voicemails to a state judge, Illinois civil no-contact proceedings, and Petitioner's emails to the Bar. On October 18, 2024, the court consolidated the two matters for a joint hearing, a single record, and a single trial panel report.

C. Discovery, scheduling, and the hearing

On August 22, 2024, Petitioner applied for subpoenas to depose two police officers involved in the arrest underlying his federal civil-rights action — discovery in which was then stayed by the federal court's order of February 5, 2024. Counsel for the officers specially appeared and objected on August 28, 2024, on grounds including the federal stay and that the arrest "is not related to the convictions." App. J. By order of November 18, 2024, the Tribunal denied the application without stating its reasons, granted in part Petitioner's motion to stay following the October 14, 2024 fire that destroyed his home, and set the hearing for March 26, 2025. App. D. The Bar's brief-in-chief describes the ruling as "denying Respondent's request to depose two police officers, as Respondent's allegations of unlawful arrest are not related to the matters before this Court in the instant case." Complainant's Br. 3 n.5. The scheduling order's certificate reflects electronic service on the panel members and Bar counsel, and service on Petitioner by first-class mail. App. D.

The hearing proceeded on March 26, 2025, in Petitioner's absence. The Bar presented five witnesses. It offered, and the Tribunal admitted, twenty-one exhibits; the Tribunal admitted one further exhibit of its own. Complainant's Br. 4–5. Among the admitted exhibits were

the certified court files of both criminal cases (CEX 01 and CEX 02), containing, among other documents: the January 5, 2023 plea and conditions forms; the restitution receipt; the 991-fee payment confirmation; the community service completion report; the applications to accelerate and the amended application; the November 22, 2024 disposition papers reflecting the \$100 fines (OCIS Case Summaries at 12; Tr. 60); Petitioner's September 4, 2024 verified motion in the criminal case; a VA prescription history; and a January 23, 2024 VA hematology-oncology consultation note documenting Petitioner's diagnosis of stage IVA prostate cancer with nodal metastases and the treatment then underway. The medical records among the admitted exhibits were identified as such by the Bar's own counsel on the hearing record: CEX 01 at OBA 83-89 and CEX 02 at OBA 75-84. Tr. 129-31.

On April 25, 2025, the Tribunal filed its report, unanimously recommending "a minimum discipline of two-years and one day suspension," and the assessment of costs, while stating that the evidence warranted harsher discipline if the court deemed it appropriate. App. E; Complainant's Br. 1. The Bar's brief-in-chief of May 19, 2025 likewise requested discipline "at a minimum, of the suspension of his license to practice law for two years and one day." Complainant's Br. 25.

D. The opinion

The court issued its opinion on April 28, 2026, and disbarred Petitioner. 2026 OK 30 ¶35 (App. A). The opinion announces the governing standard at ¶5: de novo review, to determine independently whether the Bar has shown misconduct by clear and convincing evidence, with

protection of the public and preservation of the integrity of the courts as the purposes of discipline. At ¶31, it states that it “will look at the whole record.”

At ¶18, the opinion recites detailed factual narratives of both criminal cases. Those narratives derive from the probable-cause affidavits transmitted with the Rule 7.2 notice, which introduces them “[a]ccording to the Probable Cause Affidavit.” Neither plea admitted them: the January 2023 factual basis states that Petitioner “struck” the complaining witness, and the November 2024 plea was no contest. At ¶19, the opinion states that Petitioner “failed to complete these requirements” of the deferred sentence, recites the amended application and the November 22, 2024 no-contest plea, and records that he was fined — without recording the amount, the absence of conditions, or the dismissal of the State’s first application. At ¶10, the opinion draws from Petitioner’s federal civil-rights complaint the characterization that he blamed the victim in the criminal cases for his troubles. At ¶23, the opinion records that Petitioner emailed the Bar “a certificate of completion of his required anger management program.” At ¶32, the opinion states: “the only mitigating evidence in the record are Respondent’s claims (raised in pleadings) that he is in ill health, was injured while in jail in 2021, began drinking heavily, and became aggressive.” At ¶33, the opinion performs comparative-discipline analysis against prior domestic-violence discipline cases, distinguishing the six-month suspension in *State ex rel. Oklahoma Bar Ass’n v. Lockard*, 2023 OK 110, as involving “significant mitigating circumstances and a clear treatment plan” and stating: “Those mitigating factors are not present here.” At ¶35, it imposes disbarment and costs.

E. Rehearing and finality

Petitioner timely sought rehearing on May 4, 2026. The verified petition's body text presented the November 22, 2024 disposition and the August 7, 2025 expungement. Verified Pet. for Reh'g at 2, §§ A-B & Ex. 1 (filed May 4, 2026). Petitioner also filed supplemental notices, including a Fourth Notice of Supplemental Authority (June 4, 2026) expressly presenting the due process, Title II, and Counterman questions. On June 23, 2026, the court denied rehearing and the associated motions in a summary order without stated reasons, and granted the Bar's motion to strike the exhibits attached to the rehearing petition. App. F. This petition follows.

REASONS FOR GRANTING THE PETITION

I. The judgment below imposes the maximum professional sanction on the stated premise that record evidence does not exist. That is a denial of due process, demonstrable from the face of the opinion and the record.

A. The constitutional frame. A license to practice law is a protected interest, *Schwartz v. Board of Bar Examiners*, 353 U.S. 232, 238–39 (1957); *Willner v. Committee on Character & Fitness*, 373 U.S. 96, 102 (1963), and disbarment proceedings are “quasi-criminal,” *In re Ruffalo*, 390 U.S. 544, 551 (1968). Due process requires an opportunity to be heard “at a meaningful time and in a meaningful manner.” *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965); *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). A heightened standard of proof exists to allocate the risk of error in proceedings of this

gravity, *Santosky v. Kramer*, 455 U.S. 745, 755–57 (1982); *Addington v. Texas*, 441 U.S. 418, 423–25 (1979), and it can allocate nothing unless the factfinder engages the record actually before it. Where constitutional rights turn on fact-finding, this Court’s cases require an independent examination of the whole record. *Bose Corp. v. Consumers Union*, 466 U.S. 485, 499 (1984). Oklahoma defines its own standard the same way: review of attorney discipline is *de novo* and record-bound, with the trial tribunal serving as the conduit for the record, including mitigation. Because the State’s courts are the ultimate expositors of state law, *Mullaney v. Wilbur*, 421 U.S. 684, 691 (1975), Oklahoma’s record-bound definition of its announced standard supplies the measure against which the opinion’s performance can be examined. And where a State grants a procedural entitlement, the arbitrary deprivation of that entitlement is itself a denial of due process under the Fourteenth Amendment. *Hicks v. Oklahoma*, 447 U.S. 343, 346 (1980).

B. The court prescribed the process. The July 15, 2024 order contains two directives. It found that Petitioner “has raised material facts which are in dispute and should be weighed by the Professional Responsibility Tribunal,” and it deferred “mitigation and the severity of discipline” to “a final order of discipline.” App. C. Each directive assigned a category of Petitioner’s material to a later stage. Neither stage received it. As to the first: Petitioner’s application to depose the two officers involved in the disputed arrest was denied by the Tribunal without stated reasons — the officers’ counsel had objected on grounds including a federal discovery stay then in effect. App. D; App. J. The Bar’s brief supplies the reason, describing the order as “denying Respondent’s request to depose two police officers, as Respondent’s allegations

of unlawful arrest are not related to the matters before this Court in the instant case.” Complainant’s Br. 3 n.5. The same footnote recites that on July 15, 2024, “this Court ordered the PRT to weigh information related to Respondent’s allegations of unlawful arrest that he raised in his response to the Show Cause Order.” *Id.* The referring court had found the subject material enough to require weighing; the prosecuting authority’s own account of the ruling finds it unrelated to the proceeding. Both characterizations appear in a single footnote of the Bar’s brief. If the answer is that the Tribunal could comply by weighing the allegations as filed, without further discovery, then the opinion itself shows what that weighing produced: ¶10 draws from the federal complaint the characterization that Petitioner blamed the victim in the criminal cases for his troubles, and ¶32 classifies his account of the same events as unsubstantiated “claims (raised in pleadings).” On either reading, the weighing the court prescribed did not occur. As to the second directive: the final order’s treatment of mitigation is ¶32, addressed next.

C. Three times, the opinion states that the record lacks what the record contains. First, ¶32 states that “the only mitigating evidence in the record are Respondent’s claims (raised in pleadings).” The quantifier is refuted twice over. Within the opinion’s own four corners, ¶23 records a “certificate of completion of his required anger management program.” And within the record, the Bar’s own admitted exhibits contained the January 23, 2024 oncology consultation documenting stage IVA cancer and its treatment, the VA prescription history, the CBI report documenting the completed 52-session intervention program, the community-service completion report, and the restitution and fee receipts. CEX 01 & CEX 02

(certified court files); CEX 01 at OBA 83–89 & CEX 02 at OBA 75–84 (identified by Bar counsel on the hearing record as Petitioner’s medical records, Tr. 129–31); App. H. The Tribunal’s own report states its concern “that confidential medical information of Respondent submitted by Respondent in the record should likewise be sealed.” App. E. Documentary evidence offered by the prosecuting authority and admitted by the tribunal is not a respondent’s “claim.”

Second. ¶9 states that Petitioner “failed to complete these requirements.” The record before the court showed: the State’s first acceleration application dismissed in February 2024 upon proof of payment and attendance; completion documents for four of the six enumerated conditions; a First Amended Application that abandoned the anger-management and fee allegations; and a resolution of the remaining allegations — which concerned the assessment, testing, and two additional class programs the Bar’s brief concedes were “additional” requirements, Complainant’s Br. 7 n.10 — by an agreed disposition, with no evidentiary hearing ever held on any alleged violation, and with the deferral period terminated more than thirteen months before its scheduled end. The non-completion finding is stated as established fact, under an announced clear-and-convincing standard, about allegations never adjudicated. The finding’s language is the investigator’s: the opinion’s “Both counts were reduced to convictions and he was fined,” 2026 OK 30 ¶9, tracks the Bar investigator’s uncross-examined hearing recitation, “both cases were reduced to a conviction and he was fined.” Tr. 61. Cf. *Anderson v. City of Bessemer City*, 470 U.S. 564, 572 (1985) (criticizing courts’ verbatim adoption of findings drafted by a prevailing party).

Third. ¶33 distinguishes the six-month suspension imposed in Lockard as a case with “significant mitigating circumstances and a clear treatment plan,” and states: “Those mitigating factors are not present here.” The mitigating circumstances ¶33 declares absent were present in the record: completed intervention and anger-management programming (App. H; ¶23), medical documentation (CEX 01 at OBA 83–89; CEX 02 at OBA 75–84; Tr. 129–31), and the terms of the actual criminal disposition — \$100 per count, no conditions — which appear in the OCIS Case Summaries at 12 and the November 22, 2024 disposition papers (Tr. 60), and which the comparative analysis nowhere records. A comparison of sanctions performed against categories declared empty, when the record filled them, is not the independent whole-record examination the court announced at ¶¶5 and 31.

D. Non-appearance does not answer the demonstration. Petitioner did not appear at the March 26, 2025 hearing, and this petition does not relitigate what that non-appearance forfeited: testimony, cross-examination, and the presentation of additional evidence. But a respondent’s absence does not empty a record of documents. The mitigating documentation was in the record through Petitioner’s verified May 2024 filing and through exhibits the Bar itself offered and the Tribunal admitted at the very hearing Petitioner missed. Complainant’s Br. 4–5. The oncology consultation reads the same whether or not its subject was in the room. Whatever weight the court might permissibly have assigned that evidence, ¶32 did not assign it less weight; it stated the evidence did not exist. The Bar’s brief had framed the record the same way — “no admissible evidence to support his claims,” Complainant’s Br. 20 — while its own admitted exhibit

contained the documentation. The opinion adopted the framing rather than the record.

E. The misdescription is load-bearing. ¶32's emptied record is the premise of ¶33's comparative analysis, which is the premise of imposing the maximum sanction at ¶35 — beyond the minimum two years and one day that both the Tribunal and the Bar had recommended (each noting harsher discipline was available if the court deemed it appropriate). Strike the misdescription and the sanction analysis must be redone against a populated record. A judgment resting on a record devoid of evidentiary support denies due process. *Thompson v. City of Louisville*, 362 U.S. 199, 204 (1960). A maximum sanction imposed on the stated premise that supporting evidence does not exist is the same defect in inverted form. The convictions themselves are not at issue: Rule 7.2 makes them conclusive evidence of commission of the crimes, and Petitioner does not contest the court's authority to discipline. The narrative details at ¶8, however, derive from probable-cause affidavits — charging-stage documents no plea admitted — and ¶11 then rests a propensity finding on "the circumstances surrounding" the convictions while ¶33 compares conduct descriptions. In a quasi-criminal proceeding under a clear-and-convincing standard, findings that determine the sanction cannot rest on unadjudicated allegations while the opinion describes the record's mitigating documents as nonexistent. That divergence between the announced method and the performed method — demonstrable entirely from the opinion, the record, and the Bar's own filings — is the due process question.

II. The Title II question warrants review alongside the due process question.

Title II prohibits a public entity from denying a qualified individual the benefits of its services, programs, or activities by reason of disability, 42 U.S.C. § 12132, and this Court sustained Title II as applied to the fundamental right of access to the courts in *Tennessee v. Lane*, 541 U.S. 509, 533–34 (2004). The implementing regulations require reasonable modification of policies and practices where necessary to avoid discrimination. 28 C.F.R. § 35.130(b)(7). Petitioner’s service-connected disability was raised in the record from the outset — alleged in the certified federal complaint attached to his verified show-cause response, First Am. Compl. ¶62 — and the opinion itself acknowledges the disability-related material while classifying it among unweighed “claims.” ¶32. The proceeding that produced the maximum sanction was conducted in Petitioner’s absence, and at no stage did the tribunal or the court inquire into the disability or consider it before imposing discipline. The question was expressly pressed in the Fourth Notice and denied without any stated state ground. Petitioner does not contend that disability immunizes conduct; the question is procedural — whether Title II and due process permit a State to impose the maximum professional sanction without considering a disability its own record raised. This question travels with Question 1 and can be resolved on the same record.

III. The Counterman question presents a recurring conflict over the standard governing attorney speech.

In *Counterman v. Colorado*, 600 U.S. 66 (2023), this Court held that before speech may be punished as a true threat, the First Amendment requires proof of the speaker's subjective mental state — at least recklessness as to how the communications would be understood. State courts have long divided over whether attorney discipline for criticism of judges under Rule 8.2 is measured by an objective reasonable-attorney standard or by the actual-malice standard of *New York Times Co. v. Sullivan*, 376 U.S. 254 (1964). Counterman's reaffirmation that subjective mens rea is constitutionally required before speech-based sanction places the objective side of that division in direct tension with this Court's doctrine. Here, the opinion rests disciplinary findings on communications characterized as threatening by their recipients — ¶132 counts the fear of four witnesses — and on statements found to impugn judicial integrity, ¶127, without any finding that Petitioner intended the communications as threats, was reckless as to how they would be understood, or spoke with knowledge or reckless disregard of falsity. Counterman was pressed below by full citation in Petitioner's October 2024 answer, with the opinion attached as an exhibit, and again in the Fourth Notice; the opinion does not address it. Petitioner acknowledges that the Rule 7 convictions and other counts stand on independent grounds; the question bears on the findings and the sanction, not on the court's jurisdiction to discipline. If the Court grants review of Questions 1 and 2, this question merits plenary consideration in the same case.

IV. This Court is the only forum in which these questions can ever be decided.

State bar discipline is reviewable nowhere in the federal system except this Court. Under *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 482-86 (1983), the lower federal courts lack jurisdiction over challenges to state-court disciplinary judgments. Questions about what process a State's highest court must itself perform in disbarment therefore cannot percolate through the courts of appeals; the absence of a circuit conflict is structural, not a signal of unimportance. Nor will any State's high court hold that its own announced standard need not be performed — the conflict this petition presents is between an announced method and a performed one, visible only on this Court's review. The vehicle is unusually clean for questions of this kind: the demonstration rests on the opinion's own paragraphs, the referring court's own prior orders, and exhibits the prosecuting authority itself offered and had admitted. No factual development is required, and no question of state law need be resolved.

CONCLUSION

The petition for a writ of certiorari should be granted. At a minimum, the Court should grant the petition, vacate the judgment, and remand for the review the court below announced.

Respectfully submitted,

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