In the Supreme Court of Iowa

Supreme Court No. 21–1799
Grievance Commission No. 923

Iowa Supreme Court
Attorney Disciplinary Board,

Appellee,

vs.

Andrew Gatton Aeilts,

Appellant

Appeal from the Report of the Iowa Supreme Court Grievance Commission

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Appellee's Final Brief

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ROUTING STATEMENT

The Supreme Court should retain this case pursuant to Iowa Rule of Appellate Procedure 6.1101(2) because this is a case involving lawyer discipline.

STATEMENT OF THE CASE

Nature of the Case

The Iowa Supreme Court Attorney Disciplinary Board ("the Board") brought this lawyer disciplinary action against Andrew Gatton Aeilts ("Aeilts") alleging violations of Iowa Rule of Professional Conduct 32:8.4(b), (c), and (d) relating to his commission of the crimes Malicious Prosecution and Operating While Intoxicated.

Course of Proceedings and Disposition

On April 27, 2021, the Board filed a Complaint against Aeilts. (App. 6–13). On May 20, Aeilts filed his Answer. (App. 14–15). On August 2, the parties filed a Partial Stipulation in this matter which included Exhibits 1–11. (App. 16–259). The parties stipulated as to facts, aggravating and mitigating factors, and that Aeilts violated rule 32:8.4(b) and (d) for his conduct associated with his Malicious Prosecution and OWI convictions. (App. 16–30). Aeilts contested that he violated rule 32:8.4(c) with regards to his statements made to the court on February

18, 2020, and that he violated rule 32:8.4(d) with regards to the text messages he sent to an assistant county attorney on September 16, 2018. (App. 28–29). The parties requested to brief the contested rule violations and the appropriate sanction. (App. 29).

On August 3, the President of the 643rd Division of the Grievance Commission ("Commission") issued an Order accepting the stipulation. (App. 260–61). On October 4, the Board and Aeilts submitted their post-trial briefs. On November 30, the Commission filed its Findings of Fact, Conclusions of Law, and Recommendation. (App. 262–69).

Commission's Conclusions

The Commission concluded that Aeilts violated Iowa Rule of Professional Conduct 32:8.4(b), (c), and (d). (App. 266–67). Regarding the first contested rule violation, the Commission found that Aeilts violated rule 32:8.4(c) when he made misrepresentations to the court and to law enforcement. (App. 266–67).

Regarding the second contested rule violation, the Commission did not find Aeilts's conduct of sending the text messages "Need help" and "911" to his friend and assistant county attorney after he was arrested for OWI violated rule 32:8.4(d). (App. 267). The Board has elected not to appeal the Commission's ruling, recognizing the Court's ability to review

the Commission record de novo. *See Iowa Supreme Ct. Att'y Disciplinary Bd. v. Tindal*, 949 N.W.2d 637, 643 (Iowa 2020). Contrary to the Commission's determination, the Board argues that Aeilts's conduct of sending those text messages is a violation of rule 32:8.4(d). The Commission found "it is clear that Aeilts sent the text messages with the intent to have [the assistant county attorney] provide him with preferential treatment and intervene in his pending OWI arrest." (App. 267). Despite this finding, the Commission did not find Aeilts's conduct constituted a violation of rule 32:8.4(d) because Aeilts's "attempts were not successful. . . . [Therefore, his] conduct . . . did not interfere or prejudice the administration of justice." (App. 267).

"Lawyers are subject to discipline when they violate or *attempt to* violate the Iowa Rules of Professional Conduct." Iowa R. Prof'l Conduct 32:8.4 cmt. [1] (emphasis added). In *Committee on Professional Ethics & Conduct v. Williams*, the Court found Williams's *attempt* to bribe a deputy for his release after his OWI arrest constituted conduct prejudicial to the administration of justice despite his attempt being unsuccessful. 473 N.W.2d 203, 206–07 (Iowa 1991) (suspending attorney for six months after bribery attempt). Rule 32:8.4(a) makes it clear that attempting a violation is the same as accomplishing it: "It is professional misconduct

for a lawyer to violate or *attempt* to violate the Iowa Rules of Professional Conduct . . . ." Even though Aeilts was unsuccessful in his attempts to have the assistant county attorney intervene on his behalf, Aeilts violated rule 32:8.4(d).

Commission's Recommendation

The Commission recommended Aeilts's license to practice law be suspended for six months. (App. 269).

Aeilts's Appeal

On December 7, 2021, Aeilts filed his notice of appeal with the Commission clerk. (App. 270).

STATEMENT OF FACTS

Aeilts is an attorney who was admitted to practice law in Iowa on April 23, 2015. (App. 16 (Stipulation (Stip.) ¶ 2)). Aeilts maintains a private law practice in Pella, Iowa. (App. 16 (Stip. ¶ 3)).

On August 21, 2018, at approximately 3:56 p.m., the father of one of Aeilts's clients, Randy Cornelison ("Cornelison"), called Aeilts regarding his son's case. (App. 16 (Stip. ¶ 4)). During that telephone call, Cornelison told Aeilts, "I will file a complaint about you." (App. 17 (Stip. ¶ 5), 63; Exhibit (Ex.) 8). Cornelison was referring to filing an ethics

complaint. (App. 17 (Stip. ¶ 5)). On that same date, at approximately 6:00 p.m., Aeilts reported to Pella Police Officer Tim Donelson ("Donelson") that earlier that day during a telephone call, Cornelison told Aeilts he was going to physically assault him. (App. 17 (Stip. ¶ 6)). Aeilts requested that harassment charges be brought against Cornelison and requested a no contact order. (App. 17 (Stip. ¶ 7)). Donelson asked if Aeilts had a recording of the conversation. (App. 17 (Stip. ¶ 8)). Aeilts responded no but stated he was not afraid to testify and that Cornelison had a criminal history. (App. 17 (Stip. ¶ 8)).

After taking the report from Aeilts, Donelson initiated an investigation in which he interviewed witnesses and gathered evidence. (App. 17 (Stip. ¶ 9)). On that same date, Donelson contacted Cornelison, who denied making any threats towards Aeilts. (App. 17 (Stip. ¶ 10)). Cornelison advised Donelson he had recorded the only telephone conversation between Aeilts and him that occurred that day. (App. 17 (Stip. ¶ 10)). At some point during the investigation, Cornelison provided Donelson with a three minute and thirty-two second recording of the telephone conversation between Aeilts and himself that occurred on August 21, 2018, at 3:56 p.m. (App. 17–18 (Stip. ¶ 11), 63–64; Ex. 8). At no point during their telephone conversation did Cornelison make any

threats that he was going to physically assault or harm Aeilts, nor did he make any threats toward Aeilts or anyone else.[1] (App. 18 (Stip. ¶ 12), 63; Ex. 8).

On September 16, 2018, at approximately 3:40 a.m., Aeilts operated a motor vehicle while intoxicated and drove his vehicle off of the roadway and through a cornfield causing damage to the field and to his vehicle. (App. 18 (Stip. ¶¶ 13–14), 43–44). After driving through the cornfield, Aeilts drove his vehicle approximately six miles with a damaged windshield before being stopped by law enforcement. (App. 18 (Stip. ¶ 15), 45–46). After the traffic stop, Aeilts was arrested by the Marion County Sheriff's Office for Operating While Under the Influence First Offense in violation of Iowa Code section 321J.2(2)(A), a serious misdemeanor. (App. 18 (Stip. ¶ 16)). The Marion County Sheriff's Office also cited Aeilts for Failure to Maintain Control in violation of Iowa Code section 321.288(1). (App. 18 (Stip. ¶ 17)).

[1] Aeilts states in his brief, "On August 21, 2018, Andrew received a threatening phone call from Randy Cornelison." (Appellant's Brief 20). This statement is contrary to paragraph 12 of the Partial Stipulation entered into by the parties which provides, "At no point during their telephone conversation did Cornelison make any threats towards Aeilts or anyone else."

Prior to being booked into the Marion County Jail, Aeilts sent Assistant Marion County Attorney Mathias Robinson ("Robinson") two text messages at 5:28 a.m.: "Need help" and "911." (App. 19 (Stip. ¶ 18), 42). At approximately 6:45 a.m., Aeilts provided a sample of his breath on the DataMaster which indicated a .122 percent blood alcohol concentration. (App. 19 (Stip. ¶ 19)). During his OWI booking process, Aeilts stated to Lieutenant Andrew Schuchhardt, "This all has been embarrassing enough. If you just want to drop it, it will never happen again I guarantee it. How about that?" (App. 19 (Stip. ¶ 20)). Later on that same date, Robinson responded to Aeilts's text stating, "What's up?" (App. 19 (Stip. ¶ 21), 42). At 12:41 p.m. on that same date, Aeilts sent Robinson two text messages: "Made a mistake that'll be coming across your desk. Hopeful we can work something out" and "And hopeful we can do so quickly and quietly if possible." (App. 19 (Stip. ¶ 22)).

On occasion, Aeilts and Robinson would communicate regarding cases via text message. (App. 19 (Stip. ¶ 23)). However during those prior text communications, Aeilts had never texted Robinson regarding a case at such an early time or on a weekend. (App. 19 (Stip. ¶ 23)). In those prior text communications, Aeilts never texted Robinson "need help" or "911." (App. 19 (Stip. ¶ 23)). Aeilts and Robinson spent time

together socially a few times prior to September 16, 2018, which included a grill out at Aeilts's home. (App. 20 (Stip. ¶ 24)).

On October 1, 2018, the Pella Police Department criminally charged Aeilts with Malicious Prosecution in violation of Iowa Code section 720.6, a serious misdemeanor, and with False Report of an Indictable Offense to a Public Entity in violation of Iowa Code section 718.6(1), a serious misdemeanor, for Aeilts's conduct regarding Randy Cornelison. (App. 20 (Stip. ¶ 25)). According to the Minutes of Testimony filed in this case:

> Officer Donelson, if called to testify, will testify that . . . [Aeilts] stated he had been threatened by Randy Cornelison that he (Cornelison) was going to 'kick his teeth in and beat him to within an inch of his life' but was unable to provide a recording of the conversation. . . . [Aeilts] specifically stated that he wanted Cornelison charged with Harassment[.]

(App. 50).

The court assigned Wayne County Attorney Alan Wilson to prosecute the charges in Wayne County District Court Case Numbers OWCR003047 and SRCR003048. (App. 20 (Stip. ¶ 26)).

On June 13, 2019, Aeilts executed a Written Plea of Guilty to the charge of Operating While Intoxicated, First Offense in OWCR003047, which stated, "On or about September 16, 2018, in Marion County, Iowa, I operated a motor vehicle while having an alcoholic concentration of

0.08 or more, as measured in my breath, in violation of Iowa Code Section 321J.2(1)(a)(b)." (App. 20 (Stip. ¶ 27), 34–38).

On July 26, 2019, the court issued an Order Deferring Judgment in OWCR003047 which provided that Aeilts be placed on probation for one year, pay a $1,300.00 civil penalty plus fees and court costs, complete fifteen hours of community service, as well as dismissed the companion traffic citation upon Aeilts's payment of court costs. (App. 20–21 (Stip. ¶ 28), 39–41).

On September 26, 2019, Aeilts tendered an *Alford* plea of guilty to the charge of Malicious Prosecution on the record in SRCR003048. (App. 21 (Stip. ¶ 29)). Aeilts relied on the Minutes of Testimony and the Amended Minutes of Testimony to form a factual basis for his guilty plea. (App. 21 (Stip. ¶ 29)). On October 11, 2019, the court issued a Record Entry in SRCR003048 that stated:

> The Defendant tenders an Alford plea of guilty to Count I of the Trial Information, Malicious Prosecution, a Serious Misdemeanor, in violation of Iowa Code Section 720.6. The Court finds that the said Alford plea is freely, voluntarily, and intelligently entered with full knowledge of the consequences thereof, and that there is a factual basis for said Alford plea. The Court thereupon accepts the Alford plea.

(App. 21–22 (Stip. ¶ 30), 58–59). On October 30, 2019, counsel on behalf of Aeilts filed a Motion in Arrest of Judgment and Application to

Withdraw Defendant's Guilty Plea in SRCR003048, which was resisted by the State. (App. 22 (Stip. ¶ 31)). On December 26, 2019, the court issued an Order denying Aeilts's Motion in Arrest of Judgment and Application to Withdraw Defendant's Guilty Plea in SRCR003048. (App. 22 (Stip. ¶ 32)). On February 18, 2020, Aeilts's sentencing hearing took place. (App. 22 (Stip. ¶ 33)). During his allocution on that date, Aeilts stated to the court:

> At the time of the facts giving rise to this case, I was not a criminal defense attorney. I had handled maybe two or three OWIs. I had never handled anything else. I was not a criminal defense attorney. I didn't know the elements of harassment.
>
> . . .
>
> I had never handled a harassment charge. I had never handled so much as a simple assault.

(App. 22 (Stip. ¶ 34), 67:11–16, 76:18–19). Before August 21, 2018, Aeilts had represented clients in at least twenty-two criminal matters. (App. 22–23 (Stip. ¶ 35), 80–259).

On February 19, 2020, the court issued a Judgment Entry and Sentence adjudging Aeilts guilty in SRCR003048, which provided that Aeilts pay a $315.00 fine plus surcharge and was sentenced to three days in jail, as well as dismissed Count II upon Aeilts's payment of court costs. (App. 24 (Stip. ¶ 41), 60–62).

ARGUMENT

I. THE COMMISSION CORRECTLY FOUND AEILTS VIOLATED RULE 32:8.4(c).

A. Error Preservation

The Board agrees Aeilts preserved the issue presented for appellate review.

B. Scope and Standard of Appellate Review

The scope and standard of appellate review is de novo. *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Watkins*, 944 N.W.2d 881, 884 (Iowa 2020).

C. Argument

Iowa Rule of Professional Conduct 32:8.4(c) states, "It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation." "To violate this rule, a lawyer must act with some level of scienter, which means the misrepresentation must be more than a negligent misrepresentation." *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Marzen*, 949 N.W.2d 229, 239 (Iowa 2020) (quoting *Iowa Supreme Ct. Att'y Disciplinary Bd. v. McGinness*, 844 N.W.2d 456, 462 (Iowa 2014)). "[T]he key question [the Court] must answer is whether the effect of the lawyer's conduct is to mislead rather

than to inform." *Id*. (quoting *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Barry*, 908 N.W.2d 217, 226 (Iowa 2018)). "An attorney's 'casual, reckless disregard for the truth' also establishes sufficient scienter to support a violation of the rule." *Id*. (quoting *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Muhammad*, 935 N.W.2d 24, 38 (Iowa 2019)).

Aeilts argues the Commission erred in finding he violated rule 32:8.4(c).[2] Aeilts first argues that his inexperience and lack of mentorship caused him to make misrepresentations to the police that Cornelison had threatened to physically assault him. "It has been said that for purposes of attorney discipline, offenses against common honesty should be clear even to the youngest lawyers." *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Stoller*, 879 N.W.2d 199, 212 (Iowa 2016) (quoting 7A C.J.S. *Attorney & Client* § 103, at 24 (2015)).

Additionally, Aeilts claims he did not know alleging a threat of bodily harm was an indictable offense, nor did he intend for Cornelison

[2] The Commission found Aeilts violated rule 32:8.4(c) when he made misrepresentations to *both* the police and the court. (App. 267). The Board agrees with the Commission that Aeilts did make misrepresentations to the police. However, the Board did not allege his misrepresentations to the police constituted a rule 32:8.4(c) violation since Aeilts stipulated to violating rule 32:8.4(b) for substantially the same conduct.

to be charged with an indictable offense. There is no support for Aeilts's first claim in the record, and Aeilts's second claim is directly contradicted by the record. After misrepresenting to the police what Cornelison told him, Aeilts specifically "requested that harassment charges be brought against Cornelison." (App. 17 (Stip. ¶ 7)). It is immaterial whether Aeilts thought he was requesting a simple misdemeanor harassment charge or an indictable harassment charge against Cornelison. The point is that Aeilts made misrepresentations to the police.

Aeilts next argues that his misrepresentations to the court were not knowingly or intentional but due to his negligence and incompetence. The Board disagrees. On February 18, 2020, during his allocution for his malicious prosecution conviction, Aeilts stated to the court:

> I would like for the record's sake to clarify a misrepresentation that was made about my history. At the time of the facts giving rise to this case, I was not a criminal defense attorney. I had handled maybe two or three OWIs. I had never handled anything else. I was not a criminal defense attorney. I didn't know the elements of harassment.
>
> . . .
>
> I had never handled a harassment charge. I had never handled so much as a simple assault.

(App. 22 (Stip. ¶ 34), 67:10–16, 76:18–19). This excerpt from Aeilts's allocution contains *numerous* verifiable dishonest statements to the court. Aeilts had represented clients in at least twenty-two criminal

matters beginning in 2015 when he acquired his law license, up to the date Aeilts committed malicious prosecution on August 21, 2018—not just "two or three OWIs" that he mentioned. (App. 22–23 (Stip. ¶ 35), 80–259). Of the twenty-two cases Aeilts had handled, ten of the cases were OWIs. (App. 22–23 (Stip. ¶ 35)). Aeilts had also represented clients for charges including criminal trespass, disorderly conduct, burglary, obstructing prosecution, indecent exposure, neglect of a dependent person, child endangerment, drug possession, and possession of drug paraphernalia even though he told the court, "I had never handled anything else." (App. 22–23 (Stip. ¶ 35)). Contrary to his statements about never handling a simple assault, Aeilts represented clients for assault in two separate criminal cases. (App. 22–23 (Stip. ¶ 35)).

Further, Aeilts knew the elements of harassment. When Aeilts made his report to law enforcement about what Cornelison had allegedly done, Aeilts specifically requested Cornelison be charged with harassment because he knew he had made an allegation that contained all of the elements of harassment. (App. 17 (Stip. ¶ 7)). Perhaps Aeilts gained the knowledge of the elements of harassment through his representation of clients for harassment charges in two separate criminal

cases, despite his statement to the court that he had "never handled a harassment charge." (App. 22–23 (Stip. ¶ 35)).

Aeilts's dishonest statements misled the court about his prior criminal defense experience. It is the Board's position, and the Commission agreed, that Aeilts intentionally made those dishonest statements in hopes of obtaining a more lenient sentence from the court. (App. 267).

In support of his argument that his false statements were not intentionally made to the court, Aeilts relies heavily on *Iowa Supreme Court Attorney Disciplinary Board v. Sobel*, 779 N.W.2d 782 (Iowa 2010). In *Sobel*, the attorney testified at a post-conviction hearing that his clients were present in the courtroom with him at their sentencing hearing, they did not want an interpreter, and the judge questioned them about the decision to decline an interpreter, which were all incorrect statements. *Id*. at 775. The Court did not find that Sobel was intentionally dishonest during his testimony. *Id*. at 787–88. However, *Sobel* is distinguishable from this case in one significant respect—Sobel's inaccurate statements dealt with his recollection of one specific event. *Id*. at 787. The Court held that, "the inability of a person to accurately recall *an event* does not necessarily lead to the conclusion that the person's inaccurate

recollection is an expression of dishonesty or deceit." *Id*. (emphasis added).

Sobel incorrectly testified about whether or not two of his clients, in his approximate twenty years of practice, were present at a sentencing hearing, which had taken place two years prior to his testimony. *Id*. at 783–85. Because of Sobel's lengthy career, one could assume that some of his clients and cases could blend together. Here, Aeilts's misrepresentations dealt with his *own* personal experience as an attorney, which consisted of only five years at the time of his allocution. (App. 16 (Stip. ¶ 2), 22 (Stip. ¶ 33)). Surely an attorney would not mistake "two or three OWIs" with the twenty-two criminal matters he in fact had handled. (App. 22–23 (Stip. ¶ 35)). One would think that an attorney who practiced in criminal law would recall that fact, even though a year and a half had passed. (App. 16 (Stip. ¶ 4), 22–23 (Stip. ¶¶ 33, 35)).

Aeilts next cites to *Committee on Professional Ethics & Conduct v. Ramey* in support that his misrepresentations were negligently rather than intentionally made. 512 N.W.2d 569 (Iowa 1994). In *Ramey*, the Court found the prosecutor's statement to the district court that he had personally checked the serial numbers on the bills he was offering as an exhibit with the serialized list to be a misrepresentation in violation of

DR 1-102(A)(4), the precursor to rule 32:8.4(c). *Id*. at 572. The Court stated, "[I]t does not appear that Ramey was attempting to deceive the court. But even if he simply misspoke, it was still a matter constituting misconduct." *Id*. at 571–72. Despite recognizing Ramey was "[i]n the press of an exceedingly difficult trial, perhaps without really thinking, he added the false statement," the Court held Ramey accountable for his actions. *Id*. at 572. "Absolute integrity is so fundamentally crucial to the role of an attorney that there is an initial reluctance to even consider explanations under these circumstances." *Id*. at 569. "Lawyers cannot be excused for false statements on the basis of a sloppy, or even casual, unawareness of the truth." *Id*. at 571.

Aeilts then mischaracterizes the parties' stipulation, stating that the Board stipulated Aeilts "had never handled a complex criminal matter." (Appellant's Brief 29). While the stipulation shows Aeilts's criminal experience consisted predominantly of misdemeanors, it also shows that he handled two felony cases, one of which was dismissed after Aeilts successfully identified that the State failed to file the trial information within forty-five days of his client's arrest. (App. 136–42, 192–211).

Additionally, Aeilts argues there is no evidence that the district court relied on Aeilts's misrepresentations in imposing his sentence. It is irrelevant whether the sentencing court in fact relied on Aeilts's misrepresentations. What is relevant is that Aeilts made those false statements to the court with the "aim to mislead" in the hopes the court would consider his purported lack of criminal experience and impose a more lenient sentence. *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Noel*, 923 N.W.2d 575, 588 (Iowa 2019).

Aeilts also argues that the Board acknowledges his misrepresentations were unintentional by not charging him with a violation of rule 32:3.3, which requires candor toward a tribunal. However, pursuant to *Iowa Supreme Court Attorney Disciplinary Board v. Rhinehart*, a case Aeilts cites to in his brief, rule 32:3.3 is not the appropriate rule in this matter. 827 N.W.2d 169 (Iowa 2013). The Court held, "[S]ome rules target only the conduct of an attorney while serving as an advocate representing a client." *Id*. at 176. The Court stated, "Rhinehart did not violate rule 32:3.3 because he was not serving as an advocate representing a client in the dissolution proceeding." *Id*. at 177. In arriving at its conclusion, the Court considered the comments to the rule and the fact that the rule is found in the "Advocate" section of the

rules. *Id*. at 176. The Court determined Rhinehart's extrinsic fraud in his own dissolution matter violated rule 32:8.4(c). *Id*. at 180. Similarly, as a defendant in his own criminal case, represented by counsel, Aeilts could not violate rule 32:3.3 but did violate rule 32:8.4(c).

Lastly, Aeilts argues he did not violate rule 32:8.4(c) because his actions were not in furtherance of an underlying fraud. Rule 32:8.4(c) is not limited to fraud. The rule also provides that it is misconduct for an attorney to engage in conduct involving dishonesty, deceit, or misrepresentation. Nevertheless, the Board would argue that Aeilts's conduct constituted a fraud on the court. Aeilts made a knowing misrepresentation to persuade the sentencing court to give him a more lenient sentence.

It is the Board's position, and the Commission agreed that Aeilts "intentionally made repeated misrepresentations of material fact to the police and to the [c]ourt." (App. 267). Even if this Court does not find Aeilts was intentionally dishonest with the court, ample evidence in the record establishes Aeilts made those statements with "a casual, reckless disregard for the truth." *See Marzen*, 949 N.W.2d at 239 (quoting *Muhammad*, 935 N.W.2d at 38). There is big difference between the twenty-two cases Aeilts actually handled and the "two or three" he told

the court he had done. It is hard to believe that Aeilts could have forgotten all of those cases or was accidently that far off in his calculation.

The Commission correctly found that the Board proved by a convincing preponderance of the evidence that Aeilts violated rule 32:8.4(c).

II. THE COMMISSION'S RECOMMENDED SANCTION OF SIX MONTHS IS APPROPRIATE.

A. Error Preservation

The Board agrees Aeilts preserved the issue presented for appellate review.

B. Scope and Standard of Appellate Review

As previously stated, the scope and standard of appellate review is de novo. *Watkins*, 944 N.W.2d at 884.

C. Argument

There is no standard sanction with respect to misconduct in attorney disciplinary cases. *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Blessum*, 861 N.W.2d 575, 591 (Iowa 2015). The Court takes into account the "totality of facts and circumstances" of each case. *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Deremiah*, 875 N.W.2d 728, 737 (Iowa 2016). The Court's considerations include "the nature of the violations, the need for

deterrence, protection of the public, maintenance of the reputation of the bar as a whole, and the attorney's fitness to continue practicing law, as well as any aggravating or mitigating circumstances." *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Bartley*, 860 N.W.2d 331, 337 (Iowa 2015) (citation omitted).

1. Aggravating Factors

The Board agrees with Aeilts that the harm caused to Cornelison and that he committed multiple violations are aggravating factors in this matter. The harm, actual or potential, that Aeilts caused Cornelison is an aggravating factor in this matter. *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Moonen*, 706 N.W.2d 391, 402 (Iowa 2005) (holding "[h]arm to others" is an aggravating factor). While there was no client harm, there was a grave risk of harm to Cornelison because of Aeilts's statements to law enforcement. If Cornelison had not had a recording of their conversation to refute Aeilts's false claims to law enforcement, Cornelison could have wrongfully been incarcerated. Cornelison could have wrongfully suffered extraordinary financial costs in the form of attorney fees, fines, and probation fees. "Multiple rule violations are an aggravating factor giving rise to more serious sanctions." *Iowa Supreme Ct. Att'y Disciplinary*

Bd. v. Parrish, 925 N.W.2d 163, 181 (Iowa 2019). Aeilts violated multiple rules in this matter.

There are additional aggravating factors here. Aeilts's conduct caused harm not only to Cornelison but also to law enforcement. Aeilts's misrepresentations caused the police to waste resources in investigating a crime that Aeilts knew never occurred.

The nature of the violations is also aggravating. *See Iowa Supreme Ct. Att'y Disciplinary Bd. v. Springer*, 904 N.W.2d 589, 597 (Iowa 2017).

> Fundamental honesty is the base line and mandatory requirement to serve in the legal profession. The whole structure of ethical standards is derived from the paramount need for lawyers to be trustworthy. The court system and the public we serve are damaged when our officers play fast and loose with the truth.

Id. (quoting *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Bieber*, 824 N.W.2d 514, 523 (Iowa 2012)). Two of Aeilts's rule violations involve dishonesty; Aeilts was dishonest to the court and dishonest to law enforcement.

2. Mitigating Factors

The Board agrees with many of the mitigating factors Aeilts has referenced in his brief. Aeilts volunteers in his community, has performed pro bono work, and often utilizes a sliding fee scale. *See Iowa Supreme Ct. Att'y Disciplinary Bd. v. Meyer*, 944 N.W.2d 61, 71 (Iowa

2020); *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Hier*, 937 N.W.2d 309, 318 (Iowa 2020). Additionally, Aeilts serves the rural communities of southern Iowa. *See Iowa Supreme Ct. Att'y Disciplinary Bd. v. Said*, 953 N.W.2d 126, 155 (Iowa 2021) (holding attorney's representation of "an underserved population" is a mitigating factor).

Aeilts served in the Armed Forces for eight years from 2007 through 2015. *See Iowa Supreme Ct. Att'y Disciplinary Bd. v. Jacobsma*, 920 N.W.2d 813, 821 (Iowa 2018). Aeilts also cooperated with the Board. *See Watkins*, 944 N.W.2d at 893. Further, while the Board recognizes Aeilts's lack of prior disciplinary history is a mitigating factor, it agrees with Aeilts that it should be given little weight considering the conduct at issue started only three years after he was admitted to the bar. *See Iowa Supreme Ct. Att'y Disciplinary Bd. v. Sears*, 933 N.W.2d 214, 225 (Iowa 2019).

However, the Board disagrees with some of the mitigating factors Aeilts argues in his brief. Like the Commission, the Board disagrees with Aeilts that his inexperience, small firm or lack of mentorship, and overlap in time are mitigating factors in this case. (App. 268).

> This is not a case in which his inexperience or lack of mentorship affected his ability to fulfill the professional expectations of attorneys. Instead, Mr. Aeilts'[s] failures are

> in his ethics and honesty, with multiple misrepresentations to the [c]ourt and to law enforcement over a period of time.

(App. 268). "Even inexperienced lawyers must know better than to make misrepresentations." *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Beauvais*, 948 N.W.2d 505, 518 (Iowa 2020). And surely, Aeilts did not need a mentor to advise him that making misrepresentations to the court and to law enforcement is wrong. Contrary to Aeilts's argument that all his misconduct occurred within three weeks, Aeilts made misrepresentations to the court during his allocution fifteen months after his misrepresentations to the police. (App. 16–17 (Stip. ¶¶ 4–6), 22 (Stip. ¶¶ 33–34)).

Additionally, while the Board recognizes that lack of client harm is a factor considered by the Court in disciplinary matters, the Board agrees with the Commission and now Aeilts that this factor should be given only minimal consideration in this case. (App. 268).

The Board also disagrees that Aeilts's personal issues should be considered by the Court as mitigating factors. Aeilts states that his OWI occurred after drinking while mourning a friend's death. There is nothing in the record about this personal issue, and if there had been, mourning a friend's death, while obviously tragic, is not an excuse for committing

an OWI. And while there is a reference in Aeilts's allocution transcript of him starting up a firm with his wife, there is nothing in the record to suggest Aeilts was particularly stressed by this.

Lastly, the Board disagrees that remedial efforts should be considered as a mitigating factor in this case. While the Board has identified a reference in Aeilts's allocution transcript to the bar mentorship program, based upon his statement to the court, he had not yet registered for the program and there is nothing else in the record to establish Aeilts is actually participating in that program. Aeilts told the court, "I believe the bar association did create a mentorship program. Registering with something like that could be valuable." (App. 76:24–77:1).

3. Relevant Case Law

"With regard to convictions of criminal offenses, an attorney's license to practice law may be revoked or suspended depending on the severity of the offense and any aggravating or mitigating factors." *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Carpenter*, 781 N.W.2d 263, 270 (Iowa 2010).

"[M]isrepresentation is 'a serious breach of professional ethics.' " *Bartley*, 860 N.W.2d at 338 (quoting *Iowa Supreme Ct. Att'y Disciplinary*

Bd. v. Gottschalk, 729 N.W.2d 812, 821 (Iowa 2007)). "Depending on the severity of the misrepresentations, [this Court] ha[s] imposed sanctions ranging from reprimand to license revocation." *Id*. (citation omitted); *see also Iowa Supreme Ct. Att'y Disciplinary Bd. v. Kieffer-Garrison*, 951 N.W.2d 29, 38 (Iowa 2020) (holding the Court subjects "attorneys who actively disregard this fundamental baseline [of honesty]" to sanctions ranging from six-month license suspension to revocation).

This Court has imposed suspensions ranging from sixty days to eighteen months "for engaging in conduct prejudicial to the administration of justice when compounded by additional violations." *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Turner*, 918 N.W.2d 130, 153–54 (Iowa 2018) (citations omitted).

In *Iowa Supreme Court Attorney Disciplinary Board v. Wheeler*, the Court found Wheeler violated rule 32:8.4(b) and (c) after he was convicted for making a false statement to a financial institution on a mortgage application. 824 N.W.2d 505, 510–11 (Iowa 2012). Mitigating factors considered by the Court were his lack of disciplinary history, community service, remorse, cooperation with the Board, and that it was an isolated incident. *Id*. at 513. The Court suspended Wheeler's license for six months. *Id*.

While Aeilts violated the same rules and has many of the same mitigating factors, this matter is distinguishable in several ways. First, Aeilts committed additional rule violations when he perpetrated OWI, tried to wheedle his way out of that OWI, and was dishonest during his allocution. Second, the Court found in *Wheeler* that "his intent was to obtain a loan from the bank, not for the bank to suffer a loss." *Id*. at 512. When Aeilts specifically requested Cornelison be charged with harassment and told law enforcement he was willing to testify in court, Aeilts intended Cornelison to suffer. Aeilts *knew* if charges were brought per his request, Cornelison could go to jail and endure the financial burdens associated with a criminal charge.

In *Iowa Supreme Court Attorney Disciplinary Board v. Caghan*, the Court found Caghan violated rule 32:3.1 when he made frivolous claims, rule 32:3.3(a)(1) when he made false statements to the court, and rule 32:8.4(d) when his frivolous claims wasted judicial resources. 927 N.W.2d 591, 605–06 (Iowa 2019). Aggravating circumstances considered by the Court were his experience and prior disciplinary history. *Id*. at 607. The Court suspended his license for six months. *Id*. at 608.

Although Aeilts did not violate these same rules, his conduct is similar to Caghan's. *See id.* at 605–06. Aeilts made a frivolous claim to law enforcement that he had been a victim of a crime when that was not the case, made false statements to the court during his allocution, and wasted law enforcement resources through his false claims that Cornelison threatened him.

a. Rule 32:8.4(b)

Aeilts correctly states the sanction range for OWI and additional criminal conduct is thirty days up to a two-year suspension. Aeilts then cites to four OWI cases discussing a range of sanctions from public reprimand up to a two-year suspension. *See Iowa Supreme Ct. Att'y Disciplinary Bd. v. Cannon*, 821 N.W.2d 873, 882–83 (Iowa 2012) (suspending attorney's license for thirty days for convictions for operating boat while intoxicated, possession of cocaine, and OWI); *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Weaver*, 812 N.W.2d 4, 13, 16 (Iowa 2012) (suspending attorney's license for two years for second offense OWI and harassment in the third degree); *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Keele*, 795 N.W.2d 507, 509–10 (Iowa 2011) (discussing attorney's prior public reprimand for his convictions of OWI and possession of drug paraphernalia); *Iowa Supreme Ct. Att'y*

Disciplinary Bd. v. Johnson, 774 N.W.2d 496, 499, 501 (Iowa 2009) (suspending attorney's license for six months for third offense OWI).

The Board recognizes the two-year suspension handed down in *Weaver* is unwarranted here in light of Weaver's conduct and extensive disciplinary history. *Id*. at 14. However, the more lenient sanctions given in *Keele* and *Cannon* are also inappropriate here. Those cases are distinguishable from this matter in that Keele's and Cannon's misconduct were associated only with OWI and misdemeanor controlled substance crimes. *See Cannon*, 821 N.W.2d at 882–83; *Keele*, 795 N.W.2d at 509–10. In contrast, Aeilts committed the additional and very serious crime of malicious prosecution and made false statements to the sentencing court, warranting a lengthier suspension.

A more applicable OWI case is *Iowa Supreme Court Attorney Disciplinary Board v. Khowassah*, 837 N.W.2d 649 (Iowa 2013). In *Khowassah*, the Court found Khowassah violated rule 32:8.4(b) for committing his second OWI and rule 32:8.4(c) for keeping military leave pay that he was not entitled to receive. *Id*. at 654–56. Khowassah's cooperation with the Board, completion of substance abuse and mental health treatment, and his acceptance of responsibility were considered mitigating factors by the Court. *Id*. at 657–58. Khowassah's prior private

admonition for his first OWI was an aggravating factor. *Id*. at 658. The Court suspended Khowassah's license for three months. *Id*.

Although Aeilts violated rule 32:8.4(b) for his OWI and rule 32:8.4(c) for his dishonesty with the court, Aeilts also violated rule 32:8.4(b) and (d) when he committed the additional criminal act of malicious prosecution, which is recognizably more egregious than Khowassah's conduct. The Board concedes that Khowassah received a prior private admonition for his first OWI, but Khowassah did not "attempt[] to use his position as an attorney to unfairly influence the proceedings[, and] no one was actually victimized by Khowassah's crime." *Id*. at 654. Aeilts texted his acquaintance and assistant county attorney, "Help" and "911" after he was arrested, asked the lieutenant to "drop" the charges, caused damage to a cornfield, and victimized Cornelison. These aggravating factors warrant a lengthier suspension than the three months handed down in *Khowassah*.

Aeilts next states he is unaware of any attorney disciplinary cases involving malicious prosecution. The Board found one: *Iowa Supreme Court Board of Professional Ethics & Conduct v. Postma*, 555 N.W.2d 680 (Iowa 1996). The Court found Postma violated the Code of Professional Responsibility when he maliciously filed criminal complaints against

eleven individuals without grounds to do so. *Id*. at 682–83. "Many of the persons so 'charged' were persons involved in the proceedings that had led to Postma's 1988 license suspension." *Id*. at 682. The Court also found Postma committed other violations of the Code by failing to obey a court order, failing to file several years of tax returns, neglecting two estates, and failing to respond to the Board. *Id*. at 683. The Court revoked his license. While *Postma* is a malicious prosecution case, the Board acknowledges the case is distinguishable in several respects and involves more egregious attorney misconduct.

Other jurisdictions have encountered similar situations in attorney discipline cases. In *In Re: Gaubert*, the Supreme Court of Louisiana found Gaubert violated rule 8.4(b)[3] after she was convicted of criminal mischief for falsely reporting to law enforcement that she was a victim of extortion. 263 So.3d 408, 412 (La. 2019). Gaubert was also found to have violated that rule for her conviction of simple battery. *Id*. Gaubert's dishonest motive, commission of multiple offenses, failure to participate

[3] Louisiana's rule 8.4(b) is identical to Iowa's rule 32:8.4(b) except for one word; Louisiana's rule provides it is misconduct for a lawyer to "commit a criminal act *especially* one that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects."

in the disciplinary process, and failure to take responsibility were aggravating factors in the case. *Id*. Gaubert's lack of prior disciplinary history was a mitigating factor. *Id*. The court suspended Gaubert's license for one year and one day. *Id*. at 413. There are several similarities and differences between *Gaubert* and this matter. Like Gaubert, Aeilts lacks a prior disciplinary history but also has committed multiple offenses in this matter. *See id.* at 412. Yet, Aeilts has participated in the disciplinary process, while Gaubert did not. *See id.*

In *In Re: Strickland*, the Supreme Court of Oregon found Strickland violated the Oregon Code of Professional Responsibility after he was convicted of improper use of the emergency reporting system, initiating a false report, and disorderly conduct. 124 P.3d 1225, 1229 (Or. 2005). After being upset with the disturbances caused by months of construction work near his home and with the purpose to advance a lawsuit he was preparing against the city and the construction company, Strickland called the police and falsely reported that he was being surrounded by construction vehicles and was being threatened. *Id*. at 1227–28, 1231. Strickland also falsely accused a construction worker of assault after the police arrived on scene. *Id*. at 1228. The court found that Strickland "injured the city by needlessly inducing it to expend its

resources . . . [and] potentially injured [the construction worker] by creating the risk that [he] would be charged with an assault that he did not commit." *Id*. at 1231. Strickland's dishonest motive, failure to acknowledge his wrongdoing, his lengthy experience, and the commission of multiple offenses were aggravating factors in the case. *Id*. at 1231–32. Strickland's lack of prior disciplinary history, disclosure of his offenses to the disciplinary board, and the penalties he received in his criminal case were mitigating factors. *Id*. at 1232. The court suspended Strickland's license for one year. *Id*. at 1233. There are several similarities between *Strickland* and this matter. Like Strickland, Aeilts lacks a prior disciplinary history and has received other penalties associated with his criminal cases but also has committed multiple offenses and had a dishonest motive. *See id.* at 1231–32.

Aeilts then argues that prior cases involving frivolous filings are the most comparable cases to this matter citing to several cases. *See Iowa Supreme Ct. Att'y Disciplinary Bd. v. Widdison*, 960 N.W.2d 79, 98 (Iowa 2021) (suspending attorney's license for ninety days for filing a frivolous small claims case against his ex-wife, intimidating his ex-wife's family members, and making false statements about a judge); *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Barnhill* (*Barnhill II*), 885 N.W.2d 408, 426–27

(Iowa 2016) (suspending attorney's license for six months for filing a frivolous counterclaim against a former client and making false statements to the court); *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Barnhill* (*Barnhill I*), 847 N.W.2d 466, 487–88 (Iowa 2014) (suspending attorney's license for sixty days for making frivolous claims in two separate lawsuits, making false statements to the court and opposing counsel, and committing fraud).

The Board acknowledges that there are parallels between the frivolous filings in *Widdison*, *Barnhill I*, and *Barnhill II* and this matter. However, there is a significant distinction—the nature of the harm caused by a frivolous filing versus a malicious prosecution. In these frivolous filings cases, the parties experienced financial and perhaps emotional harm. Here, if Cornelison had not had a recording of their conversation to refute Aeilts's false claims, Cornelison could have wrongfully been incarcerated. Because of this grave potential harm, Aeilts's misconduct should be considered more egregious than a frivolous filing violation.

b. Rule 32:8.4(d)

Aeilts states rule 32:8.4(d) violations involving false statements generally warrant a sanction of three months to a year; the Board agrees.

The six-month sanction recommended by the Commission falls in the middle of that range. Aeilts's misconduct warrants a lengthier suspension than three months but not as severe a sanction as one year. *See Barry*, 908 N.W.2d 234–35 (suspending attorney's license for one year after advising his vulnerable client that he had filed his dissolution petition and then creating a fraudulent divorce decree).

In *Iowa Supreme Court Attorney Disciplinary Board v. Gailey*, the Court suspended Gailey's license for sixty days for aiding and abetting a violation of a no-contact order between his son and his son's wife and offering her an inducement to testify in a certain way in his son's pending criminal matter. 790 N.W.2d 801, 805–08 (Iowa 2010). While Gailey had a prior reprimand and prior admonition and Aeilts does not, Aeilts committed two crimes, one of which being more serious than the crime committed by Gailey. *See id.* at 808. Aeilts also made misrepresentations to the court, thereby warranting a longer suspension than Gailey's sixty days. *Id*.

In *Iowa Supreme Court Attorney Disciplinary Board v. Stowers*, the Court suspended Stower's license for ninety days after he sent emails to his wife's former employer threatening to expose confidential information in violation of a protective order in an attempt to get her

former employer to make a large cash donation to a charity in his wife's name. 823 N.W.2d 1, 7–17 (Iowa 2012). The Board acknowledges that extortion and violating a court order are serious violations. The main difference between *Stower*s and this matter is that Stowers threatened to expose the former employer "to public ridicule and harm his professional reputation," whereas Cornelison faced jail time as a result of Aeilts's misrepresentations. *See id*. at 13.

In *Iowa Supreme Court Attorney Disciplinary Board v. Casey*, the Court suspended Casey for three months for neglecting two cases, taking probate fees early, failing to respond to the Board, and for misrepresenting the marital status of the decedent of an estate on court and tax documents. 761 N.W.2d 53, 59–61 (Iowa 2009). In *Iowa Supreme Court Board of Professional Ethics & Conduct v. Hohnbaum*, the Court suspended Hohnbaum's license for three months for pursuing a frivolous defense in an automobile accident case and for "suggest[ing] to the court that the amendment to his answer was necessary because he did not have the insurance company file at the time of his original answer, [which] was not true." 554 N.W.2d 550, 551–52 (Iowa 1996). Like Casey and Hohnbaum, Aeilts made misrepresentations to the court, but Aeilts also made false statements to the police that resulted in his malicious

prosecution conviction, as well as committed an OWI, both of which warrant a longer suspension.

c. Rule 32:8.4(c)

As discussed in the first argument, Aeilts disagrees he violated rule 32:8.4(c). Aeilts further argues that even if the Court finds a rule 32:8.4(c) violation, the six-month suspension recommended by the Commission is excessive. In support of his argument, Aeilts discusses a long list of disciplinary cases with sanctions ranging from public reprimands to a six-month suspension. The Board disagrees the cited cases support a shorter suspension, and Aeilts provides no analysis as to how the cases support his argument.

Aeilts cites two public reprimand cases in his argument. *See Iowa Supreme Ct. Att'y Disciplinary Bd. v. Haskovec*, 869 N.W.2d 554, 561–63 (Iowa 2015) (publicly reprimanding attorney for having one witness sign a will outside the presence of the testator and other witness and providing the invalid will to the executor to be probated but then "immediately" disclosing this fact to the executor's attorney); *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Taylor*, 814 N.W.2d 259, 265–66, 269 (Iowa 2012) (publicly reprimanding attorney for missing an appellate deadline, failing to advise her client that her appeal was dismissed, and

leading her to believe the appeal was still pending). A public reprimand is an improper sanction here, and Aeilts even concedes that fact in his brief by stating a thirty-day suspension is appropriate.

Contrary to Aeilts's later argument, a thirty-day suspension is also inappropriate, as the cases cited by Aeilts involve conduct less severe than the misconduct here. *See Iowa Supreme Ct. Att'y Disciplinary Bd. v. Willey*, 965 N.W.2d 599, 610 (Iowa 2021) (attorney misrepresented his interest in a company and failed to disclose his other client was judgment proof thereby making his personal guaranty worthless when he obtained a conflict of interest consent and waiver from a client); *Marzen*, 949 N.W.2d at 239, 242 (attorney knowingly submitted his clients' inaccurate tax returns to the IRS and allowed his clients to present the returns to a bank for a loan, as well as, misrepresented to his clients that he hired a new paralegal to assist in an estate when in fact he transferred the estate to another attorney without their knowledge); *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Kersenbrock*, 821 N.W.2d 415, 421 (Iowa 2012) (attorney "misled the client security commission by falsely certifying the status of her trust accounting procedures on annual reports"); *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Ackerman*, 611 N.W.2d 473, 474 (Iowa 2000) (attorney presented a motion to the court misstating the arrest

date of his client, secured a release order for a client he did not formally represent without informing the court of that fact, and presented an order misrepresenting that the county attorney approved the order).

Additionally, a sixty-day suspension is similarly inappropriate here, as the cases cited by Aeilts involve conduct less egregious than the instant case. *See Iowa Supreme Ct. Att'y Disciplinary Bd. v. Weiland*, 885 N.W.2d 198, 212 (Iowa 2016) (attorney misrepresented to his client that her dissolution petition had been filed and the opposing party would soon be served, despite the petition being rejected); *Stoller*, 879 N.W.2d at 213–14 (attorney misrepresented to his clients that a business transaction was proper when in fact it was a "sham"); *Rhinehart*, 827 N.W.2d at 179–80 (attorney committed extrinsic fraud by failing to disclose two pending contingent-fee cases during his own dissolution proceeding).

A three-month suspension is also too lenient of a sanction for the misconduct committed by Aeilts. *See Beauvais*, 948 N.W.2d at 515 (attorney misrepresented to the court and opposing counsel that his client accepted a settlement offer which was not true and then misrepresented to his client that the court would hold her in contempt if she did not sign the settlement agreement); *Ramey*, 512 N.W.2d at 572

(attorney misrepresented to the court that he had checked the serial numbers on the bills he was offering as an exhibit with the serialized list).

This long list of cases provided by Aeilts have one thing in common: the cases all deal with an attorney making a misrepresentation. Clearly, not all misrepresentations are the same, and they range in their severity. A misrepresentation can be as minor as providing an invalid will to the executor but then immediately coming clean with the probate attorney, or as severe as a fourteen-month charade in which the attorney led his client to believe he was divorced, even though he hadn't even filed the petition. *See Haskovec*, 869 N.W.2d at 561–63; *Barry*, 908 N.W.2d at 234. While the attorneys in the cited cases all made misrepresentations, their misrepresentations were less serious than the misrepresentations made by Aeilts. Aeilts attempted to have Cornelison indicted or prosecuted for harassment, knowing there were no reasonable grounds for that charge, and knowing what the consequences were for his actions—Cornelison's liberty.

Lastly, Aeilts cites to *Iowa Supreme Court Attorney Disciplinary Board v. McGinness*, 844 N.W.2d 456. The Board views this case as more analogous to the instant case than those previously cited by Aeilts. The Court suspended McGinness's law license for six months after he falsified

a certificate of service on discovery requests and then misrepresented the certificate as accurate to opposing counsel and to the court on multiple occasions. *Id.* at 462–63, 467. The Court held:

> [E]ven an inexperienced lawyer would know that the path chosen violated our ethical rules. We view the problem [ ] not so much as a failure to access a mentor but more as a profoundly wrong judgment any lawyer should avoid regardless of the presence of a support system.

Id. at 466. Like McGinness, Aeilts cooperated with the Board, serves his community, and has no prior disciplinary history. *Id*. at 467. But also like *McGinness*, "[t]his case does not involve an isolated false statement," as Aeilts lied to the police *and* to the court. *Id.* at 466.

4. Six-Month Suspension is Appropriate

As discussed above, a thirty-day suspension in light of Aeilts's misconduct is inappropriate. Aeilts made false statements to the Pella Police Department and to the district court, causing harm to the police and the court, as well as, to Cornelison and the public confidence in our judicial system. Aeilts's dishonest behavior "casts doubt on the integrity of our system, and [his] behavior warrants a strong sanction to protect the public and our profession." *Kieffer-Garrison*, 951 N.W.2d at 39.

Aeilts argues that the sanction should be less than the sanctions handed down in *Weaver*, *Barry*, *Casey*, *Stowers*, and *Gailey*. The Board has

already conceded that the two-year suspension in *Weaver* and the one-year suspension in *Barry* is unwarranted. However, the Board respectfully disagrees and finds Aeilts's misconduct more egregious than *Casey*, *Stowers*, and *Gailey* for the reasons discussed in the previous section.

Aeilts states in his brief that he feared Cornelison. Exhibit 8, the recording of Aeilts's and Cornelison's conversation, speaks for itself and contradicts that assertion. Not once did Cornelison threaten to physically assault Aeilts, nor anyone else for that matter. The Board is at a loss of how anything said by Cornelison could have been reasonably construed by Aeilts as a threat to physically harm him.

And as an attorney, handling twenty-two prior criminal cases, Aeilts did understand the consequences of his actions reporting a crime that did not occur.

> [T]he law takes account of a lawyer's legal training and experience in assessing his or her state of mind. A lawyer is an adult, a man or woman of the world, not a child. He or she is also better educated than most people, more sophisticated and more sharply sensitized to the legal implications of a situation. The law will make inferences as to a lawyer's knowledge with those considerations in mind.

Iowa Supreme Ct. Att'y Disciplinary Bd. v. Kozlik, 943 N.W.2d 589, 597 (Iowa 2020) (quoting *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Barry*, 762 N.W.2d 129, 138–39 (Iowa 2009)).

While Cornelison never threatened to physically assault Aeilts, Cornelison did tell Aeilts that he was going to file an ethics complaint against him. It is the Board's position that's what Aeilts actually feared—an ethics complaint. So after the phone call, Aeilts took action. Aeilts went to the police department and requested Cornelison be charged with harassment. While there making his false report, Aeilts told the police he "was *not afraid* to testify." (App. 17 (Stip. ¶ 8) (emphasis added)).

The Board also disagrees that Aeilts's misconduct is not indicative of his character. Aeilts's misconduct was not confined to a period of just a few weeks as he argues; Aeilts's misconduct took place over a period of fifteen months. After making false statements to a police officer on August 21, 2018, in an apparent attempt to get in front of an ethics complaint, Aeilts again made knowingly false statements to the court during his allocution for that very crime on February 18, 2020, in an attempt to get a more lenient sentence. "[I]ntentional dishonest conduct is closely entwined with the most important matters of basic character to such a degree as to make intentional dishonest conduct by a lawyer

almost beyond excuse." *Stoller*, 879 N.W.2d at 212 (quoting *Attorney & Client*, *supra*, § 103, at 24). This is not a case of an isolated incident of supremely bad judgment. Aeilts's dishonest conduct, spread out over the period of more than a year, is an indication of his character. After considering the nature of the violations and the aggravating factors, a six-month suspension is appropriate.

CONCLUSION

"When our court officers circumvent the truth, whether in their own interests or for the sake of their clients' interests, they damage the court system itself and the public's confidence in the court system." *Barry*, 908 N.W.2d at 233. "Because honesty is crucial to the judicial process and administration of justice, a misrepresentation by a lawyer 'generally results in a lengthy suspension of the license to practice law.' " *Caghan*, 927 N.W.2d at 610 (quoting *Iowa Supreme Ct. Att'y Disciplinary Bd. v. Ruth*, 656 N.W.2d 93, 100 (Iowa 2002)).

Based on the stipulated facts, exhibits, and aggravating factors admitted in the record, the Court should conclude that Aeilts violated Iowa Rule of Professional Conduct 32:8.4(b), (c), and (d) and should suspend his law license for six months.

IOWA SUPREME COURT
ATTORNEY DISCIPLINARY BOARD

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REQUEST FOR NONORAL SUBMISSION

The Board requests submission of the case without oral argument.

/s/ Crystal W. Rink
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