

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY BOARD

In Re: C. Robert Manby, Jr, Esq.
PRB File No. 2019-089

Ruling on Respondent's Motion for In-Person Hearing

Respondent, C. Robert Manby, Jr., Esq., has filed a motion requesting that the Hearing Panel in the above matter schedule an “in-person” hearing on the merits of the charges against Respondent. A remote hearing on the merits of the charges in the above-captioned matter is presently scheduled to take place by video conferencing on August 17 and August 20, 2021. The notice of hearing was issued on May 27, 2021.

In January 2021 a scheduling order was issued in this case. It included a deadline of April 1, 2021 for either party to file any objection to holding a remote video-conferenced merits hearing. No objection was filed by that date.

Respondent argues that the administrative order issued by the Supreme Court in response to the COVID-19 epidemic, A.O. 49, extends only to July 5 and that it authorizes in-person hearings beginning June 14, 2021. Respondent maintains generally that he should be allowed to present live testimony and confront the witnesses presented by Disciplinary Counsel at the hearing. The motion will be denied for several reasons.

To begin with, the Supreme Court has extended the expiration date in A.O. 49 several times and only recently (subsequent to the filing of Respondent's motion) the Court extended the date to September 7, 2021. See Order Promulgating Amendments to Administrative Order 49, 6/25/21. The remote merits hearing is presently scheduled to take place in August – prior to the currently projected expiration of A.O. 49.

Moreover, Respondent has failed to address the particular provisions in A.O. 49 that pertain to this proceeding. Professional Responsibility Board hearings are subject to paragraph 15(d)(ii) of the order, which states that “[t]o the maximum extent possible, evidentiary hearings should be conducted using remote video or audio conferencing.” Recent amendments of A.O. 49 have left that provision unchanged. *See* Order Promulgating A.O. 49 Amendments, 6/25/21.

In a related communication, the Court Administrator has advised members of the bar that while A.O. 49 will end at some point, that will occur gradually and “on a different timetable than that established by the Governor”; that there are limited facilities throughout the state where in-person hearings can be safely conducted; that the Judicial Branch is contemplating “a gradual expansion of in-person operations, rather than an all-at-once approach”; and that, based on all these considerations, “[a]ny hearing already scheduled as a remote hearing should remain remote.” Memo, P. Gabel to Members of the Bar, 6/18/21.

Finally, Respondent failed to file a timely objection to holding a remote hearing. Paragraph 15(d)(ii) of A.O. 49 states that “[a]ny objection to conducting the [evidentiary] hearing by video or audio conference must be filed as soon as possible.” And the Hearing Panel included a deadline of April 1, 2021 in the Scheduling Order for either party to file any objection to a remote hearing, together with a legal memorandum setting forth the grounds for the objection. When no objection was filed by either party, the Panel proceeded to schedule the hearing as a remote hearing. Respondent waived any objection.

For all these reasons, the motion for in-person hearing is hereby
DENIED. Dated: July 12, 2021

Hearing Panel No. 2

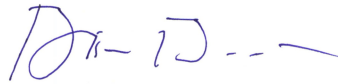
By:



James A. Valente, Esq., Chair



Amelia W.L. Darrow, Esq.



Brian Bannon, Public Member