

STATE OF VERMONT  
PROFESSIONAL RESPONSIBILITY PROGRAM

In Re: John Downes Burke  
PRB File No. 2020-040

**Disciplinary Counsel's Second Request for Hearing**

By Order dated May 12, 2021, this panel rejected a proposed stipulation between predecessor special appointed disciplinary counsel and Respondent. By order dated July 27, 2021, this panel “nullified” predecessor special appointed disciplinary counsel’s notice of dismissal. In that order, the panel identified several unresolved factual questions it had surrounding a representation that Respondent had “surrendered” his law license. July 27, 2021 Order at 3. Specifically, the panel noted that the issues “raise serious questions as to whether Respondent has complied with th[e] rules of the Supreme Court” governing resignation or relinquishment or “whether Respondent made any misrepresentations that require correction and whether [special appointed] Disciplinary Counsel has complied with his separate obligations under those rules.” *Id.*

Following a substitution of counsel of undersigned disciplinary counsel in place of the prior specially appointed one, by order September 14, 2021, this panel deemed the charges against Respondent admitted. In that order, the panel further directed disciplinary counsel to “clarify” whether a “supplemental” evidentiary hearing is necessary and the state “what specific evidence Disciplinary Counsel intends to present and an estimate of the amount of time needed for each item of evidence.” September 14, 2021 Order at 1.

Disciplinary counsel respectfully renews the request for a hearing submitted August 11, 2021. The length of time needed is estimated to be no more than one hour. The specific evidence

to be presented is documentation surrounding an unsuccessful attempt by Respondent to relinquish his law license pursuant to A.O. 41 requirements. Respondent will be called to testify to the document he submitted to attorney licensing. A staff member from the attorney licensing office may also be called to testify to how that office treated that document and the subsequent communications it sent to Respondent regarding his licensing status. The hearing is necessary because the specific information the panel stated it wants to know about cannot be fairly established by “taking judicial notice” as the panel has suggested. Instead, the factual issues the panel stated it wanted to know about in prior orders must be dealt with at a hearing so that the panel can make its own findings. Further, Respondent has not waived his right to a hearing. Failure to hold a short hearing would likely result in a valid basis for appealing the resulting sanction and would not facilitate any efficient use of judiciary staffing resources.

DATED: October 12, 2021



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Sarah Katz, Disciplinary Counsel