

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY BOARD

In Re: Glenn Robinson, Esq.
PRP File No. 2013- 172

Disciplinary Counsel’s Reply to Respondent’s Motion to Have the Panel Issue a Decision on the “Binette Counts” Without the Benefit of a Hearing Transcript

Respondent has proposed that the panel “issue a decision on all claims shortly after the close of the evidence” on the “Binette Counts” - counts II and III.¹ Under Respondent’s proposal, there would be no transcript of the evidence that has been admitted at the merits hearing on Counts II and III. The Panel would issue its decision on all counts in the Petition “shortly after” the Panel hears “closing arguments” on Counts II and III.

Disciplinary Counsel asks the Panel to reject Respondent’s proposal for the reasons set out below.

Respondent’s Proposal Ignores the Provisions of Rule 11D (5) (c)

Rule 11 D (5) (c) – “Decisions”- of the provisions governing the process for conducting merits hearings says:

(c) The hearing panel shall in every case issue a decision containing its *findings of fact, conclusions of law*, and the sanction imposed, if any, within 60 days after the conclusion of the hearing. The panel shall promptly serve its decision on disciplinary counsel and the respondent, and submit a copy, together with a record of its proceedings, pleadings and briefs, if any were submitted, to the Board for filing with the Court. The Board shall promptly inform the complainant of the decision and provide a copy to the complainant if so requested. *If no appeal* is served and filed within 30 days of the hearing panel decision, and the Court does not otherwise order review on its own motion, the decision shall become final, and shall have the same force and effect as an order of the Court. (emphasis added)

1. It is not reasonable to believe the Panel can file adequate “findings of fact” on the “Binette Counts” without having the opportunity review and “cite to” a transcript of the hearing.
2. If there is no transcript, the Panel will not be able to file a “record of its proceedings” with the Vermont Supreme Court as required under Rule 11 D (5) (c).
3. Rule 11 D (5) (c) gives the parties the right to appeal the Panel’s decision to the Vermont Supreme Court. The parties are denied the right to appeal the Panel’s decision on the Binette Counts if there is no transcript.
4. Closing arguments are an inadequate substitute for a hearing transcript. Closing arguments are very important in jury trials. However, closing arguments are not necessary in administrative proceedings before a Panel of professionals such as this one. In fact, they would be a waste of this Panel’s time.

¹ Respondent’s “Motion for Clarification of Schedule” - ¶ 2

5. Under Rule 11 D (5) (c) the Panel has 60 days from the last hearing day to issue its findings and conclusions and impose a sanction, if warranted.

- Ms. Young, the court reporter in this case, has estimated it will take “2 to 3 weeks” to complete the transcript for the three days of hearings on the Mead and Poutre Counts.
- The merits hearing on the Binette Counts will take no more than two days and conclude on January 3, 2018. It is reasonable to believe it will take no more than two and one-half weeks to obtain a transcript.
- The Panel and the parties should have a transcript by January 19, 2018.
- It is reasonable to require the parties to file proposed findings and conclusions within 10 days of receipt of the transcript,
- This should give the Panel more than 30 days to issue findings of fact and conclusion of law and impose sanctions, if warranted.

Dated at Burlington Vermont on November 19, 2017.

Robert V. Simpson, Jr.
Disciplinary Counsel