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Jul 23 2026 2:16pm
Board on Professional Responsibility

DISTRICT OF COLUMBIA COURT OF APPEALS
BOARD ON PROFESSIONAL RESPONSIBILITY

In the Matter of: **ANTHONY E. SMITH,** Respondent. Bar No. 415931	DDN 2025-D072

RESPONDENT'S ANSWER TO PETITION AND SPECIFICATION OF CHARGES

I. PRELIMINARY STATEMENT

Respondent Anthony E. Smith, Bar No. 415931, admitted to the District of Columbia Bar on October 14, 1988, by and through his counsel Adgie O'Bryant, Jr., Bar No. 193375, hereby answers the Petition and Specification of Charges (hereinafter "Specification") filed by the Office of Disciplinary Counsel ("ODC") and dated July 5, 2026.

Mr. Smith has practiced law in the District of Columbia for over 38 years. He has an unblemished disciplinary record. He has dedicated his career to representing clients — many of them indigent criminal defendants — in the Superior Court and has appeared before the DC Court of Appeals. This matter arises from a single appointment in a criminal case involving Lamont Smith (no relation), and it turns almost entirely on the unauthorized acts of an independent investigator, Shawn Allen, who submitted a voucher under Respondent's credentials without Respondent's knowledge or authorization, then attempted to shift blame to Respondent when confronted.

The evidence will show that Disciplinary Counsel cannot meet its burden of clear and convincing evidence on any charge. Respondent denies the charges and respectfully requests that this Specification be dismissed.

II. RESPONSES TO SPECIFIC PARAGRAPHS

A. General Objection and Reservation

Before responding to each paragraph, Respondent notes that the July 5, 2026 Specification represents a material shift from the theory advanced by Disciplinary Counsel in prior proceedings. The original investigation proceeded on the theory that Respondent personally submitted the investigative voucher on June 13, 2024. The Specification as served now advances a fundamentally different theory: that Respondent authorized or was aware of Allen's submission. Respondent expressly reserves all arguments arising from this theory shift, including any applicable estoppel arguments.

B. Responses to Numbered Allegations

Paragraph 1. ADMITTED that Respondent Anthony E. Smith is a member of the District of Columbia Bar, Bar No. 415931, and was admitted to practice on October 14, 1988.

Paragraph 2. ADMITTED that Respondent was appointed in April 2024 to represent Lamont Smith in Case No. 2024 FD3 003993 and DV matter Case No. 2024 DVM 000568. Respondent further states that this appointment was made pursuant to the Criminal Justice Act and was one of numerous such appointments Respondent has accepted over the course of his career.

Paragraph 3. ADMITTED that the charges against Lamont Smith included kidnapping and strangulation, and that misdemeanor domestic violence charges were also pending. Respondent states that upon appointment, he promptly reviewed the charging documents and began his investigation into the facts of the case.

Paragraph 4. ADMITTED that the DC Court of Appeals issued its en banc decision in *Velasquez Cardozo v. United States*, 315 A.3d 658 (D.C. 2024) in May 2024, and that the decision altered the legal landscape regarding the kidnapping charge by requiring proof of detention for a “substantial period of time.” Respondent states that he was aware of evolving case law relevant to the kidnapping charge and factored the legal landscape, including *Velasquez Cardozo* and its anticipated impact, into his assessment of the case and his advice to Lamont Smith.

Paragraph 5. ADMITTED that Respondent communicated with Lamont Smith regarding the charges and the potential plea offer. Respondent states that he prepared and hand-delivered a Time Letter to Lamont Smith on or about May 6, 2024, which specifically set forth the charges, the terms of the proposed plea offer, the anticipated dismissal of the kidnapping charge at sentencing, and all pending charges. Respondent prepared and delivered an Amended Time Letter on or about May 13, 2024, providing further detail on the plea offer terms. Because Lamont Smith was incarcerated at the DC Jail at all relevant times, delivery of the Time Letters was made in person during counsel visits — the standard and only practicable method of document delivery to an incarcerated client. These letters constitute contemporaneous documentary evidence of Respondent’s substantive communication with his client.

Paragraph 6. ADMITTED that Respondent communicated with his client about the strangulation plea, the anticipated dismissal of the kidnapping charge at sentencing, and the domestic violence misdemeanor charges. **DENIED** to the extent this paragraph implies Respondent failed to explain the matter sufficiently to permit his client to make informed decisions. The Time Letters (described in the response to Paragraph 5) demonstrate otherwise.

Paragraph 7. ADMITTED that Lamont Smith agreed to enter a guilty plea to the strangulation charge, that the kidnapping charge would be dismissed at sentencing, and that a plea was entered on or about June 10, 2024. Respondent states that this outcome was the result of thorough negotiation and client consultation.

Paragraph 8. ADMITTED that a plea was accepted on or about June 10, 2024, and that sentencing was set for August 2, 2024.

Paragraph 9. DENIED as stated. Respondent did not submit the voucher in question on June 13, 2024. Respondent states that Shawn Allen, the independent investigator who worked with Respondent on this matter, submitted the voucher on June 13, 2024, without Respondent's knowledge, authorization, or approval. Respondent refers to Allen's own admission to Disciplinary Counsel's representative Julia L. Porter at the April 7, 2026 meeting that Allen filed the investigator voucher and was acting as Respondent's secretary at the time. The fact that the voucher was submitted three days after the plea was entered — when the investigative work had concluded and Respondent had no reason to independently seek a new voucher — is itself powerful circumstantial evidence that Respondent did not submit it.

Paragraph 10. DENIED. Respondent did not approve, authorize, or ratify the submission of the voucher on June 13, 2024. To the extent this paragraph implies Respondent had knowledge that the voucher had been submitted at the time it was submitted, that allegation is specifically and expressly denied.

Paragraph 11. ADMITTED that sentencing took place on August 2, 2024, and that Lamont Smith received a sentence of 32 months with 3 years of supervised release, plus 150 days consecutive on each of the misdemeanor counts. Respondent states that the sentence imposed was within the range that Respondent advised his client was possible, and that the outcome of subsequent proceedings — in which new counsel obtained a re-plea that resulted in the same 32-month sentence — demonstrates that Respondent's original representation did not harm his client's ultimate outcome.

Paragraph 12. ADMITTED that Respondent filed a motion to withdraw as counsel on or about August 17, 2024, following a breakdown in the attorney-client relationship.

Paragraph 13. ADMITTED that new counsel was subsequently appointed to represent Lamont Smith.

Paragraph 14. ADMITTED that a hearing on Respondent's motion to withdraw was held on April 2–3, 2025, and that Respondent was called as a witness. Respondent's testimony was truthful and consistent: he testified that he did not submit, review, certify, or authorize the June 13, 2024 voucher — testimony that is corroborated by Allen's own subsequent admission to Ms. Porter on April 7, 2026.

Paragraph 15. DENIED as stated. To the extent Paragraph 15 characterizes Respondent's testimony as impossible or incredible, that characterization is denied. Respondent's testimony was accurate, credible, and fully consistent with the evidence now before Disciplinary Counsel. The forensic analysis of Respondent's Apple MacBook Pro (Serial No. C17DF5FJP3XY) by Withum Smith & Brown (March 24, 2026) found no malware and no remote access tools on Respondent's device. The DC Courts server-side logs were purged after 7 days and therefore cannot establish who accessed the system on June 13, 2024 — which means the record cannot rule out Allen's access.

Paragraph 16. ADMITTED that the Superior Court referred the matter to Disciplinary Counsel. Respondent denies that any referral establishes a violation of the Rules of Professional Conduct.

Paragraph 17. ADMITTED that the kidnapping charge was subsequently dismissed on or about April 22, 2025.

Paragraph 18. ADMITTED that Lamont Smith entered a new guilty plea to the strangulation charge on or about May 6, 2025, and that domestic violence charges were dismissed. **ADMITTED** that the sentence imposed was 32 months with 3 years of supervised release — the identical sentence that resulted from Respondent's original representation. This outcome demonstrates that there was no prejudice to Lamont Smith from Respondent's representation.

Paragraph 19. DENIED IN ITS ENTIRETY. This paragraph contains two distinct factual allegations, each of which is expressly, specifically, and unequivocally denied:

> **(A)** The allegation that Respondent "provided Allen his login credentials" is **FALSE.** Respondent never provided Shawn Allen his login credentials to the DC Courts system or any court financial system. Wallace, who was the head of the Finance Department, is and has been a personal friend of Allen's. Allen's access to court financial systems — and his familiarity with Finance Office personnel, including individuals named Tameka, Wallace, and Demetrious — arose from Allen's independent personal relationships with Finance Office employees, not from any credentials provided by Respondent. Text messages between Allen and Respondent, dated as early as March 27, 2024, show Allen directing Respondent to "stay off system until 9am tomorrow" — strong circumstantial evidence that Allen was operating on the

system independently, without and apart from Respondent's credentials. Allen also arranged drug expert vouchers by calling Finance Office staff directly, with staff placing the vouchers in Respondent's queue — demonstrating Allen's independent access to the Finance Office system and personnel that existed wholly apart from Respondent.

(B) The allegation that Respondent "was aware of and had approved those services" is **DENIED** to the extent it implies knowledge of, or approval of, the specific June 13, 2024 voucher submission. Respondent was generally aware that Allen had worked on the Lamont Smith matter. Respondent was **NOT** aware that Allen had submitted a voucher on June 13, 2024, three days after the plea was entered, nor did Respondent approve that submission. Moreover, as set forth in Section IV below, Respondent operated under a longstanding and reasonable understanding that investigators submitted their own vouchers directly to the Court for compensation — a practice Respondent followed since the inception of his criminal practice and which he had no reason to believe had changed.

Respondent further states that Disciplinary Counsel's ¶19 theory directly contradicts the theory advanced in the original investigation (that Respondent personally submitted the voucher), undermining the credibility of the agency's case and raising serious questions about the evidentiary basis for any charge.

Paragraph 20. DENIED. Respondent did not engage in conduct constituting dishonesty within the meaning of Rule 8.4(c). Respondent's conduct in this matter was at all times consistent with the conduct of a reasonable and diligent attorney. Allen's independent submission of the voucher — which Respondent did not authorize, ratify, or have advance knowledge of — cannot be imputed to Respondent as dishonesty.

Paragraph 21. DENIED. Respondent's representation of Lamont Smith was competent within the meaning of Rules 1.1(a) and (b). Respondent promptly investigated the case, evaluated the applicable law including *Velasquez Cardozo*, negotiated a plea agreement that resulted in dismissal of the kidnapping charge and a defined sentence on the strangulation count, communicated substantively with his client in writing (Time Letters of May 6 and May 13, 2024), and obtained an outcome that was not materially worse than the one achieved by successor counsel.

Paragraph 22. DENIED. Respondent provided Lamont Smith with sufficient explanation of the matter to permit informed client decisions within the meaning of Rule 1.4(b). Respondent hand-delivered a detailed Time Letter to Lamont Smith on May 6, 2024, setting forth the charges, the plea offer terms, the anticipated dismissal of the kidnapping charge, and all pending charges. Respondent delivered an Amended Time Letter on May 13, 2024, with further detail. The plea itself was accepted by the Superior Court on June 10, 2024, only after the Court satisfied itself that the plea was knowing and voluntary — an independent judicial determination that Lamont Smith understood the nature and consequences of his plea.

Paragraph 23. DENIED. Respondent's conduct did not involve dishonesty, fraud, deceit, or misrepresentation within the meaning of Rule 8.4(c). Respondent's testimony at the April 2–3, 2025 hearing was truthful. Respondent consistently maintained that he did not submit the June 13, 2024 voucher — a position subsequently confirmed by Allen's own admission to Ms. Porter on April 7, 2026.

Paragraph 24. DENIED. Respondent's conduct did not seriously interfere with the administration of justice within the meaning of Rule 8.4(d). The only interference with the justice system in this case was Allen's unauthorized use of Respondent's credentials — if that occurred — and the Finance Office's potential breach of its data security obligations. Respondent's representation of Lamont Smith did not delay, distort, or undermine any court proceeding.

Paragraph 25. DENIED that any of Respondent's conduct violated Rules 1.1(a), 1.1(b), 1.4(b), 8.4(c), or 8.4(d) of the DC Rules of Professional Conduct.

Paragraph 26. DENIED that Respondent should be subject to any discipline. Respondent respectfully submits that the charges should be dismissed in their entirety.

III. AFFIRMATIVE DEFENSES

First Affirmative Defense — No Violation (All Counts)

Respondent's conduct at all times during his representation of Lamont Smith complied with the DC Rules of Professional Conduct. Respondent investigated the case, assessed the applicable law, communicated with his client in writing, negotiated a favorable plea, and obtained a result that was not materially worse than the result achieved by successor counsel. Disciplinary Counsel cannot establish by clear and convincing evidence that Respondent violated any Rule of Professional Conduct.

Second Affirmative Defense — Failure of Proof (All Counts)

Disciplinary Counsel bears the burden of proving each charged violation by clear and convincing evidence. The evidence does not meet that standard. The DC Courts server-side logs were purged and cannot establish who submitted the June 13, 2024 voucher. The forensic analysis of Respondent's device was inconclusive. Allen's own admission to

Ms. Porter on April 7, 2026, that he filed the voucher, directly undercuts the theory advanced by Disciplinary Counsel.

Third Affirmative Defense — No Prejudice to Client (Rules 1.1 and 1.4)

Even if any procedural or communication lapse occurred — which is denied — Lamont Smith suffered no cognizable prejudice from Respondent's representation. The sentence imposed after Respondent's plea (32 months) was identical to the sentence imposed after the re-plea by successor counsel (32 months). The kidnapping charge was dismissed in both scenarios. There is no basis for a finding of material harm.

Fourth Affirmative Defense — Independent Actor (Rules 8.4(c) and 8.4(d))

Allen's submission of the June 13, 2024 voucher, if it occurred as Allen admitted, was the unauthorized act of an independent contractor acting without Respondent's knowledge or authority. Respondent cannot be held responsible under the DC Rules of Professional Conduct for the independent unauthorized acts of a third party. Allen's own written accusation that Respondent was "lying to Bar Counsel when I said he did it" demonstrates that Allen sought to shift responsibility for his own actions to Respondent. Allen's later attempt to confront Respondent at the courthouse — which Respondent declined to engage — further reflects Allen's consciousness of his own wrongdoing.

Fifth Affirmative Defense — Good Faith and Truthful Testimony

Respondent's testimony at the April 2–3, 2025 hearing was truthful, consistent, and made in good faith. Respondent testified that he did not submit the voucher — which was accurate. Allen's subsequent admission to Ms. Porter on April 7, 2026, confirms that Respondent's testimony was correct. There is no basis for a finding of dishonesty under Rule 8.4(c) based on truthful testimony.

Sixth Affirmative Defense — Finance Office Data Integrity

The text messages between Allen and Finance Office employees (Tameka, Wallace, and Demetrious), including Allen's "stay off system" instruction to Respondent on March 27, 2024, raise substantial questions about whether Finance Office personnel improperly provided Allen with access to Respondent's account credentials or the Finance Office payment system. Wallace, as head of the Finance Department and a personal friend of Allen's, was in a unique position to facilitate such access. To the extent any unauthorized access to Respondent's credentials occurred, it was facilitated by Finance Office employees without Respondent's knowledge or consent and cannot be attributed to Respondent as a disciplinary violation.

Seventh Affirmative Defense — Mitigation

Without conceding any violation, Respondent states the following mitigating factors under ABA Standards for Imposing Lawyer Sanctions § 9.32:

(a) Absence of prior discipline — Respondent has practiced for over 38 years with no disciplinary record;

(b) Absence of dishonest or selfish motive — Respondent did not submit the voucher and received no financial benefit from Allen's unauthorized submission;

(c) Cooperative attitude — Respondent has cooperated fully with Disciplinary Counsel's investigation;

(d) Character and reputation — Respondent has served indigent criminal defendants for nearly four decades and has earned the respect of the judiciary and the bar;

(e) No harm to client — The identical sentence imposed on re-plea demonstrates that Lamont Smith suffered no material harm from Respondent's representation;

(f) Good faith reliance on established practice — As set forth in Section IV, Respondent operated under a reasonable, longstanding understanding regarding the voucher submission process that was never brought to his attention had changed.

IV. ADDITIONAL FACTUAL ALLEGATIONS

In further response to the Specification and in support of his defense, Respondent states:

1. Shawn Allen has worked as an investigator with Respondent since approximately 1991 — a professional relationship spanning over 33 years. During that time, Allen regularly performed investigative work in connection with Respondent's criminal cases. Potential corroborating witnesses to this practice are no longer available: one individual with knowledge of the practice has since passed away, and another is no longer a member of the bar.

2. Allen never visited the DC Jail to interview Lamont Smith. Allen never provided photographs, witness interview notes, or investigative reports to Respondent in connection with the Lamont Smith matter. This absence of deliverables is itself evidence that the June 13, 2024 voucher did not reflect legitimate investigative work performed at Respondent's direction.

3. Respondent asked Attorney Cedric Miller to show him how to submit an online voucher in connection with United States v. Trayvon Lewis, Case No. 2023-CF2-003780. This demonstrates that Respondent was not experienced with the online voucher submission system and did not regularly use it himself — corroborating

Respondent’s testimony that he did not personally submit the June 13, 2024 voucher.

4. Allen submitted emails to what he represented was Respondent’s email address — an old, inoperable, unmonitored address materially different from Respondent’s actual working email. This pattern of misdirection is consistent with Allen’s effort to conceal his actions from Respondent.

5. At a meeting on April 7, 2026, at Bar Counsel’s office — attended by Deputy Disciplinary Counsel Julia L. Porter, Ms. Porter’s assistant, and Respondent’s counsel O’Bryant — Allen admitted to Ms. Porter that he had filed the investigative voucher and was acting as Respondent’s secretary at the time. This admission is from Disciplinary Counsel’s own witness and directly corroborates Respondent’s testimony.

6. Allen’s last communication to Respondent (before Respondent blocked him) accused Respondent of “lying to Bar Counsel when I said he did it.” This admission — made in writing by Allen — constitutes a statement against interest and provides direct evidence that Allen, not Respondent, submitted the voucher.

7. Following Allen’s written accusation, Allen attempted to confront Respondent in person at the courthouse. Respondent declined to engage with Allen and refused to speak with him. Respondent’s counsel O’Bryant witnessed Allen’s attempted contact and the harassment directed at Respondent. Allen’s conduct at the courthouse is consistent with an individual who knows he is responsible for the acts at issue and is attempting to manage the consequences.

8. The text messages produced as Exhibit 1a in this proceeding show that Allen had an ongoing, personal, and independent relationship with Finance Office employees Tameka, Wallace, and Demetrious. On March 27, 2024, Allen texted Respondent: “Evening. Stay off system until 9am tomorrow FYI.” This text message demonstrates that Allen was accessing or operating on the court finance/case management system independently of Respondent, and that Allen knew Respondent’s simultaneous activity would interfere with what Allen was doing — a pattern entirely consistent with Allen’s unauthorized access to the voucher system.

9. On October 8, 2024, Allen texted Respondent: “Tameka just texted me asking if Wallace informed my Attorney about what’s going on at court. i have no idea what she’s referring 2. have you talk to Wallace lately about anything?” This text message demonstrates that Finance Office employee Tameka was actively monitoring the court proceedings in this matter and was communicating with Allen about those proceedings — raising serious questions about the Finance Office’s improper involvement in this case.

10. Throughout the time period relevant to this matter, Respondent operated under a longstanding and reasonable understanding regarding the voucher submission process: specifically, that investigators submitted their own vouchers directly to the Court for compensation. This was the practice as Respondent understood it since the inception of his criminal practice. Respondent was never informed that this process had changed or that the obligation to submit investigator vouchers had shifted to retained counsel. Respondent had no knowledge of the amounts Allen was being compensated per voucher, nor did Allen ever provide Respondent with a copy of any voucher request. Respondent's understanding was that the investigator — like other court-appointed service providers — handled his own billing and compensation directly with the Finance Office. This good-faith, longstanding misunderstanding of the administrative process, while not excusing any procedural deficiency, is entirely inconsistent with any finding of intentional misconduct, dishonesty, or knowing violation of the Rules of Professional Conduct.

V. PRAYER FOR RELIEF

WHEREFORE, Respondent Anthony E. Smith respectfully requests that this Honorable Hearing Committee:

1. Find that Disciplinary Counsel has failed to prove any violation of Rules 1.1(a), 1.1(b), 1.4(b), 8.4(c), or 8.4(d) of the DC Rules of Professional Conduct by clear and convincing evidence;
2. Dismiss the Specification of Charges in its entirety; and
3. Grant such other and further relief as the Hearing Committee deems just and appropriate.

Respectfully submitted,

/s/ Adgie O'Bryant, Jr.
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Date: July 23, 2026

CERTIFICATE OF SERVICE

I hereby certify that on July 23, 2026, a true and correct copy of the foregoing Answer to Petition and Specification of Charges was served via email upon:

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casemanager@dcbpr.org

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