

IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST JASON C.  
GONZALEZ, ATTORNEY AT LAW.

CASE CODE: 30912

OFFICE OF LAWYER REGULATION

CASE NO. 2016AP 248 -D

Complainant;

JASON C. GONZALEZ,

Respondent.

**FILED**

**NOV 03 2016**

**COMPLAINT**

**CLERK OF SUPREME COURT  
OF WISCONSIN**

NOW COMES the Supreme Court of Wisconsin - Office of  
Lawyer Regulation (OLR) by Assistant Litigation Counsel  
Jonathan E. Hendrix, and alleges as follows:

1. The OLR was established by the Supreme Court of  
Wisconsin and operates pursuant to Supreme Court rules.  
This *Complaint* is filed pursuant to SCR 22.11.

2. Respondent Jason C. Gonzalez (Gonzalez) is an  
attorney admitted to the State Bar of Wisconsin on June  
13, 2011 (State Bar ID 1065833). Gonzalez's address on  
file with the State Bar of Wisconsin is Gonzalez Law  
Office LLC, 306 E. Wilson St., Madison, Wisconsin 53703-  
3990.

Regarding Carlson  
OLR Matter No. 2014MA2103  
(Counts 1-5)

OWI Case

3. In March of 2013, the State of Wisconsin charged James Michael "Mike" Carlson (Carlson) with Operating While Intoxicated, 3<sup>rd</sup> offense in *State v. Carlson*, Sauk County Case No. 13-CT-135.

4. In April of 2013, Carlson hired Gonzalez to represent him in the criminal case. Carlson signed Gonzalez's fee agreement, which required Carlson to pay \$2,500 in advanced fees. The agreement allowed Gonzalez to deposit the fee into his business account. The agreement also required Gonzalez to provide Carlson with a written accounting of his fees at the end of his representation.

5. On April 18, 2013, Carlson informed Gonzalez that he wanted any sentencing to occur after September of 2013.

6. On May 21, 2013, Carlson emailed Gonzalez that he desired to push any conviction past late November.

7. On May 22, 2013, Carlson met with Gonzalez. They had further email communication later that month.

8. On July 9, 2013, Judge James Evenson set Carlson's trial for September 19, 2013. Carlson received notice of this a few days later.

9. Later that month, Carlson emailed Gonzalez several times asking for a status update, and questioning why the court had set a trial for September. Gonzalez did not respond.

10. In late August of 2013, the court removed the September trial date.

11. On September 5, 2013, Carlson emailed Gonzalez with his new mailing address: a P.O. Box in Horicon, Wisconsin.

12. In October of 2013, Carlson emailed Gonzalez to remind him to inform the court of Carlson's address change. Gonzalez did not inform the court of the change.

13. In late October and early November, Carlson again asked for status updates from Gonzalez. Gonzalez promised Carlson he would contact him with information, but never did so.

14. On November 12, 2013, Carlson requested Gonzalez provide him with documents and information, and with answers to a list of specific questions about the case. Gonzalez responded within a few hours, but never gave Carlson the information.

15. From January through May, 2014, Carlson occasionally sought updates from Gonzalez on the case, but did not receive any substantive responses.

16. On May 15, 2014, Carlson emailed Gonzalez that he did not see any reason to delay proceeding any longer.

17. On June 3, 2014, Carlson signed an affidavit which Gonzalez had prepared to collaterally attack one of his prior convictions.

18. On August 20, 2014, Carlson informed Gonzalez of his physical address on Colonial Drive in Horicon, Wisconsin.

19. On October 13, 2014, Gonzalez filed the motion to collaterally attack one of Carlson's prior convictions.

20. On October 20, 2014, the court allowed Gonzalez to withdraw from the representation, upon Carlson's request. The court later appointed counsel for Carlson.

21. On October 22, 2014, Carlson requested a partial refund from Gonzalez. Gonzalez responded that he would prepare and send Carlson an itemized bill.

22. In December of 2014, Carlson pled no contest to and was convicted of OWI 4<sup>th</sup>.

23. On July 5, 2015, Gonzalez provided OLR with a closing letter he purportedly sent to Carlson on October 30, 2014. However, the letter used a pre-September 2013 address in Baraboo, Wisconsin for Carlson. On information and belief, this letter was never sent to Carlson.

24. Gonzalez never sent Carlson an itemized bill, accounting of fees, or information on how to dispute the fee after the representation ended.

25. On July 5, 2015, Gonzalez told OLR that Carlson had not requested a refund or contacted him "to indicate that he believed I did not earn the entire advanced fee he paid."

#### Horicon Citations

26. On November 18, 2013, the City of Horicon issued two municipal citations to Carlson regarding his car. The appearance date to contest the citations was December 18, 2013.

27. On or about November 20, 2013, Carlson notified Gonzalez about the citations. Carlson and Gonzalez never signed a representation agreement concerning the Horicon citations.

28. On December 1, 2013, Gonzalez emailed Carlson that he had entered not guilty pleas on the Horicon citations. Gonzalez had not done so, nor had he entered an appearance in the Horicon cases.

29. On December 10, 2013, Gonzalez told Carlson that he did not need to appear at the December 18, 2013 hearing because of the not guilty pleas. Gonzalez had not filed any pleas at that time.

30. On December 18, 2013, the Horicon Joint Municipal Court found that Carlson had defaulted on the citations, and assessed fines against him, due by February 18, 2014.

31. In late January of 2013, Gonzalez and Carlson discussed reopening the Horicon citations.

32. On February 17, 2013, Gonzalez told Carlson he would not pay the \$50 fee to reopen them. Carlson subsequently paid Horicon the reopening fee.

33. On February 18, 2014, Gonzalez wrote to the Horicon municipal court that he represented Carlson in the reopened matters, and entered not guilty pleas.

34. On May 15, 2014, the Horicon court found Carlson guilty on both violations.

35. On July 5, 2015, Gonzalez wrote to OLR that he did not represent Carlson in connection with the Horicon citations, but had done him a favor by "assisting" him.

#### COUNT ONE

36. By failing to diligently pursue resolution of the Operating While Intoxicated charge against Carlson, Gonzalez violated SCR 20:1.3.<sup>1</sup>

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<sup>1</sup> SCR 20:1.3 provides: "A lawyer shall act with reasonable diligence and promptness in representing a client."

COUNT TWO

37. By failing to promptly respond to Carlson's requests for information throughout the representation, Gonzalez violated SCR 20:1.4(a)(4).<sup>2</sup>

COUNT THREE

38. By failing to provide Carlson a written final accounting and the notices regarding how to dispute the fee, Gonzalez violated former SCR 20:1.15(b)(4m)b.<sup>3</sup>

COUNT FOUR

38. By failing to enter not guilty pleas to Carlson's municipal citations, Gonzalez violated SCR 20:1.3.

COUNT FIVE

39. By misrepresenting to OLR that he had sent Carlson a letter dated October 30, 2014, accounting for his fee and providing the notices required under former SCR 20:1.15(b)(4m), and that he did not represent Carlson on

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<sup>2</sup> SCR 20:1.4(a)(4) provides: "A lawyer shall ... promptly comply with reasonable requests by the client for information."

<sup>3</sup> Prior to July 1, 2016, SCR 20:1.15(b)(4m)b. provided: "Upon termination of the representation, the lawyer shall deliver to the client in writing all of the following: 1. a final accounting, or an accounting from the date of the lawyer's most recent statement to the end of the representation, regarding the client's advanced fee payment with a refund of any unearned advanced fees; 2. notice that, if the client disputes the amount of the fee and wants that dispute to be submitted to binding arbitration, the client must provide written notice of the dispute to the lawyer within 30 days of the mailing of the accounting; and 3. notice that, if the lawyer is unable to resolve the dispute to the satisfaction of the client within 30 days after receiving notice of the dispute from the client, the lawyer shall submit the dispute to binding arbitration."

Carlson's municipal citations, Gonzalez in each instance violated SCR 22.03(6), enforced via SCR 20:8.4(h).<sup>4</sup>

Regarding Jurgenson  
OLR Matter No. 2015MA415  
(Counts 6-9)

40. On January 16, 2013, the State charged Duane A. Jurgenson (Jurgenson) with three counts of sexual assault of a child in *State v. Jurgenson*, Columbia County Case No. 13-CF-18 (the Sexual Assault Case).

41. In February of 2013, Jurgenson hired Gonzalez to represent him in the Sexual Assault Case.

42. On March 7, 2013, the State charged Jurgenson with four felonies, including three for child enticement in *State v. Jurgenson*, Columbia County Case No. 13-CF-102 (the Child Enticement Case). At least one child enticement count was for an attempt.

43. In 2013, Gonzalez agreed to represent Jurgenson in the Child Enticement Case.

44. In regard to the Child Enticement Case, Gonzalez did not perform legal research on whether Jurgenson's actions constituted an "attempt." Although he discussed the issue with Jurgenson, Gonzalez did not understand and

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<sup>4</sup> SCR 22.03(6) and SCR 20:8.4 provide: "In the course of the investigation, the respondent's wilful failure to provide relevant information, to answer questions fully, or to furnish documents and the respondent's misrepresentation in a disclosure are misconduct, regardless of the merits of the matters asserted in the grievance. SCR 20:8.4(h), which states in relevant part, "It is professional misconduct for a lawyer to... fail to cooperate in the investigation of a grievance filed with the office of lawyer regulation as required by... SCR 22.03(6)..."



therefore could not clearly explain to his client what an "attempt" meant in the context of the Child Enticement Case.

45. On May 9, 2014, Jurgenson pled no contest to one count of attempted child enticement and one count of exposing a child to harmful materials in the Child Enticement Case, and the State dismissed the charges in the Sexual Assault Case.

46. On July 21, 2014, the court sentenced Jurgenson to six years in prison, followed by six years of extended supervision.

47. On August 4, 2014, Gonzalez filed a *Notice of Intent to Pursue Postconviction Relief*.

48. On November 24, 2014, the State Public Defender appointed Attorney Cole Ruby to represent Jurgenson in the post-conviction matter.

49. On October 5, 2015, Attorney Ruby moved the court to vacate Jurgenson's conviction and withdraw his guilty plea. One of his arguments was that Gonzalez had been ineffective because the attempted child enticement charges lacked a factual basis, and could have been dismissed.

50. On January 12, 2016, Gonzalez testified at a hearing on the post-conviction motion that he had not done

any case law research on the meaning of "attempt" in this context.

51. On April 13, 2016, the court granted Jurgenson's motion to withdraw his plea, citing Gonzalez's failure to understand and explain attempt to Jurgenson as one basis.

52. On May 13, 2016, the court vacated Jurgenson's conviction and reopened both the Sexual Assault Case and the Child Enticement Case.

#### Paternity Case

53. In 2013, Gonzalez also agreed to represent Jurgenson in an ongoing paternity and child support matter, *In re Support of T.L.J. v. Jurgenson*, Columbia County Case No. 05-FA-247. At all relevant times, Attorney Alicia M. Nall represented the petitioner.

54. On January 13, 2015, Judge Daniel S. George held a hearing on placement. The court granted Jurgenson phone contact with his daughter and ordered Gonzalez to prepare a written order. Gonzalez failed to do so.

55. On January 22, 2015, Gonzalez and Jurgenson discussed Jurgenson's ability to phone his daughter, and Gonzalez told Jurgenson that he would contact Attorney Nall.

56. In February of 2015, Jurgenson made numerous attempts to contact Gonzalez about telephone contact with his daughter, without success.

57. On March 2, 2015, Jurgenson wrote to Judge George requesting a hearing about telephone contact with his daughter.

58. On March 6, 2015, Jurgenson filed a grievance against Gonzalez with OLR.

59. On March 31, 2015, Judge George contacted Attorney Nall about the order which Gonzalez was supposed to have prepared. Attorney Nall then drafted an order and submitted it to the court.

60. On May 1, 2015, Attorney Nall moved the court for attorney's fees and sanctions against Gonzalez for his failure to draft the order.

61. On May 11, 2015, Jurgenson wrote to Gonzalez about his lack of communication, and inquiring about setting up the calls with his daughter. At that time, his last communication from Gonzalez had been in late January 2015.

62. By letter dated May 19, 2015, OLR notified Gonzalez that his written response to Jurgenson's grievance was required. OLR directed Gonzalez to address Jurgenson's allegation that Gonzalez had taken no action to facilitate

the telephone contact between Jurgenson and his daughter approved by Judge George.

63. On July 5, 2015, Gonzalez provided his written response. Gonzalez told OLR that Jurgenson had not attempted to contact him since he was incarcerated in 2014 and that it was up to Jurgenson, not Gonzalez, to arrange telephone contact between Jurgenson and his daughter.

64. Gonzalez did not disclose to OLR his failure to prepare and submit the written order effectuating the ruling made January 13, 2015 that Jurgenson be allowed telephone contact with his daughter.

65. Gonzalez did not disclose to OLR Attorney Nall's motion for sanctions based upon Gonzalez's failure to prepare the order as directed.

66. On July 13, 2015, Judge George ordered Gonzalez to pay \$100 to Attorney Nall. He also granted Gonzalez's motion to withdraw as counsel. Gonzalez later paid the \$100 sanction to Attorney Nall.

#### COUNT SIX

67. By failing to research case law on the issue of whether Jurgenson's actions constituted an "attempt" at child enticement, Gonzalez violated SCR 20:1.1.<sup>5</sup>

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<sup>5</sup> SCR 20:1.1 provides: "A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation."

COUNT SEVEN

68. By failing to prepare the court order to permit Jurgenson to have telephone contact with his daughter, Gonzalez violated SCR 20:1.3.

COUNT EIGHT

69. By failing to respond to Jurgenson's inquiries regarding establishing telephone contact, Gonzalez violated SCR 20:1.4(a)(4).

COUNT NINE

70. By misrepresenting to OLR that Jurgenson had not contacted him about the paternity matter and by failing to disclose to OLR that he was responsible for preparing the court order to facilitate Jurgenson's phone visits with Jurgenson's daughter, Gonzalez in each instance violated SCR 22.03(6), enforceable via SCR 20:8.4(h).

WHEREFORE, the Office of Lawyer Regulation asks the Supreme Court of Wisconsin to find Attorney Jason C. Gonzalez violated Supreme Court rules as alleged in this *Complaint*; to publicly reprimand Attorney Gonzalez; and to

grant such other and further relief as may be just and equitable, including an award of costs.

Dated this 3<sup>rd</sup> day of November, 2016.

OFFICE OF LAWYER REGULATION



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