

Not For Publication

IN THE SUPREME COURT OF THE VIRGIN ISLANDS

IN RE: THE OFFICE OF DISCIPLINARY) **S. Ct. Civ. No. 2024-0051**
COUNSEL,)
Petitioner.)
_____)

Considered and Filed: October 21, 2024

Cite as: 2024 VI 4U

BEFORE: **RHYS S. HODGE**, Chief Justice; **MARIA M. CABRET**, Associate Justice;
IVE ARLINGTON SWAN, Associate Justice; and **HAROLD W.L.**
WILLOCKS, Associate Justice.

APPEARANCES:

Tanisha M. Bailey-Roka, Esq.
Office of Disciplinary Counsel
St. Croix, U.S.V.I.
Attorney for Petitioner.

Peter J. Lynch, Esq.
St. Thomas, U.S.V.I.
Pro se.

OPINION OF THE COURT

PER CURIAM.

¶ 1 This matter is before the Court on a petition filed by the Office of Disciplinary Counsel (“ODC”) requesting that this Court authorize the release of all otherwise-confidential disciplinary records pertaining to Peter J. Lynch, Esq. According to the ODC, Lynch has filed seven different lawsuits against the ODC and its staff in various courts, and it requests that it be permitted to disclose information from its records to defend itself both in those proceedings as well as to correct false or misleading public statements pertaining to the ODC and its work. In support of its request, the ODC has provided this Court with a certification from the Chair of the Board on Professional Responsibility finding good cause to grant the ODC’s request for the release of this information.

¶ 2 Ordinarily, “disciplinary and disability proceedings and the official record in such matters are confidential” at all times “[p]rior to the [Board]’s submission to the Court of its final report,” and even then, remain confidential if the Board requests dismissal or a private sanction. V.I.S.Ct.R. 207.13(a). As such, the Virgin Islands provides for stricter confidentiality than most United States jurisdictions, which provide that disciplinary proceedings become fully public upon a determination of probable cause to believe that misconduct occurred. *See* AM. BAR ASS’N MODEL R. LAWYER DISC. ENFORCEMENT 16.

¶ 3 Nevertheless, such confidentiality is not absolute. The ODC may disclose, as of right without court approval, “[t]he pendency, subject matter, or status of a disciplinary matter” if:

- (1) the respondent has waived confidentiality in writing;
- (2) the proceeding is based upon allegations which include the conviction of any crime;
- (3) the respondent has been placed upon interim suspension or disability inactive status;
- (4) such disclosure or release is necessary to obtain the assistance of another person, agency, or organization, provided that such person, agency, or organization agrees to maintain the confidentiality mandated by these Rules; [or]
- (5) proceedings are based upon allegations which have otherwise been made public[.]

V.I.S.Ct.R. 207.13(e)(1)-(5). In addition, the ODC may, “with the approval of the Court,” disclose or release such information “in order to correct false or misleading public statements with respect to any otherwise confidential proceeding or information, or is necessary to prevent public confidence in the disciplinary system from being undermined.” V.I.S.Ct.R. 207.13(e)(6).

¶ 4 In his opposition to the ODC’s petition, Lynch does not dispute that he has filed lawsuits against the ODC stemming from the disciplinary proceedings against him and concedes that release of at least some confidential information “seems reasonable.” (Resp. 9.) Nevertheless, he asserts that this Court should deny the ODC’s request as overbroad because the ODC would not

need to rely on his entire disciplinary history to defend itself because only one of the lawsuits he initiated against the ODC remains pending and only relates to one of the six disciplinary proceedings initiated against him.

¶ 5 We disagree that the ODC’s request is overbroad. By filing a lawsuit against the ODC, Lynch has through his actions waived the confidentiality protections afforded by Rule 207.13, and to hold otherwise and require that the ODC remain silent on his disciplinary record would allow Lynch to wield the confidentiality protection “as a sword rather than a shield.” *Green v. Montgomery*, 746 N.E.2d 1036, 1041 (N.Y. 2001). While Lynch maintains that the ODC only needs to rely on the records of the single proceeding that gave rise to his most recent lawsuit, we fail to see why Lynch should get to unilaterally dictate the scope of the ODC’s defense or what evidence the ODC relies upon in a lawsuit against the ODC that he initiated. Moreover, since Lynch devotes many pages of his opposition to disparage the ODC and its attorneys for alleged failings entirely unrelated to the instant petition, we find it highly unlikely that Lynch will so narrowly tailor all filings in his most recently filed lawsuit to make only disclosure of the records of one case necessary for the ODC to properly respond.

¶ 6 For these reasons, we grant the petition, and decree that the ODC may disclose the pendency, subject matter, and status of all disciplinary proceedings involving Lynch, which if appropriate may include disclosure of underlying motions and filings. Such disclosures, however, must be for the purpose of (1) addressing litigation brought by or involving Lynch in which the ODC is a defendant or interested party, which may include not just court filings but also responding to media inquiries; or (2) correcting false or misleading public statements or to otherwise prevent public confidence in the disciplinary system from being undermined.

Dated this 21st day of October, 2024.

ATTEST:

VERONICA J. HANDY, ESQ.
Clerk of the Court

By: /s/ Jahkyda Coakley
Deputy Clerk II

Dated: October 21, 2024