

BEFORE THE BOARD OF PROFESSIONAL CONDUCT  
OF THE SUPREME COURT OF OHIO

FILED

APR 23 2020

BOARD OF PROFESSIONAL CONDUCT

Disciplinary Counsel  
250 Civic Center Drive, Suite 325  
Columbus, Ohio 43215

Relator,

v.

Case No. 2020-019

Jerome Riley Doute  
Attorney Registration No. 0039989  
The Chase Bank Building  
121 W. High Street, Suite 1004  
Lima, Ohio 45801

Respondent.

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**Complaint and Certificate**

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Relator, Disciplinary Counsel, alleges that respondent, Jerome Riley Doute, an Attorney at Law, duly admitted to the practice of law in the state of Ohio, is guilty of the following misconduct:

1. Respondent was admitted to the practice of law in the state of Ohio on May 16, 1988.
2. As an attorney, respondent is subject to the Ohio Rules of Professional Conduct and the Supreme Court Rules for the Government of the Bar of Ohio.
3. Respondent has not been previously disciplined.
4. At all times relevant to this complaint, respondent was in a firm with Attorney Carroll R. Creighton ("Creighton").

5. On August 16, 2018, Craig A. Sims (“Sims”) was indicted on one count of Possession of Cocaine and a warrant was issued for his arrest. *State vs. Sims*, Allen County Court of Common Pleas Case No. CR 2018 0359.
6. On or about April 27, 2019, Sims was apprehended pursuant to the warrant.
7. On April 29, 2019, Sims was released on a recognizance bond.
8. On May 2, 2019, Judge Terri Kohlrieser appointed respondent to represent Sims.
9. On May 3, 2019, respondent filed a *Notice of Counsel*, a *Defendant’s Demand for Trial by Jury*, a *Motion for Bill of Particulars*, a *Request for Notice of Intended Evidence*, and a *Motion to Preserve all Evidence* on behalf of Sims.
10. On May 7, 2019, respondent filed a *Defendant’s Discovery Demand* on behalf of Sims.
11. On Friday, May 24, 2019, respondent appeared for Sims’ scheduled arraignment, but Sims did not appear.
12. At the arraignment, respondent advised Judge Kohlrieser that he had not personally spoken to Sims, but that his legal assistant, Tracey Tvornak (“Tvornak”), sent Sims a letter with copies of the pre-trial motions that he filed, along with a request for Sims to schedule a time to meet with him. Respondent stated that he was not sure whether the letter contained the arraignment date, but that he would check with Tvornak as soon as he returned to the office.
13. Judge Kohlrieser advised respondent that she was not going to issue a bench warrant at the time; however, she wanted respondent to let her know within the week whether the letter contained the arraignment date because Sims’ pre-trial was scheduled for June 19, 2019 and he would have to be arraigned on or before that day.

14. However, shortly after the arraignment hearing, Judge Kohlrieser decided to call respondent's office to check on the letter so that she could issue a bench warrant if necessary. Thereafter, Judge Kohlrieser's secretary, Kathy Adlesh ("Adlesh"), called respondent's office in respondent's presence and spoke with Tvornak. Tvornak checked Sims' file and advised Adlesh that there was no letter in the file. Despite the fact that respondent previously told Judge Kohlrieser that Tvornak sent the letter, respondent advised Adlesh that Tvornak does not handle all of his correspondence and that he would look for the letter himself.
15. Later in the afternoon on May 24, 2019, respondent returned to his office. Tvornak was out running errands and was not in the office. Respondent independently reviewed Sims' file and determined that his office had not sent a letter to Sims.
16. Respondent then fabricated a letter to Sims and backdated it to May 3, 2019.
17. Respondent's fabricated letter stated:

Dear Mr. Sims:

Please be advised that the Common pleas Court appointed my office to represent you in the Criminal case currently pending in the Allen County common pleas court. I have filed the enclosed documents on your behalf. Please take the time to review them and call the office number above to make an appoint (sic). We are in the Chase building on high street.

Your arraignment is set for Friday 5-24-19 at 8:30 in Judge Kohlrieser's Court. The Court is above the sheriff's office where you posted the bond.

Please feel free to contact my office for an appointment prior to the arraignment. Thank you.

Sincerely,

J.R. Doute Attorney

18. Respondent made two copies of his fabricated letter. He placed one copy on Tvornak's keyboard with a post-it note that said "Tracy, this is what I sent his mom on the 3d (sic)."
19. Respondent hand-delivered the second copy of the letter to Adlesh. Adlesh gave the letter a cursory glance, but did not keep a copy of the letter. Later in the afternoon, Adlesh informed Judge Kohlrieser of her conversation with respondent.
20. Tvornak returned to the office later in the afternoon and saw respondent's fabricated letter on her keyboard. Tvornak believed that respondent had fabricated the letter because there was no letter in the file earlier and because she knew that respondent did not typically send out that kind of letter.
21. Tvornak called Creighton with her concerns. Shortly thereafter, Creighton arrived at the office and examined the letter's metadata. Creighton confirmed that the letter had been created on May 24, 2019.
22. Around 5:00 PM on May 24, 2019, Creighton confronted respondent in person about the letter. Respondent initially denied fabricating the letter and stated that Tvornak did not send all of his correspondence; however, later in the conversation, respondent admitted that he had fabricated the letter. Creighton advised respondent that he needed to self-report his conduct to Judge Kohlrieser and stated that he would if respondent did not.
23. After speaking to Creighton, respondent drafted a letter to Judge Kohlrieser admitting that he had fabricated the letter that he gave to Adlesh. Respondent's letter was dated May 24, 2019, but was postmarked May 25, 2019. The letter was not delivered to Judge Kohlrieser until Wednesday, May 29, 2019.
24. On Tuesday, May 28, 2019, shortly after the court opened for business, respondent appeared at court with Sims. The court arraigned Sims and released him on bond with no



further discussion of why he had failed to appear at the scheduled arraignment on Friday, May 24, 2019.

25. Following Sims' arraignment, respondent asked if he could speak to Judge Kohlrieser in private. Judge Kohlrieser had not yet received respondent's May 24, 2019 letter. During their conversation, respondent advised Judge Kohlrieser that he had fabricated the letter that he presented to Adlesh on May 24, 2019.
26. Respondent's conduct, as alleged above, violated the following Rules of Professional Conduct:
- Prof.Cond.R. 3.3(a)(1) (prohibiting a lawyer from knowingly making a false statement of fact or law to a tribunal) by advising Judge Kohlrieser at the arraignment that Tvornak had sent the letter and by presenting a fabricated letter to the court;
  - Prof.Cond.R. 8.4(c) (prohibiting a lawyer from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation) by fabricating a letter; and
  - Prof.Cond.R. 8.4(h) (prohibiting a lawyer from engaging in conduct adversely reflecting on the lawyer's fitness to practice law) by including the arraignment date in his fabricated letter thus exposing Sims to a potential bench warrant.

### **Conclusion**

Relator requests that respondent be found in violation of the Ohio Rules of Professional Conduct and be sanctioned accordingly.

Respectfully submitted,

/s Joseph M. Caligiuri  
Joseph M. Caligiuri (0074786)  
Disciplinary Counsel  
*Relator*

/s Karen H. Osmond  
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*Counsel for Relator*

### **Certificate**

The undersigned, Joseph M. Caligiuri, Disciplinary Counsel, hereby certifies that Karen H. Osmond is authorized to represent relator in the action and has accepted the responsibility of prosecuting the complaint to its conclusion.

Dated: April 23, 2020

/s Joseph M. Caligiuri  
Joseph M. Caligiuri (0074786)  
Disciplinary Counsel