

STATE OF WISCONSIN**IN THE SUPREME
COURT**

IN THE MATTER OF

FILEDDISCIPLINARY PROCEEDINGS AGAINST
WALTER W. STERN III,
ATTORNEY AT LAW

JUN 04 2026

CLERK OF SUPREME COURT
OF WISCONSINOFFICE OF LAWYER REGULATION,
Complainant

v.

CASE NO. 2026AP137-D

WALTER W. STERN III,
Respondent

REFEREE'S REPORT

On May 5, 2026, the parties in this disciplinary proceeding filed a Comprehensive Stipulation and supporting memorandum. The Office of Lawyer Regulation (OLR), Complainant, is represented by Attorney Thomas Laitsch, and Respondent Walter Stern (Stern) is self-represented in this proceeding.

This report is submitted pursuant to Supreme Court Rule (SCR) 22.16(6) for the Court's review. Either party may file an appeal from the report within 20 days of its filing. SCR 22.17(1).

PROCEDURAL HISTORY

1. Respondent Stern was admitted to practice law in Wisconsin in 1974. OLR Complaint (Complaint),¹ Paragraph 2.
2. Stern's disciplinary history in Wisconsin for professional misconduct consists of the following:
 - a. In August 1988, Stern received a private reprimand for knowingly communicating directly with a represented party about the subject of the representation. (Reprimand from Board of Attorneys Professional Responsibility, referenced in Complaint, Paragraph 3a.).
 - b. In September 1992, Stern received a public reprimand for presenting a factual position without a plausible basis; for failing to maintain conduct respectful to courts and judges; for violating the Attorney's oath; and for engaging in offensive personality. *Public Reprimand of Walter W. Stern III*, 1992-11.
 - c. In November 1993, Stern received a private reprimand for failing to pay a third-party lien from settlement proceeds, after having received notice of the lien. *Private Reprimand* 1993-25.
 - d. In March 2008, Stern received a private reprimand for criminal acts reflecting adversely on his honesty, trustworthiness, or fitness as a lawyer. The discipline resulted from convictions for operating while intoxicated. *Private Reprimand* 2008-08.
 - e. In 2013, this Court suspended Stern's license for two years for conduct that resulted in his federal conviction for conspiring to

¹ By stipulation, Stern has agreed that the factual allegation's in OLR's Complaint as a factual basis for the referee's determinations in this proceeding. See Comprehensive Stipulation, Paragraph 2.

commit money laundering. *Disciplinary Proceedings Against Stern*, 2013 WI 46, 347 Wis.2d 552, 830 N.W.2d 674.

- f. In 2021, the Court suspended Stern's license for 60 days for misconduct related to communications with a cognitively-challenged client and the client's mother about a promissory note benefitting Stern; for failing to deliver funds promptly to a third party; and for improper direct communication with a represented party. *Disciplinary Proceedings Against Stern*, 2021 WI 84, 399 Wis.2d 451, 966 N.W.2d 622.
 - g. In 2022, Stern received a public reprimand for filing a confidential agreement as an unsealed exhibit in a federal district court. *Public Reprimand of Walter W. Stern III*, 2022-6.
 - h. In 2024, Stern received a public reprimand for failing to provide diligent and informed representation in an employment-law matter; failing to file a timely motion to withdraw; and failure to communicate adequately with his client. *Public Reprimand of Walter W. Stern III*, 2024-6.
3. On January 14, 2026, OLR filed its Complaint alleging that Stern had committed four counts of professional misconduct, all related to his representation of Stanley Fenton, also known as G'esa Kalafi (Kalafi). See Complaint, Paragraph 4. Kalafi had been convicted of first-degree intentional homicide in 1994, for which he was serving a sentence of "more than fifty years of incarceration."² Complaint, Paragraph 4. Kalafi had already filed multiple unsuccessful post-conviction motions before retaining Stern. See Complaint, Paragraph 5.

² The conviction for first-degree homicide carried a mandatory life sentence under the then-applicable version of Wis. Stat. §§ 940.01 and Wis. Stat. sec. 939.50(1)(a). Therefore, the reference to 50 years in the Complaint likely addresses the minimum time before parole eligibility.

- a. Count 1 alleged that Stern violated SCR 20:1.3 by failing to diligently pursue his client's interest. Complaint, Paragraph 41.
 - b. Count 2 alleged that Stern violated SCR 20:1.4(a)(3) by failing to provide Kalafi with realistic and accurate information about Stern's ability and about the status of Stern's efforts to draft the contemplated post-conviction petition. Complaint, Paragraph 42.
 - c. Count 3 alleged that Stern violated SCR 20:1.5(g)(2) by failing to provide required notices to Kalafi upon termination of representation. Complaint, Paragraph 43.
 - d. Count 4 alleged that Stern violated SCR 20:1.16(d) by failing to refund unearned fees upon termination of representation. Complaint, Paragraph 44.
4. On February 9, 2026, Stern filed his Answer (Answer) to the Complaint. The answer admitted many of OLR's factual allegations, while denying all of the alleged SCR violations. *See Answer.*
5. On March 20, 2026, the referee held a telephonic scheduling conference, in which Attorneys Laitsch and Stern participated. The parties agreed to a tentative schedule for pretrial motions and discovery.
6. On May 5, 2026, OLR filed the parties' Comprehensive Stipulation and supporting memorandum, which included Attorney Stern's withdrawal of his Answer and his plea of no contest to the four counts in the Complaint. Comprehensive Stipulation, Paragraph 2. Stern agreed that the referee may use the allegations in the Complaint to determine a factual basis for all four counts. Comprehensive Stipulation, Paragraph 2. The parties jointly asked the referee to recommend a 30-day suspension and restitution of \$15,000 to Kalafi's father. Comprehensive Stipulation, Paragraph 6.

FINDINGS OF FACT

7. In May or June 2022, Stern met with Kalafi at the Kettle Moraine Correctional Institution to discuss Kalafi's wish to file a post-conviction petition pursuant to *State v. Knight*, 168 Wis. 2d 509, 484 Wis. 2d 540 (1992).³ Complaint, Paragraphs 6-9. Before this meeting, Stern was not familiar with this specialized type of post-conviction petition. Complaint, Paragraph 9. Kalafi gave Stern materials drafted by Kalafi and by an attorney who had previously represented him. *See* Complaint, Paragraphs 6-7, 9.
8. During the meeting described above in Paragraph 7, Kalafi informed Stern of the requirement that a successful *Knight* petition required a presentation of stronger post-conviction issues than those raised in the initial appeal.⁴ Complaint, Paragraph 10.
9. In approximately July 2022, Kalafi signed a fee agreement whereby he would pay Stern a flat fee of \$15,000 for preparation and litigation of a *Knight* petition. Complaint, Paragraph 11. Stern also agreed to file related motions and briefs, including appeal of an adverse ruling to the Wisconsin Supreme Court. Complaint, Paragraph 11. Kalafi paid the agreed-upon fee of \$15,000. Complaint, Paragraph 11.
10. In October 2022, Kalafi and Stern exchanged letters regarding Kalafi's concern about the timeline for Stern to complete and file the *Knight* petition. *See* Complaint, Paragraphs 13-14.

³ In *Knight*, the Court held that a habeas corpus petition in the appellate court is the appropriate procedure to challenge the effectiveness of appellate counsel on direct appeal. 168 Wis. 2d at 519.

⁴ In addition to showing that the previous attorney failed to raise a potentially-meritorious issue, the defendant needs to show that this issue was clearly stronger than the issue(s) that the previous attorney raised in the earlier proceeding. *See, e.g., State v. Romero-Georgano*, 2014 WI 83, ¶¶ 45-46, 360 Wis. 2d 522, 849 N.W.2d 668.

11. Between October 26, 2022, and May 2023, Stern and Kalafi communicated by phone and by letter regarding the contemplated petition and a possible post-conviction argument related to sentencing. *See* Complaint, Paragraph 15 (providing additional details of these communications).
12. In late April 2023 or early May 2023, Stern told Kalafi by phone that he (Stern) intended to send Kalafi a draft *Knight* petition during the first week of May. *See* Complaint, Paragraph 16.
13. From June 2023 through September 2023, Stern and Kalafi continued to communicate regarding the contents of the petition (and related affidavits) and regarding Kalafi's anxiety about the time it was taking Stern to complete the petition. *See* Complaint, Paragraphs 17-23.
14. On multiple occasions, including September 2022, October 2022, and January 2023, Stern promised Kalafi that he would complete the petition, but did not do so. Complaint, Paragraph 38.
15. On September 28, 2023, Stern sent Kalafi an affidavit to review, sign, and return to Stern. On October 8, 2023, Kalafi sent Stern the signed affidavit, but Kalafi identified multiple errors or omissions in the affidavit. Complaint, Paragraph 24.
16. On December 6, 2023, Stern wrote to Kalafi after reading a law review article that Kalafi had provided to Stern. Complaint, Paragraph 26. Stern wrote that the article and the cases it cited put "a little more of a wrinkle in our case" and added that he wanted to file the petition by the end of January 2024. Complaint, Paragraph 26.
17. As of December 6, 2023, over 16 months after Kalafi had retained him, Stern had not sufficiently researched the standards for *Knight* petitions and, therefore, could not determine whether Kalafi could meet the standards. *See* Complaint, Paragraphs 26-27.

18. On May 5, 2024, Stern sent Kalafi a draft *Knight* petition, adding that he planned to insert more citations to the record before filing the petition. Complaint, Paragraph 29.
19. Kalafi was dissatisfied with the draft petition and, on June 26, 2024, sent Stern a message terminating his representation and instructing him regarding transfer of his file. *See* Complaint, Paragraphs 30-32.
20. On July 11, 2024, Kalafi by letter requested a refund of the fee paid to Stern. Complaint, Paragraph 34. Also on July 11, 2024, Stern wrote to Kalafi that he (Stern) had earned far more than the \$15,000 fee, having spent a total of 170 hours on the case. *See* Complaint, Paragraph 35.
21. In response to OLR's inquiry about when he first became aware of the legal standard for a *Knight* petition, Stern did not provide a direct response in a letter dated April 25, 2025, referring to cases he had researched regarding the applicable "unusual and arcane procedure." *See* Complaint, Paragraphs 36-37.
22. Upon termination of his representation, Stern failed to provide Kalafi with the written notices required by SCR 20:1.5(g)(2). Complaint, Paragraph 40. Stern provided a one-page document claiming to have worked 170 hours, *see* Complaint, Paragraph 35, but this document did not address the procedure for the client to initiate a fee dispute.
23. In his representation of Kalafi, from July 2022 to June 2024, Stern failed to provide any of the agreed-upon services. Complaint, Paragraphs 38-39. He failed to file a *Knight* petition, to draft a petition ready for filing, or to litigate the associated post-conviction issues. *See* Complaint, Paragraph 39. Having provided only an incomplete and inaccurate draft petition, despite having represented Kalafi for almost

two years, Stern did not earn any of the \$15,000 advance fee that he received. *See* Complaint, Paragraph 39.

CONCLUSIONS OF LAW

24. As alleged in Count 1, Complaint, Paragraph 41, Stern violated SCR 20:1.3⁵ by failing to diligently pursue Kalafi's interest in filing a *Knight* petition to seek post-conviction relief. Although he was retained in approximately July 22, *see above* Paragraph 9, Stern "continuously used stall tactics" until Kalafi terminated Stern's representation in June 2024, *see above* Paragraphs 9-19; Complaint, Paragraph 38.
25. As alleged in Count 2, Stern violated SCR 20:1.4(a)(3)⁶ by failing to provide Kalafi with realistic and accurate information about Stern's ability to prepare and file a competent *Knight* petition and about the status of his work on a *Knight* petition. Complaint, Paragraph 42. Stern's acknowledgement in December 2023 that a law review article provided by Kalafi put "a little more of a wrinkle" in the case, Complaint, Paragraph 26, underscores that Stern had not been candid regarding his unpreparedness to perform the contemplated legal work. Stern's unfulfilled promises, referenced above in Paragraph 23 and in Complaint, Paragraph 38, also demonstrate a lack of candor regarding his work.

⁵ SCR 20:1.3 provides that "A lawyer shall act with reasonable diligence and promptness in representing a client."

⁶ SCR 20:1.4(a)(3) provides, in pertinent part, that "A lawyer shall . . . keep the client reasonably informed about the status of the matter."

26. As alleged in Count 3, Stern violated SCR 20:1.5(g)(2)⁷ by failing, upon termination of his representation, to provide Kalafi with the notices required by that subsection. Complaint, Paragraph 35. Even if the one-page document provided to Kalafi arguably satisfied the requirement of a final accounting, *see* SCR 20:1.5(g)(2)a., Stern failed to comply with the requirement to notify Kalafi in writing of his rights regarding a fee dispute.
27. As alleged in Count 4, Stern violated SCR 20:1.16(d)⁸ by failing to refund unearned funds to Kalafi. The fee paid to Stern was for him to prepare and litigate a Knight petition for Kalafi. *See above* Paragraph 9. Because Stern failed to provide these services, he did not earn the agreed-upon flat fee. *See above* Paragraph 23 and Complaint, Paragraph 39. Until his agreement to the parties' Comprehensive Stipulation, Stern had refused to refund the unearned fee. *See* Complaint Paragraph 39; Comprehensive Stipulation, Paragraph 6.

RECOMMENDATION FOR SANCTION

28. Given Stern's pleas of no contest and agreement that the referee may accept the facts alleged in the Complaint, *see* Comprehensive Stipulation, Paragraph 2, the main issue to address is the appropriate sanction for Stern's misconduct.

⁷ SCR 20:1.5(g) provides, in pertinent part, that "A lawyer who accepts advanced payment of fees may deposit the funds in the lawyer's business account, . . . , provided that the lawyer complies with each of the following requirements:

...

(2) Upon termination of the representation, the lawyer shall deliver to the client in writing all of the following:

...

c. 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 . . .

d. 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."

⁸ SCR 20:1.16(d) provides, in pertinent part, as follows: "Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as . . . refunding any advance payment of fee or expenses that has not been earned or incurred."

Nature of Misconduct

29. Stern's misconduct consists mainly of deficient representation of his client, who sought post-conviction relief in a homicide case. *See* Complaint, Paragraphs 41-42 (Counts 1 and 2). By failing to prepare the agreed-upon post-conviction document, Stern showed a lack of diligence in serving his client's interest. *See above* Paragraph 24, Complaint, Paragraphs 38, 41. By his lack of candor about his familiarity with the *Knight*-petition procedure and about the status of his work, Stern misled Kalafi and encouraged him to continue to rely upon Stern. *See above* Paragraph 25, Complaint, Paragraphs 26, 39, 42.
30. When he retained Stern, Kalafi had already been incarcerated for about 28 years, *see* Complaint, Paragraph 4, and had been unsuccessful in previous post-conviction litigation, *see* Complaint, Paragraph 5. Thus, the likelihood for a successful challenge to his conviction may have been remote. Nonetheless, given the seriousness of the underlying conviction and the length of sentence, the subject matter of representation called for diligent attention and sufficient expertise to determine promptly whether there were arguable grounds for relief.
31. Stern's other SCR violations in this proceeding stem from his failure to return the unearned fee, Complaint, Paragraph 43 (Count 4), and the failure to notify Kalafi properly of his right to seek its return, Complaint, Paragraph 42 (Count 3). These violations are partially mitigated by Stern's belated agreement to return the fee, *see* Comprehensive Stipulation, Paragraph 6.⁹ However, this agreement came almost two years after the representation ended. *See* Complaint, Paragraph 34 (Kalafi requested refund of fees in July 2024). Furthermore, when lawyers fail to notify their client of the process to contest ore-paid fees, clients may be unaware of their rights and may not assert them in the way that Kalafi did.

⁹ Stern agreed that the Court should order restitution in the amount of the \$15,000 fee. Comprehensive Stipulation, Paragraph 6. The referee infers that as of the date of the stipulation, May 5, 2026, Stern had not actually refunded the fee.

32. In sum, although the misconduct did not involve such egregious behavior as criminal violence, embezzlement, or misrepresentation to the court, Stern committed multiple and serious SCR violations.

Prior Disciplinary History

33. As set forth above in Paragraph 2, Stern has been sanctioned for ethical violations on eight previous and separate occasions, dating from 1988 to 2024.

34. Stern's extensive disciplinary history is an aggravating factor in this proceeding. It strongly suggests that despite having been repeatedly disciplined for professional misconduct, with sanctions ranging from private reprimand to suspension, Stern has continued to violate ethical standards.

35. Mitigating Stern's extensive disciplinary history are the differences in the underlying misconduct. Much of the previous discipline has been for Stern's criminal convictions, *see above* Paragraph 2. d. and e., and for improper conduct with represented parties, *see above* Paragraph 2. a. and f. Neither type of misconduct is involved in this proceeding.

36. However, Stern was reprimanded for lack of diligence in 2024, and Count 1 in this proceeding is for similar misconduct. Also, Stern's deficient communication with a client, *see* Complaint, Paragraph 41 (Count 2), was also part of prior misconduct, *see above* Paragraph 2 f. and h.

37. This Court generally follow[s] a policy of progressive discipline, imposing more severe levels of discipline upon subsequent instances of misconduct, especially where there is a pattern of misconduct. *Disciplinary Proceedings Against Malloy*, 2025 WI 39, ¶ 70 (citing *In re*

Disciplinary Proceedings Against Nussberger, 2006 WI 111, ¶27, 296 Wis. 2d 47, 719 N.W.2d 501). However, recognizing that no two cases are identical, the Court considers the facts of each case, including similarities to and differences from previous cases. *Malloy*, 2025 WI 39, ¶ 64.

38. If this were an isolated incident of professional misconduct, a reprimand might be sufficient to deter similar behavior in the future. Stern's extensive history, however, strongly suggests the need for a harsher sanction.

Recommendation of Parties and Comparison to Previous Disciplinary Cases

39. The parties jointly recommend a 30-day suspension as the appropriate discipline. Comprehensive Stipulation, Paragraph 6. OLR has cited and discussed three previous decisions of this Court in support of this recommendation. See Memorandum in Support of Comprehensive Stipulation pp. 3-5. OLR compares these cases to the circumstances of this proceeding and concludes that Stern should receive a shorter suspension than the 60-day suspensions in those three cases. See Memorandum in Support of Comprehensive Stipulation pp. 3-5.
40. In the first case cited by OLR, the Court rejected the referee's recommendation of a 30-day suspension: "With rare exceptions, this court has adhered to a policy of imposing a minimum license suspension of 60 days. See *Disciplinary Proceedings Against Osicka*, 2009 WI 38, ¶38, 317 Wis. 2d 135, 765 N.W.2d 775; *Disciplinary Proceedings Against Grady*, 188 Wis. 2d 98, 108-09, 523 N.W.2d 564 (1994); *Disciplinary Proceedings Against Schnitzler*, 140 Wis. 2d 574, 577-78, 412 N.W.2d 124 (1987). ("We conclude that a minimum 60 day period of suspension serves the needs of the public and of the legal system when a lawyer's license is suspended for disciplinary reasons.")" *Disciplinary*

Proceedings Against Anderson, 2020 WI 80, ¶ 45, 394 Wis. 2d 190, 950 N.W.2d 191.

41. In both *Osicka* and *Grady*, cited above in Paragraph 40, OLR cited this policy of a 60-day minimum suspension period in objecting to referee recommendations of a 30-day suspension. *Osicka*, 2009 WI 38, ¶ 38; *Grady*, 188 Wis. 2d at 99. In this proceeding, OLR asks the Court to revisit this policy and to impose a 30-day suspension. See Memorandum in Support of Comprehensive Stipulation p.5.¹⁰
42. OLR contends that Stern's misconduct in this proceeding is less serious than the lack of diligence and deficient communication exhibited by Attorney Anderson. See Memorandum in Support of Comprehensive Stipulation pp. 3-4. Anderson's misconduct occurred in two separate criminal cases, see 2020 WI 82, ¶¶ 40-41, and the misconduct "was similar in many respects to the misconduct" in one of his previous disciplinary proceedings. 2020 WI 82, ¶ 46. In isolation, these aspects of *Anderson* could support the conclusion that Stern's misconduct does not require the same level of discipline (60-day suspension).¹¹
43. However, Stern's disciplinary history compares unfavorably to Attorney Anderson's, even though the latter had been disciplined on four prior occasions. See 2020 WI 82, ¶ 2. Stern has been disciplined on eight previous occasions. See above Paragraph 2. Also, Stern has been disciplined in three proceedings in 2021, 2022, and 2024. See above Paragraph 2. f., g., and h. In *Anderson*, the most-recent previous discipline was ten years old. See 2020 WI 82, ¶ 46 ("If the previous

¹⁰ The memorandum does not point out that the parties are asking for a change in this disciplinary policy or that the recommendation represents a break with OLR's position in the cited cases.

¹¹ However, in light of Stern having been disciplined eight previous times, see above Paragraph 2, the multiple previous discipline hearings should have impressed upon Stern the need to consider the totality of the ethical rules in SCR chapter 20; to recognize ethical issues as they arise; and to learn the rules in sufficient detail to comply with them. Also, as discussed below in Paragraph 50, some of the violations in this proceeding are similar to Stern's previous ethical transgressions.

suspension were not a decade old, we may well have considered a suspension longer than 60 days.”).

44. In sum, comparing Stern’s case to *Anderson* reveals some similarities and some differences. However, *Anderson* certainly provide authority for a 30-day suspension in this proceeding, given that *Anderson* Court affirmed the Court’s policy of a minimum duration of 60 days when imposing a period of suspension. See 2020 WI 82, ¶ 45.
45. The second case cited by OLR involved an attorney who received a 60-day suspension for 11 counts of misconduct for misrepresentations to another attorney and for “failing to act with reasonable diligence and promptness, failing to keep clients reasonably informed about the status of their matters, and failing to comply with reasonable requests for information.” *Disciplinary Proceedings Against Saltzwadel* 2022 WI 48, ¶¶ 37-38, 402 Wis. 2d 465, 975 N.W.2d 641. The scope of her misconduct is certainly broader than Stern’s misconduct in this proceeding, which was all related to the representation of client Kalafi.
46. Saltzwadel’s disciplinary history, however, was limited to a 2020 public reprimand. See 2022 WI 48, ¶ 2. Also, it appears that some of the misconduct leading to the 60-day suspension occurred before she received the public reprimand. See 2022 WI 48, ¶¶ 3-31 (including chronology of pertinent facts constituting the misconduct, some having occurred in 2019 and in early 2020); *Public Reprimand of Crystal Saltzwadel*, No. 2020-3 (February 27, 2020).
47. The final disciplinary case cited by OLR involved an attorney who had been disciplined on five previous occasions. *Disciplinary Proceedings Against Crandall*, 2021 WI 90, ¶ 3, 399 Wis. 2d 716, 967 N.W.2d 504. His subsequent 60-day suspension was imposed for seven counts of misconduct in the representation of two clients. See 2021 WI 90, ¶ 8. Most of the counts were similar to the type of misconduct committed by Stern in this proceeding. See 2021 WI 90, ¶ 17 (four

counts related to fee agreement and handling of fees; additional counts related to diligence and communication). OLR contends that Stern's misconduct was less serious because it did not involve fraud or dishonesty. Memorandum in Support of Comprehensive Stipulation p.5.

48. However, as with the two other cases discussed above, there are countervailing factors that support arguably support at least the same level of discipline in Stern as the 60-day suspension in *Crandall*. Most notably, Stern has a longer prior disciplinary history (eight previous findings, compared to five in *Crandall*) and more recent imposition of discipline, *compare* Paragraph 2, f., g., and h. (prior discipline of Stern in 2021, 2022, and 2024) *with Crandall*, 2021 WI 90, ¶¶ 3-7 (only one of the prior disciplinary findings within 10 years of 2021 proceeding).

Additional Aggravating and Mitigating Factors

49. Stern's receipt and retention of the \$15,000 advance fee in Kalafi's case is an aggravating factor in comparison to the three cases discussed above. Although unearned fees (of a lesser amount) were also part of the misconduct in *Crandall*, *see* 2021 WI 90, ¶¶ 8-17 (unearned fee of \$3,500, belatedly returned to client after OLR proceeding had been filed), improper retention of fees was not involved in the other two cases. Stern has agreed to an order that he return the \$15,000 at a future date ordered by the Court. *See* Comprehensive Stipulation, Paragraph 6.
50. Another aggravating factor is that this proceeding is the third one (all since 2021) in which Stern faces discipline related to deficient communication with a client. *See above* Paragraph 2. f. and h.; Paragraph 3 b. (Count 2 in this proceeding). Stern was also disciplined recently, in 2024, for lack of diligent representation. *See above* Paragraph 2. h.; Paragraph 3 a. (Count 1 in present proceeding).

51. Stern's age is potentially a mitigating factor. He was admitted to the Bar in 1974. *See above* Paragraph 1. Although the SCR apply equally to all attorneys, older attorneys generally have a shorter time remaining in their professional careers. Therefore, for example, a one-year suspension for a 70-year-old attorney may have a proportionately greater effect on future earnings than the same suspension for a 30-year-old attorney.

Referee's Recommendation

52. Considering all the circumstances discussed above, I conclude that the appropriate sanction is a suspension of Attorney Stern's license for either 60 or 90 days. Given the four separate violations in this proceeding and Stern's extensive disciplinary history, a 90-day suspension would be reasonable. However, in light of the parties' stipulated recommendation and the relative severity of suspending an older attorney, I recommend that the Court suspend Stern's license for 60 days.
53. I also recommend that the Court order Stern to pay restitution in the amount of \$15,000 to Stanley Felton, Sr. (who paid the fee in question to Stern), within 60 days of the order and to provide proof of such payment to OLR.

Dated this 4th day of June, 2026.



L. Michael Tobin

Referee

State Bar No. 1010349