

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN THE MATTER OF THE REVIEW OF
THE PRIVILEGE OF WILLIAM D.
LUNN TO PRACTICE BEFORE THE
COURT

Case No. 26-AP-1

OPINION AND ORDER

The matter before the Court, *en banc*, concerns whether William D. Lunn (“Lunn”) committed professional misconduct during his legal representation in *United States v. Hale*, No. 12-CR-196 (N.D. Okla.) and *United States v. Mwangi*, No. 25-5173 (10th Cir.). Dkt. Nos. 1, 10. The Court may discipline Lunn if it finds “clear and convincing proof that [he] was guilty of misconduct.” *Matter of Disciplinary Proc. of Phelps*, 637 F.2d 171, 177 (10th Cir. 1981). Ultimately, the Court does not find clear and convincing evidence that Lunn committed professional misconduct in *United States v. Hale*. But clear and convincing evidence shows that he committed professional misconduct in *United States v. Mwangi*. Thus, disciplinary action is warranted.

I. LUNN’S REPRESENTATION IN *UNITED STATES V. HALE*

A. Background

On November 27, 2024, United States District Court Judge Claire V. Eagan issued a warrant for Julien Hale’s (“Hale”) arrest based on a petition for warrant for offender under supervision submitted by United States Probation Officer Briana Propst (“Propst”). *Hale*, No. 12-CR-196, Dkt. No. 246. The petition alleged that an individual called the Tulsa Police Department on November 15, 2024, about a suicide in progress. *Id.* at 2. The caller also reported that a male was screaming at the caller and had a gun to his own head. *Id.* Upon arriving to the residence, law enforcement found Hale outside holding his child. *Id.* Hale initially refused to put the child

down but eventually complied when officers threatened to taser him. *Id.* The officer subsequently detained him. *Id.*

Officers then interviewed Hale’s girlfriend and mother of the child—Darmishia Mayberry (“Mayberry”)—and her mother, Carla Oliver (“Oliver”). *Id.* They alleged Hale was angry because Mayberry discovered he had cheated on her, so he broke into the home through a back window, punched Mayberry, and drug her down the stairs by her hair. *Id.* The petition alleged that body cam footage showed Mayberry and Oliver telling law enforcement that Hale took Mayberry’s firearm, and Oliver reported that Hale placed the barrel of the firearm into his mouth. *Id.* Although a single round of .380 ammunition was found in Hale’s pocket during his arrest, no firearm was found in the residence, on Hale’s person, or in his vehicle. *Id.* Hale was ultimately arrested for domestic assault and battery and possession of ammunition. *Id.* Accordingly, the petition alleged that Hale violated (1) a mandatory condition of supervised release prohibiting him from committing another federal, state, or local crime, and (2) a mandatory condition prohibiting him from possessing a firearm or ammunition. *Id.* at 1.

Lunn represented Hale on his original federal charges in 2012-2013 and was appointed to represent him again for his 2024 revocation proceedings. *Id.*, Dkt. No. 250. On December 5, 2024, Lunn visited with Hale to discuss the petition’s allegations. During that meeting, Hale told Lunn that he found the bullet while cleaning his mother’s apartment and put it in his pocket to prevent young children in the home from finding it. *In re Lunn*, Dkt. No. 6 at 10; Dkt. No. 23 at 12:15-13:17.

Magistrate Judge Susan E. Huntsman conducted Hale’s detention hearing on December 10, 2024. Shortly before that hearing, Mayberry identified Hale’s mother—LaToria Simmons (“Simmons”)—to Lunn. *Id.*, Dkt. No. 6 at 11; Dkt. No. 23 at 16:21-17-9. After introducing

himself, Lunn asked Simmons to step out into the hallway. *Id.* Once outside the courtroom, Lunn asked Simmons where Hale found the bullet. *Id.* Simmons allegedly told Lunn that Hale told her he found the bullet at her apartment. *Id.* She supposedly agreed to testify to that fact, which Lunn planned to use as a mitigating circumstance. *Id.*

Lunn called Mayberry to testify first. Contrary to her previous statements as noted in the police report and petition, Mayberry testified that she never saw a firearm that night, that Hale never possessed a firearm, that he entered the home through the unlocked front door, that he never grabbed her by the hair, and that she fell down the stairs on accident. *Id.*, Dkt. No. 7 at 30:1-36:4.

Lunn then called Simmons. The relevant portion of Simmons' testimony is as follows:

Lunn: Okay. And this bullet, did that apparently come from your place?

Simmons: That bullet – I don't know where that bullet come from. I don't even know what kind it is. I don't know if it's – we had found some questionable things as were unpacking my daughter's things and throwing the stuff out . . . so I don't know where – he did tell me that he found it while we were cleaning, but he said, I found it while I was cleaning at the house . . . so I didn't take it – if it was cleaning my house or cleaning [his girlfriend's] house because he said he didn't want the kids to get a hold of it. We both have kids. So he didn't not [sic] specify exactly where the location was

Id., Dkt. No. 7 at 56:25-57:17.

Magistrate Judge Huntsman ultimately detained Hale, and Judge Eagan set his revocation hearing for 8:30 a.m. the next morning. *Hale*, No. 12-CR-196, Dkt. Nos. 254, 256. In preparation for the hearing, Lunn submitted a revocation memorandum around 9:00 p.m. on December 10, where he wrote:

The Defendant will concede that he had a .380 round of ammunition in his pocket. He had been cleaning up his mother's residence that day and found the tiny bullet on the floor, Simmons testified. Young children lived at the apartment, so he picked it up. He forgot to throw it away.

Id., Dkt. No. 257 at 5. At the revocation hearing, Judge Eagan stated that she would not consider the domestic assault and battery violation and would leave that matter to the state court. *Id.*, Dkt. No. 266 at 7, 9. Instead, she addressed only the possession of ammunition violation. *Id.* Hale stipulated to the possession of ammunition violation, and Judge Eagan set Hale's sentencing hearing for December 18, 2024. *Id.*, Dkt. No. 258.

Lunn filed another memorandum in preparation for the December 18 sentencing hearing. In that memorandum, Lunn wrote:

Defense counsel believes that a sentence at the low end of these Guidelines would serve the purpose of punishment in Mr. Hale's case. This is because he has done very well otherwise on supervised release and the possession of a single bullet not connected to any gun is consistent with his story, which was confirmed by his mother, Latoria Simmons, during the detention hearing, that the bullet was found on the floor at his mother's house and picked up to avoid having smaller children who lived in the house find it and potentially cause those children harm.

Id., Dkt. No. 259 at 4. But during the sentencing hearing, Judge Eagan made it clear that she was "not buying" the claim presented by Lunn that Hale found the bullet while cleaning his mother's house. *Id.*, Dkt. No. 265 at 8:25-9:2. She then sentenced Hale to six months' imprisonment followed by another term of supervised release. *Id.*, Dkt. No. 261.

At some point afterwards, Propst met with Simmons to verify that her home was suitable for Hale upon his release from prison. *In re Lunn*, Dkt. No. 23 at 61: 2-21. While there, Simmons told Propst that "Mr. Hale's attorney had pulled her aside prior to court and asked her to testify that a bullet that was located in his pocket had come from her residence." *Id.* at 64: 22-25. Simmons also told Propst that "she was uncomfortable with that and that [Lunn] assured her it would be okay if she testified to that." *Id.* at 65: 8-9. Propst told her supervisor about the conversation the following morning, who then notified Judge Eagan. *Id.* at 65: 24-66: 1.

These events led to the Court issuing a show cause order on March 11, 2026. *Id.*, Dkt. No. 1. In that order, the Court invited Lunn to respond to two issues of concern: (1) whether he

attempted to suborn perjury from Simmons prior to the December 10, 2024, detention hearing; and (2) whether Lunn misrepresented Simmons's testimony in his revocation and sentencing memoranda. *Id.* Lunn responded to that order in writing [Dkt. Nos. 6-7, 9] and in a hearing before the Court on July 31, 2026 [Dkt. Nos. 21, 23].

B. Analysis

Ultimately, the Court does not find clear and convincing evidence that Lunn committed professional misconduct in *United States v. Hale*. The Court will briefly explain why.

First, the Court is convinced that, at the July 31, 2026, hearing, Propst accurately testified about what Simmons reported to her and the manner in which it was reported.¹ Indeed, Propst promptly reported the matter to her supervisor and then made a contemporaneous note of what Simmons had reported to her. However, the Court is simply unable to judge the credibility of Simmons' statement to Propst, or the reason for which it might have been made. On one hand, Simmons' account may have been entirely accurate. Yet, Simmons could also have misinterpreted the conversation with Lunn, misremembered the exact details of the conversation, or misrepresented the conversation to Propst. The Court cannot know for certain because Simmons did not testify at Lunn's show cause hearing, and the Court was unable to evaluate her credibility. For this reason, the Court cannot find by clear and convincing evidence that Lunn attempted to suborn perjury.

Second, even though Lunn misrepresented Simmons' testimony in his revocation and sentencing memoranda, the Court cannot find his misrepresentations were made knowingly and intentionally, as opposed to simply carelessly and inadvertently. *See* Okla. R. Prof. Cond. 3.3(a)(1)

¹ Relatedly, Propst also testified that she reviewed the body cam footage from Hale's arrest before she submitted the petition in which Mayberry and Oliver claimed that Hale had taken Mayberry's firearm and placed the barrel of the firearm into his mouth. Although Lunn repeatedly denied several allegations in that petition on Hale's behalf, there is no evidence that Lunn ever reviewed this body cam footage to confirm Hale's version of events.

(prohibiting a lawyer from “*knowingly* . . . mak[ing] a false statement of fact or law to a tribunal”); *see also Oklahoma Bar Ass’n v. Shields*, 567 P.3d 361, 370 (Okla. 2025) (“Misconduct violates ORPC 8.4(c) only when the record clearly and convincingly shows respondent had an intent or purpose to deceive when [he] made the [mis]representations.”) (quotations and citations omitted). Because of the short duration between the detention hearing and the subsequent revocation and sentencing hearings, Lunn did not have a transcript of Simmons’ testimony when he submitted his memoranda.² According to Lunn, he relied only on his memory of Simmons’ testimony. And he claims that his memory and understanding of her testimony were tainted by the “heat of battle,” her “halting style of communication,” and her corroboration of other “important details of Mr. Hale’s story.” *In re Lunn*, Dkt. No. 7 at 11. Given these circumstances, the Court does not find clear and convincing evidence that he knowingly or intentionally misrepresented Simmons’ testimony in his memoranda.

Accordingly, the Court finds no professional misconduct relating to Lunn’s representation in *United States v. Hale*.

II. LUNN’S REPRESENTATION IN *UNITED STATES V. MWANGI*

A. Background

The Court now turns to Lunn’s representation in *United States v. Mwangi*. The Government began investigating Joyceline Mwangi (“Mwangi”) in December 2021 for concealing a money laundering scheme. Several years later, her trial attorney, Paul DeMuro (“DeMuro”) negotiated a deal where the Government would file an information against Mwangi but dismiss it if she successfully completed a pre-trial diversion program. According to emails Lunn later disclosed to

² Although he could have relied on an audio recording, Lunn was unaware that a recording was available at that time. *In re Lunn*, No. 26-AP-1, Dkt. No. 7 at 10.

the Tenth Circuit, DeMuro told Mwangi: “You will not get a better offer I strongly recommend you accept this deal.” *United States v. Mwangi*, No. 25-5173 (10th Cir.) (“*Mwangi Appeal*”), Dkt. No. 27-2 at 4. She agreed to the plan, and the Government filed its information on February 14, 2025. *United States v. Mwangi*, No. 25-CR-44 (N.D. Okla) (“*Mwangi I*”), Dkt. No. 2.

However, one of the program’s conditions required Mwangi to get a job. According to their emails, DeMuro asked Mwangi multiple times throughout March and April 2025 whether she had done so. *Mwangi Appeal*, Dkt. No. 27-2 at 6-9. He warned her that if she failed to obtain a job, “our great deal with the government will go away; and they will likely indict you.” *Id.* at 7. She ultimately failed to obtain employment. So, the Government dismissed its information against her in May 2025. *Mwangi I*, Dkt. Nos. 5-6. The Government then filed a new information in June 2025 charging her with misprision of a felony. *United States v. Mwangi*, No. 25-CR-200 (N.D. Okla.) (“*Mwangi II*”), Dkt. No. 2.

Nevertheless, DeMuro negotiated another plea agreement with the Government. This time, the Government agreed to recommend a two-year sentence of probation. *Id.*, Dkt. No. 16 at 12. In return, Mwangi agreed to waive her right to appeal her conviction and sentence, except for appeals from “contested sentencing issues.” *Id.* at 3-4. She also waived the right to collaterally attack the conviction except for claims of ineffective assistance of counsel under 28 U.S.C. § 2255. *Id.* She ultimately pled guilty to the information on June 30, 2025, and United States District Court Judge Gregory K. Frizzell sentenced her to two years of probation and ordered her to pay \$70,000 in restitution on November 12, 2025. *Id.*, Dkt. No. 23.

DeMuro filed Mwangi’s notice of appeal on November 21, 2025. *Id.*, Dkt. No. 24. In a Tenth Circuit docketing form concerning the issues of appeal, DeMuro wrote:

To the best of counsel’s understanding, the issues Defendant/Appellant wishes to challenge on appeal are: (i) the Court’s sentence was unfair because

Appellant/Defendant received the same sentence as the organizer of the alleged criminal scheme Daniel Oriakhi . . .; (ii) the payment plan imposed for the restitution amount is substantively unreasonable, beyond Appellant/Defendant's ability to perform and was not what she anticipated; (iii) Defendant/Appellant should not be "solely liable" for the restitution amount when multiple other persons, including Mr. Oriakhi, caused the loss; and (iv) in imposing the sentence, the Court improperly considered a prior conviction for DUI.

Mwangi Appeal, Dkt. No. 10 at 4. DeMuro then moved to withdraw. *Id.*, Dkt. No. 15. The Tenth Circuit granted that request and appointed Lunn to represent Mwangi on December 5, 2025. *Id.*, Dkt. No. 16.

Based on her appellate waiver, the Government moved to dismiss her appeal on February 2, 2026. *Id.*, Dkt. No. 22. Lunn filed a response to the Government's motion on February 17, 2026. *Id.*, Dkt. No. 24. In that response, Lunn extensively discussed Mwangi's first plea agreement, her second plea agreement, her change of plea hearing, and her sentencing hearing to argue why the waiver was enforceable under *United States v. Hahn*, 359 F.3d 1315 (10th Cir. 2004). *Hahn* provides that an appellate waiver is enforceable if: (1) the disputed appeal falls within the scope of the waiver of appellate rights; (2) the defendant knowingly and voluntarily waived his appellate rights; and (3) enforcing the waiver would not result in a miscarriage of justice. 359 F.3d at 1325. Lunn ultimately concluded that "Ms. Mwangi . . . surely knows that she could have avoided a conviction altogether if she had just listened to her lawyer and gotten a steady job. The lawyer did a phenomenal job for her, yet, in the end, all she could do was complain." *Mwangi Appeal*, Dkt. No. 24 at 33.

On February 18, the Tenth Circuit ordered Lunn to supplement his response brief. *Id.*, Dkt. No. 25. In doing so, the Tenth Circuit told Lunn that he had three options when he responded to the Government's motion: (1) oppose the motion; (2) concede, on Mwangi's behalf, that the court should grant the motion; or (3) notify the court that there are no nonfrivolous arguments to oppose the government's motion to enforce and move to withdraw under *Anders v. California*, 386 U.S.

738, 744 (1967) and 10th Cir. R. 46.4(B)(1). *Id.* at 1. The court pointed out that Lunn’s response brief argued the Government’s motion should be granted, but it did not say there were no nonfrivolous arguments, nor did he request to withdraw. He also did not say whether Mwangi agreed that the Government’s motion should be granted. So, the Tenth Circuit ordered him to clarify these omissions through a supplemental filing.

Lunn filed a supplemental brief on March 9, 2026. *Id.*, Dkt. No. 27. This time, Lunn included thirteen pages of emails between DeMuro and Mwangi from August 15, 2024, to June 18, 2025. Those emails contained discussions of Mwangi’s original plea agreement, her failure to obtain a job, and her travel plans for her upcoming change-of-plea hearing. *See id.*, Dkt. No. 27-2 at 1-13. The emails did not contain discussions about her second plea agreement, her change-of-plea hearing, or her sentencing hearing. He recounted the contents of these emails in his supplement, argued that DeMuro performed competently, argued she had no nonfrivolous claims, asked the court to dismiss her appeal, and sought to withdraw. *Id.*, Dkt. No. 27-1 at 19-22.

On March 23, 2026, Mwangi filed a response explaining why her appellate waiver was unenforceable. *Id.*, Dkt. No. 29. She stated: “I am not disputing that my attorney fulfilled his duties. Rather, I am explaining that my own lack of understanding, combined with the circumstances I was in at the time, prevented me from making a fully informed and knowing waiver of my appellate rights.” *Id.*

Finally, on March 31, 2026, the Tenth Circuit issued a three-page order dismissing Mwangi’s appeal. *Id.*, Dkt. No. 31-1. The court noted that “[w]e have fully examined all the proceedings, including the plea agreement and the plea colloquy, as well as counsel’s supplemental response and Ms. Mwangi’s pro se response. After doing so, we agree there is no non-frivolous

basis to oppose the government's motion." *Id.* at 2. Accordingly, the Tenth Circuit dismissed the appeal and granted Lunn's request to withdraw. *Id.* at 3.

After becoming aware of Lunn's Tenth Circuit briefs, the Court entered a supplemental order to show cause as to why he should not be disciplined for disclosing attorney-client communications and presenting arguments that created a conflict of interest. *In re Lunn*, Dkt. No. 10. Lunn responded to the Court's show cause order in writing [Dkt. Nos. 17-19] and attended a hearing before the Court on July 31, 2026 [Dkt. Nos. 21, 23].

B. Analysis

Before the Court is whether Lunn violated the Oklahoma Rules of Professional Conduct when he disclosed and referenced privileged, attorney-client communications between Mwangi and DeMuro. Clear and convincing evidence shows that he did.

To begin, *Anders v. California* "authorizes counsel to request permission to withdraw where counsel conscientiously examines a case and determines that any appeal would be wholly frivolous." *United States v. Calderon*, 428 F.3d 928, 930 (10th Cir. 2005) (citing 386 U.S. at 744). Before withdrawing, "counsel must submit a brief to the client and the appellate court indicating any potential appealable issues based on the record." *Id.* This often requires "a discussion of the relevant record and legal precedents that support the position that pursuing the appeal would be frivolous." 3B Charles A. Wright & Arthur R. Miller, *Fed. Prac. & Proc. Crim.* § 738 (4th ed. 2026). "The [appellate] [c]ourt must then conduct a full examination of the record to determine whether defendant's claims are wholly frivolous." *Calderon*, 428 F.3d at 930. "If the court concludes after such an examination that the appeal is frivolous, it may grant counsel's motion to withdraw and may dismiss the appeal." *Id.*

Pursuant to *Anders*, Lunn could reference Mwangi's second plea agreement, her change-of-plea hearing, and her sentencing hearing to explain why there were no nonfrivolous arguments to void her appellate waiver under *United States v. Hahn*. But, according to Lunn, he also believed the Tenth Circuit "placed the issue as to a breach of duty by Mwangi's counsel squarely at the center of the case" when it issued its February 18 order to supplement. *In re Lunn*, Dkt. No. 18 at 9. And, according to Lunn, because the Tenth Circuit was "was more than willing" to find "that Mwangi had not knowingly and willfully entered the plea agreement," disclosure of Mwangi and DeMuro's communications was "necessary" to show DeMuro adequately advised her during her plea and sentencing. *Id.* Otherwise, according to Lunn, Mwangi would suffer "far harsher consequences" if she invalidated her plea agreement and proceeded to trial. *Id.* at 9-10. Consequently, Lunn believed he could attach and reference those communications in his supplemental brief. Lunn is wrong for several reasons.

First, the Tenth Circuit's order to supplement simply directed Lunn to state whether (1) Mwangi conceded that the Government's motion to dismiss should be granted or (2) Lunn wished to withdraw because there were no nonfrivolous arguments against the Government's motion to dismiss. The order did not contain any language suggesting that DeMuro's representation was at issue on direct appeal. In fact, the Tenth Circuit usually does not evaluate ineffective assistance claims on direct appeal, even when the defendant argues that counsel's performance "render[ed] the waiver invalid." *United States v. Jaracuaro-Perez*, 834 F. App'x 466, 469 (10th Cir. 2020); *see also United States v. Quevedo-Valdez*, 730 F. App'x 707, 709 (10th Cir. 2018). Instead, the court evaluates those claims after defendants raise them in a collateral proceeding under 28 U.S.C. § 2255. *Id.* In short, the Tenth Circuit did not indicate that DeMuro's representation was at issue, nor would it have been on direct appeal.

Second, even if DeMuro's representation was at issue, the attached communications were irrelevant. As a reminder, the Government moved to dismiss Mwangi's appeal based on a waiver in her *second* plea agreement. *See Mwangi Appeal*, Dkt. No. 22-1 at 2-3. But the emails between Mwangi and DeMuro contained discussions about Mwangi's *first* plea agreement, her failure to obtain a job, and her travel plans for her upcoming change-of-plea hearing. *Id.*, Dkt. No. 27-2 at 1-13. None of those discussions concern the knowing and voluntary nature of her second plea agreement, nor do they concern the alleged issues she wanted to raise on appeal. *Id.*, Dkt. No. 10 at 4.

Third, Mwangi never waived her attorney-client privilege. Lunn contends that Mwangi waived her attorney-client privilege because she alleged DeMuro erroneously advised her during plea negotiations. *In re Lunn*, Dkt. No. 18 at 11-12. For this proposition, he relies on 12 Okla. Stat. § 2502(D)(3), which states that "[t]here is no [attorney-client] privilege . . . As to a communication relevant to an issue of breach of duty by the attorney to the client or by the client to the attorney." 12 Okla. Stat. § 2502(D)(3). He also relies on Rule 1.6 of the Oklahoma Rules of Professional Conduct, which provides that:

(a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b) . . . (b)(5) A lawyer may reveal information relating to representation of a client to the extent the lawyer reasonably believes necessary . . . to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client . . . or to respond to allegations in any proceeding concerning the lawyer's representation of the client.

Okla. R. Prof. Cond. 1.6(a)-(b).

However, these authorities allow an attorney to disclose his communications with his client when she asserts a claim that he erroneously represented her. Mwangi did not allege erroneous representation *against Lunn*, and Lunn cites no authority allowing him to disclose her

communications with *DeMuro* to dismiss her supposed allegations *against DeMuro*. In fact, DeMuro testified that he told Lunn not to disclose those communications because she had not made a formal claim of ineffective assistance of counsel:

And the reason I was stunned, and this email that I've attached to Exhibit 9 is just one example, because I made very clear to Mr. Lunn on a number of occasions that he was not to disclose my communications with Ms. Mwangi in the response to the government's motion to enforce. This was just one of several emails and we had a meeting about it as well which I expressed my concern about this being attorney-client privilege

I mean just because a client is complaining about the quality of trial counsel's representation, that does not give rise to a waiver. That's not a formal claim of ineffective assistance of counsel.

So that was my point with Mr. Lunn on several occasions. There had been no assertion of an ineffective assistance of counsel claim formally in any capacity that I knew of, not before this court at the district court level, Judge Frizzell presided over the district court proceedings, nor at the Tenth Circuit level.

So with respect to the privilege issue and whether Mr. Lunn should disclose my communications with Ms. Mwangi, there was no claim. There was no effective assistance of counsel claim brought. And I have other emails that say that with Mr. Lunn as well

I don't see any other way to interpret my communications with Mr. Lunn other than a hard instruction, request, instruction, I don't know another way to deem it, not to disclose my communications with my client.

In re Lunn, Dkt. No. 23 at 111:12-19; 114:5-19; 115:9-12. Simply put, Rule 1.6(b)(5) did not allow Lunn to disclose his client's privileged communications with a former attorney to defend that former attorney. This is especially true where the former attorney forbade disclosure because he did not think his client asserted a claim against him.

Finally, Lunn admitted that he never obtained, or even sought, Mwangi's informed consent before disclosing the communications. *Id.* at 127:12-25. Accordingly, no exception to Rule 1.6's confidentiality requirement applied. Lunn had a duty to protect her communications, and Lunn

chose the opposite. The Court thus finds by clear and convincing evidence that Lunn violated Oklahoma Rule of Professional Conduct 1.6(a).

Fourth, Lunn’s use of these communications improperly sought to override his client’s appellate objective. Indeed, the decision to plead guilty, waive the right to a jury trial, and appeal or forgo an appeal “are not strategic choices about how best to *achieve* a client’s objectives; they are choices about what the client’s objectives in fact *are*.” *McCoy v. Louisiana*, 584 U.S. 414, 422 (2018) (emphasis in original). Consequently, counsel “may not override” his client’s decision regarding those objectives. *Id.* at 423 (citing U.S. Const. amend. VI; ABA Model Rule of Professional Conduct 1.2(a)). Of course, “the lawyer may not ignore his or her professional obligations” if he believes an appeal is frivolous. *McCoy v. Ct. of Appeals of Wisconsin, Dist. 1*, 486 U.S. 429, 436 (1988). If that situation occurs, counsel should explain why there are no nonfrivolous arguments based on the record and move to withdraw under *Anders*. *Id.* at 437-38.

Here, it was Mwangi’s prerogative—not Lunn’s—to appeal to vacate her plea and/or sentence. Instead of advocating a position that was not grounded in fact or law, Lunn could have—and should have—notified the Tenth Circuit there were no nonfrivolous arguments to oppose the Government’s motion and move to withdraw under *Anders*. Indeed, this was precisely one of the options the Tenth Circuit explained to him. *Mwangi Appeal*, Dkt. No. 25. But Lunn overstepped his *Anders* obligation by disclosing Mwangi’s extrinsic, privileged communications *to prevent* the Tenth Circuit from vacating her plea. *In re Lunn*, Dkt. No. 18 at 9-10 (“The failure to present this information might cause her plea to be thrown out and increase the likelihood of a trial, with far harsher consequences for Mwangi.”); *id.* at 15 (“My interest in both briefs was to keep my client from ‘denying’ herself in the penitentiary. The official record was substantial that she had entered a knowing and voluntary plea agreement, supported by a thorough plea colloquy.”); *Id.*, Dkt. No.

19 at 7 (“The transcripts from the plea colloquy showed that Ms. Mwangi’s claims could not withstand scrutiny. If her claim were allowed to stand, she faced a real possibility of having her plea agreement thrown out by the Court of Appeals”).

Thus, Lunn’s inclusion of those communications violated Oklahoma Rules of Professional Conduct 1.2(a) and 1.8(b). *See* Okla. R. Prof. Cond. 1.2(a) (requiring “a lawyer to abide by his client’s decisions concerning the objectives of representation”); Okla. R. Prof. Cond. 1.8(b) (prohibiting a lawyer from “us[ing] information relating to representation of a client to the disadvantage of the client unless the client gives informed consent”).

* * *

For these reasons, the Court finds by clear and convincing evidence that Lunn violated Oklahoma Rules of Professional Conduct 1.2(a), 1.6(a), and 1.8(b) when he disclosed and referenced privileged, attorney-client communications between Mwangi and DeMuro in his supplemental *Anders* brief.

III. APPROPRIATE DISCIPLINARY ACTION

After finding that Mr. Lunn violated the Oklahoma Rules of Professional Conduct during his representation of Mwangi, the Court determines that he shall be **PUBLICLY REPRIMANDED**.

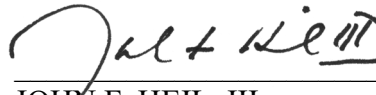
CONCLUSION

IT IS THEREFORE ORDERED that Mr. Lunn is hereby REPRIMANDED.

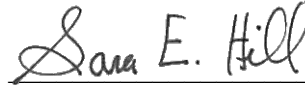
IT IS FURTHER ORDERED that the Clerk of Court shall publish this Opinion and Order on the Court’s Website.

IT IS FURTHER ORDERED that the Clerk of Court shall forthwith deliver a copy of this Opinion and Order to the Office of the General Counsel of the Oklahoma Bar Association.

Dated this 4th day of September, 2026.



JOHN F. HEIL, III
CHIEF UNITED STATES DISTRICT JUDGE



SARA E. HILL
UNITED STATES DISTRICT JUDGE



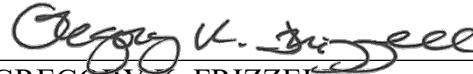
JOHN D. RUSSELL
UNITED STATES DISTRICT JUDGE



TERENCE C. KERN
UNITED STATES DISTRICT JUDGE



CLAIRE V. EAGAN
UNITED STATES DISTRICT JUDGE



GREGORY K. FRIZZELL
UNITED STATES DISTRICT JUDGE