I (Can't) Challenge You to a Duel: Kentucky Attorneys and the Ethical Implications of Dueling

Lawyers Mutual of Kentucky

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I (CAN'T) CHALLENGE YOU TO A DUEL:
KENTUCKY ATTORNEYS AND THE ETHICAL IMPLICATIONS OF DUELING

Anna Girard Fletcher[1]

I. INTRODUCTION

A. Dueling in Pop Culture – *It's Always Sunny in Philadelphia*

B. Kentucky Oath

> **Section 228 Oath of officers and attorneys.**
>
> Members of the General Assembly and all officers, before they enter upon the execution of the duties of their respective offices, and all members of the bar, before they enter upon the practice of their profession, shall take the following oath or affirmation: I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of this Commonwealth, and be faithful and true to the Commonwealth of Kentucky so long as I continue a citizen thereof, and that I will faithfully execute, to the best of my ability, the office of . . . according to law; and I do further solemnly swear (or affirm) that since the adoption of the present Constitution, I, being a citizen of this State, have not fought a duel with deadly weapons within this State nor out of it, nor have I sent or accepted a challenge to fight a duel with deadly weapons, nor have I acted as second in carrying a challenge, nor aided or assisted any person thus offending, so help me God.

1. Text is from the fourth Kentucky Constitution, the one currently in effect, ratified in 1891.

2. In 2010, a legislator introduced a bill to remove that language from the oath of office, but it did not pass.[2]

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[2] Stu Johnson, "Kentucky Duels over Oath of Office," *All Things Considered*, NPR (March 12, 2010), *available at* https://www.npr.org/2010/03/12/124616129/kentucky-duels-over-oath-of-office.

II. A BRIEF HISTORY OF DUELING

A. Origins and the Code Duello

1. What is a duel?

a. From *Black's Law Dictionary*: "[A] prearranged combat with deadly weapons fought between two or more persons under prescribed rules, usually in the presence of at least two witnesses, to resolve a previous quarrel or avenge a deed."[3]

b. *State v. Romero*.[4]

i. New Mexico, 1990.

ii. Probably the last dueling conviction in the U.S.

iii. Conviction was overturned on appeal because there was no direct evidence of a formal oral or written agreement to fight.

a) Cites *25 Am.Jur.2d. Dueling §1* (1966) "[A] combat with deadly weapons between two persons, fought according to the terms of a precedent agreement and under certain agreed and prescribed rules."

b) Language from the opinion.

i) "[A] duel has none of the elements of sudden heat and passion."

ii) "[D]uels are also generally fought under rules of considerable formality."

2. Historical background.

a. Imported to America by the English.[5]

i. Even though dueling was already illegal under the common law by the time the American colonies were settled.

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[3] *Black's Law Dictionary* (12th ed. 2024).

[4] *State v. Romero*, 801 P.2d 681 (N.M. App. 1990).

[5] C.A. Harwell Wells, "The End of the Affair? Anti-Dueling Laws and Social Norms in Antebellum America," 54 *Vanderbilt Law Review* 1805 (May 2001), *available at* https://scholarship.law.vanderbilt.edu/cgi/viewcontent.cgi?article=1884&context=vlr.

a) Dueling was a means to settle disputes espoused by the English aristocracy.

b) Many colonial politicians were educated in England.

ii. Scotch-Irish immigrants brought a cultural belief that disputes could be settled with "private violence" outside of the court system.[6]

iii. Dueling was also prevalent throughout Europe and lightly criminalized (penalties less severe than murder).

b. Impact of the American Revolution.[7]

i. French and British officers steeped in the tradition of "the affair of honor."

ii. Created opportunities for American men to rise in social ranks, and accordingly duels were one way to prove gentlemanly honor.

iii. Continental army officers frequently fought duels.[8]

c. North versus South.

i. The North.

a) Dueling in the U.S. North was largely based around personal politics (no political parties/party loyalty so supporters coalesced around a particular person).

> By participating in a duel, specifically a duel with a political opponent, a politician displayed to his followers that he valued his principles more than his life. The duel thus served to cement the personal ties that were so

[6] Wells, *supra* note 5.

[7] *Id*.

[8] Alexander Hamilton, "Account of a Duel between Major General Charles Lee and Lieutenant Colonel John Laurens, [24 December 1778]," *Founders Online*, National Archives, *available at* https://founders.archives.gov/documents/Hamilton/01-01-02-0687. [Original source: *The Papers of Alexander Hamilton*, vol. 1, 1768-1778, ed. Harold C. Syrett. New York: Columbia University Press, 1961, pp. 602-604.]. *See also* Wells, *supra* note 5.

important to politics in the early Republic."

Refusing to participate in a duel sent the opposite message: that the politician valued his own skin more than the principles he professed and was not worthy of political or personal loyalty.[9]

b) *E.g.* Burr/Hamilton.

ii. Downfall of dueling.[10]

a) Outrage over Burr/Hamilton duel.

b) Growth of political parties.

c) Industrial Revolution created societal changes that disfavored aristocratic traditions.

iii. The South.

a) A different story.

b) Southern society was largely honor-based, and thus dueling was frequently required to communicate that a person was an honorable gentleman.[11] "The duel, then was the product of a culture where a gentleman's worth needed constantly to be communicated to others."[12]

3. Who dueled?[13]

a. Mostly upper-class gentlemen, often nobility/aristocrats.

b. Men who were in the public eye.

c. Professions that were based on honor and truthfulness: journalists, lawyers.

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[9] Wells, *supra* note 5.

[10] *Id*.

[11] *Id*.

[12] *Id*.

[13] *Id*.

4. Code duello.[14]

   a. Generally.[15]

      i. A formalized set of rules that covers duels.

      ii. Idea behind it was to prevent feuds between families/groups.

      iii. Requires that all non-violent options are exhausted.

      iv. Minimization of harm (onsite medical care).

      v. Requires witnesses.

   b. Irish code duello has 25 rules.

      i. Rule 10: Any insult to a lady under a gentleman's care or protection, to be considered as, by one degree, a greater offence than if given to the gentleman personally, and to be regulated accordingly.

      ii. Rule 15: Challenges are never to be delivered at night, unless the party to be challenged intends leaving the place of offence before morning; for it is desirable to avoid all hot-headed proceedings.

   c. The Southern Code of Honor has approximately 55.

      i. "To a written communication you are entitled to a written reply."

      ii. "Intoxication is not a full excuse for insult, but it will greatly palliate. If it was a full excuse, it might be well counterfeited to wound feelings, or destroy character."

      iii. Also includes a random rant about the "uncouth civility of the people of Massachusetts." "The idea of New England becoming a school for manners, is about as fanciful as Bolinbroke's 'idea of a patriot king.'"

[14] John Lyde Wilson, *The Code of Honor; or Rules for the Government of Principals and Seconds in Duelling*, (1838) available as a Project Gutenberg Ebook at https://www.gutenberg.org/files/6085/6085-h/6085-h.htm.

[15] Code duello, https://en.wikipedia.org/w/index.php?title=Code_duello&oldid=1344875442 (last visited Apr. 14, 2026).

B. Notable Duels

1. Dueling grounds.

a. An unknown number of duels were fought in Kentucky because they were not always reported or recorded (for obvious reasons).

b. Duels were often fought along borders so jurisdiction would be unclear. Andrew Jackson fought at least one duel over the border in Kentucky.

c. Popular dueling grounds along the Fayette/Scott County line existed where the Kentucky Horse Park is now located.[16]

2. Lesser known duelists.

a. William Goebel and John L. Sanford.[17]

i. The parties.

a) William Goebel.

i) Major player in post-Civil War politics in Kentucky.

ii) Attorney who represented workers and took on the railroads.

iii) Kenton County politician and state legislator.

iv) Remains the only U.S. governor to be assassinated.

b) John Sanford: Another Kenton County political bigwig who opposed Goebel.

ii. The "duel."

a) 1895.

[16] Stuart W. Sanders, "NKY History Hour: Anatomy of a Duel: Secession, Civil War, and the Evolution of Kentucky Violence," Behringer-Crawford Museum (Jan. 9, 2024), https://www.youtube.com/watch?v=nIhCCFPZDz0.

[17] Marianne C. Walker, "The Late Governor Goebel," 34 *Humanities* 4, (July/August 2013), *available at* https://www.neh.gov/humanities/2013/julyaugust/feature/the-late-governor-goebel.

b) Posting: A practice of posting slanderous and largely anonymous statements about another person in the newspaper.

c) Sanford had been posting about Goebel over a period of time.

i) They were printed anonymously but Goebel was told and shown original copies that were in Sanford's handwriting.

ii) Goebel retaliated by posting calling him "Col. John Gonorrhea Sanford."

c) He would argue that this was not technically a duel since they just met each other on the street seemingly at random and shot each other.

iii. Goebel of course was later shot while contesting the gubernatorial election. A secret cabal of legislators met and determined he had won after all and swore him in as governor on his death bed. Previous governor refused to go quietly.

b. John Rowan and James Chambers.[18]

i. The parties.

a) John Rowan lived in Bardstown at Federal Hill, which is My Old Kentucky Home. He was later a U.S. Senator, member of the state and U.S. House, and the Secretary of State of Kentucky. Rowan County is named after him.

b) Dr. James Chambers was his good friend.

ii. The duel.

a) "Each accused the other of being vastly inferior to himself in matters of classical scholarship."[19]

b) Argument ensued while playing cards.

c) Chambers died (second shot).

[18] J. Winston Coleman, Jr., "The Code Duello in Ante-Bellum Kentucky" (April 1956), *A Kentucky Sampler: Essays from The Filson Club History Quarterly 1926–1976*, eds. Harrison, Lowell H. and Dawson, Nelson L. (1977).

[19] Coleman, *supra* note 18.

c. William T. Casto/Col. Leonidas Metcalfe.[20]

i. The parties.

a) William T. Casto was the mayor of Maysville.

b) Col. Leonidas Metcalfe was a Union Colonel and son of former Kentucky governor "Stonehammer."

ii. The duel.

a) Metcalfe had previously arrested Casto and sent him to a Union fort for being a Confederate sympathizer, acting on orders from his superiors.

b) Casto was killed.

c) One of the very last duels in Kentucky – 1862.

d. Dr. Benjamin W. Dudley/Dr. William H. Richardson.[21]

i. The parties: Both were doctors and professors at Transylvania University Medical School.

ii. The duel.

a) 1818.

b) Dudley was asked to perform an autopsy on a victim.

c) A third doctor, Dr. Drake, insinuated that the findings were not sustained by facts.

d) Dudley challenged Drake to a duel. He declined because of moral opposition, but Richardson accepted in his stead

e) Dudley shot Richardson, but then seeing that his wound was too challenging for the surgeon he brought with him, attended to his wound himself, and saved his life.

[20] *Id*.

[21] *Id*.

e. Henry C. Pope/John T. Gray – 1849.

i. The parties.

a) Lawyers, and good friends.

b) Popular Louisvillians of their day.

ii. The duel.

a) Card game at the Galt House.

b) Pope drew a knife on another person in the game. Gray grabbed the knife and threw it out the window, saying he wasn't going to let him murder anyone.

c) Pope got angrier (and drunker or "deeper in his cups") and insulted Gray and accused him of mistreating his wife.

d) Gray broke his cane over Pope's head.

e) Pope challenged Gray to a duel the next day.

f) Gray shot Pope in the leg, and he died in the boat back to Louisville from Indiana.

g) Gray was forced to flee to Maryland because society had a negative view of the duel due to how prominent and beloved Pope had been (not to escape prosecution).

f. Jonathan Cilley/William Graves[22]

i. The parties.

a) Both United States congressmen.

b) Graves was from Kentucky, but not the namesake for Graves County.

ii. The duel.

a) 1838.

[22] Wells, *supra* note 5.

b) The seconds and many of the witnesses were also congressmen.

c) Cilley tried to end it after two shots, but Graves insisted on a third and shot Cilley dead.

d) Caused quite a bit of unpleasantness in Congress.

g. Francis Waring/Jacob Holeman.[23]

i. The parties.

a) Francis Waring.

i) Member of the county militia in Frankfort.

ii) "[A] pompous Virginian."[24]

b) Jacob Holeman.

i) Newspaperman.

ii) Dog owner.

ii. The duel.

a) July 4, 1819 (the offense).

i) The militia was engaging in a display of military discipline to celebrate the Fourth of July.

ii) Holeman's dog was following Holeman around the field.

iii) Waring "became so highly incensed at this breach of parade-ground etiquette" that he killed the dog with his sword.

iv) A fist fight ensued immediately with Holeman the victor.

b). July 16, 1819 (the duel).

[23] J. Winston Coleman, Jr., *Famous Kentucky Duels* (Henry Clay Press, 1969).

[24] *Id*.

i) Waring, offended by the outcome of the fight and the (understandable) language he received in response to his killing of another person's dog, challenged Holeman to a duel. Holeman accepted.

ii) Holeman's second was Wilson Greenup, the son of former Kentucky Governor Christopher Greenup (Greenup County namesake; interestingly, it was named for him before he was governor).

iii) Both men were shot on the first fire. Waring died instantly; Holeman was injured but survived.

c) The aftermath.

i) Holeman and Greenup were charged with murder, and Waring's second was charged with aiding and abetting.

ii) First case in Kentucky where a duel victor and second were charged with murder.[25]

iii) Indictment says "not having the fear of God before their eyes, but being moved & seduced by the instigation of the Devil…"[26]

iv) Both men were acquitted of murder, and the charge against Waring's second was then dismissed.

h. Robert Triplett/Philip Thompson.[27]

i. The parties.

a) Philip Thompson: Prominent Kentucky attorney, legislator, army lieutenant, U.S. Senator who moved to Owensboro. He walked with a limp.

[25] *Id*.

[26] *Id*.

[27] *Id*.

b) Robert Triplett: Virginia transplant, attorney in Frankfort who moved to Owensboro. He is said to have opened the first coal mines in Kentucky.

ii. The duel.

a) 1829.

b) Philip Thompson represented an employee in a dispute with his employer, Robert Triplett.

c) The two had a strained relationship from previous litigation unpleasantness.

d) Triplett said he would not challenge Thompson to a duel because he hated dueling, but he would definitely accept a challenge if he happened to receive one.

e) Naturally Thompson challenged Triplett to a duel using Aaron Burr's dueling pistols.

f) Triplett was not harmed, but Thompson was shot. The wound was pronounced fatal but he made a miraculous recovery and claimed his lameness had been cured. He is supposed to have said "Triplett was a good surgeon but severe in remedy."

3. Better known duelists.

a. Abraham Lincoln/James Shields.

i. The parties.

a) Future president, Kentucky's own Abraham Lincoln.

b) James Shields, the State Auditor in Illinois.

ii. The duel.

a) 1826.

b) Someone had been writing negative op eds about Shields, and the rumor was it was Lincoln.[28] Not fully

[28] Sanders, *supra* note 16.

understood if it was actually Lincoln who wrote the op eds but it does appear he accepted the duel.

c) Three different stories exist explaining how it ended.

i) Seconds convinced the auditor that it was not in fact Lincoln criticizing him in the press.[29]

ii) Lincoln picked broadswords, and the auditor was very small and felt at a disadvantage.[30] Lincoln is reported to have said, "I would have cut the man in two."

iii) The travel time to Missouri to an out of state dueling ground proved to be enough time to work out the issue, and the duel was called off.[31]

> "This was the case when, in 1842, Abraham Lincoln became embroiled in a quarrel with a political rival, James Shields. Lincoln and Shields were both from Springfield, Illinois, but following tradition they resolved to duel out of state, settling on an island in the Mississippi River that belonged to Missouri. The long travel time to this island, however, allowed both men's seconds to arrange a peaceful solution to the affair – a solution that might never have been reached had the two dueled in their hometown."

b. Henry Clay.

i. "The Great Compromiser."

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[29] NCC Staff, "12 famous Americans killed, involved in duels," National Constitution Center (July 11, 2017), *available at* https://constitutioncenter.org/blog/famous-americans-killed-involved-in-duels.

[30] Sanders, *supra* note 16.

[31] Wells, *supra* note 5.

ii. Humphrey Marshall (1807).[32]

a) Both were state legislators.

b) Clay introduced legislation to require Kentuckians to buy domestically made clothes (to stick it to the British on the eve of the war of 1812).

c) Marshall called that idea "the claptrap of a demagogue."

d) It took three shots until Clay was shot in the leg and the matter was considered settled.

iii. John Randolph (1826).[33]

a) Clay was Secretary of State; Randolph was a U.S. Senator.

b) Their relationship was always tense and spilled over when Randolph called Clay a "blackleg," effectively alleging that he cheated at cards.

c) Allegedly John Randolph fought a previous duel over the correct pronunciation of "omnipotent."[34]

iv. As a lawyer (1829).[35]

a) Defended a duelist accused of murder, and the jury acquitted in about five minutes. Co-counsel with future governor and U.S. Senator John J. Crittenden (Crittenden County).

b) Defendant later died in a follow-up duel with the new newspaper editor who claimed he had actually murdered the previous newspaper editor in the first duel (George Trotter/Charles Wickliffe).[36]

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[32] Sanders, *supra* note 16.

[33] *Id*.

[34] Andrew Madigan, "The Pair of American Politicians Who Fought the 19th Century's Silliest Duel," Atlas Obscura (January 8, 2016), *available at* https://www.atlasobscura.com/articles/the-pair-of-american-politicians-who-fought-the-19th-centurys-silliest-duel.

[35] Coleman, *supra* note 18.

[36] Coleman, *supra* note 23.

i) Trotter and Wickliffe grew up together and were great friends.

ii) Wickliffe did not care for editorials written in the paper and attacked the editor, Thomas Benning. Benning was shot in the back as he was trying to escape his office.

iii) Trotter, taking over the paper, wrote another editorial insinuating that Wickliffe had actually murdered Benning, not in a duel, despite being acquitted at trial.

iv) Naturally, Wickliffe did not like this and challenged Trotter to a duel.

v) Trotter tried to get Jacob Holeman to act as second, but Wickliffe said no (celebrity duelist second).

vi) Same dueling grounds as Dudley/Richardson.

vii) Wickliffe was killed on the second fire (which he had demanded).

v. Desha/Kimbrough (1866).[37]

a) Clay's dueling pistols were used in the Desha/ Kimbrough affair in 1866, the last duel in Kentucky under the code duello.

b) Clay not technically responsible for this duel I guess.

c. Andrew Jackson.[38]

i. The parties.

a) Future President, Tennessee's own Andrew Jackson.

b) Received advice from his mother: "[N]ever tell a lie, nor take what is not your own, nor sue anybody for

[37] *Id*.

[38] Bertram Wyatt-Brown, "Andrew Jackson's Honor," 17 *Journal of the Early Republic* 1 (Spring 1997), *available at* https://doi.org/10.2307/3124641.

slander, assault and battery. Always settle them cases yourself."[39]

c) Dueled perhaps over 100 people.

i) Thomas Hart Benton: Fought a duel in 1813; 10 years later they were both elected to the U.S. Senate from different states and became allies and close friends.[40] Thomas Hart Benton later became an important Andrew Jackson historian.

ii) The most famous duel was against Charles Dickinson, a local planter.

ii. The duel.[41]

a) Charles Dickinson had supposedly insulted Jackson's wife and accused him of cheating in a horse bet.

b) They called each other cowards and poltroons (means coward) both in person and the newspaper ("posting").

c) Retreated to Kentucky to have a duel.

d) Dickinson shot first (Jackson held his shot) and hit Jackson just near his heart. Jackson then shot and his pistol jammed.

e) What happened next?

i) Sources disagree over whether he had the right to shoot again under the code duello (murder vs. conferred agreement).

ii) Some sources report that the seconds conferred and determined that he could. Some do not mention meeting.

[39] Wells, *supra* note 5.

[40] Elbert B. Smith, "Now Defend Yourself, You Damned Rascal," *American Heritage*, Vol. 9, Issue 2 (1958).

[41] Bertram Wyatt-Brown, *supra* note 38.

iii) Dickinson's father-in-law questioned whether it was appropriate for him to shoot, but admitted that he saw the seconds had conferred though "a snap not to be considered as a fire was never committed to writing."

f) Also, Dickinson's friends said that Jackson wore an ill-fitting jacket so it would be unclear where his heart was but also admitted that Dickinson should not have been aiming at Jackson's heart.

d. Alexander Hamilton/Aaron Burr.

i. The parties.

a) Alexander Hamilton.

i) "A bastard, orphan, son of a whore and a Scotsman, dropped in the middle of a forgotten spot in the Caribbean by Providence, impoverished, in squalor, who later grew up to be a hero and a scholar."[42]

ii) "The 10-dollar founding father who got a lot farther by working a lot harder, by being a lot smarter, and by being a self-starter."[43]

b) Aaron Burr.

i) Peanut butter commercial.

ii) Vice President of the United States.

ii. The duel.

a) 1804.

b) Based on personal (not party) politics.

i) Pre-firmly established political parties; people followed specific politicians instead.

[42] Lin-Manuel Miranda, "Alexander Hamilton," *Hamilton: An American Musical* (2015).

[43] *Id*.

ii) "To refuse the challenge would have cost Hamilton the political support on which his ambitions depended."[44]

iii) "To those, who with me abhorring the practice of Duelling may think that I ought on no account to have added to the number of bad examples – I answer that my *relative* situation, as well in public as private aspects, enforcing all the considerations which constitute what men of the world denominate honor, impressed on me (as I thought) a peculiar necessity not to decline the call. The ability to be in future useful, whether in resisting mischief or effecting good, in those crises of our public affairs, which seem likely to happen, would probably be inseparable from a conformity with public prejudice in this particular."[45] –Alexander Hamilton.

c) Issues between the two men went back years and years, finally boiling over as their personal political ambitions clashed for the final time.

d) I assume many of the details are known to you. Hamilton was allegedly throwing away his shot.

e) The aftermath.

i) "Hamilton's death, however, sparked a backlash against the practice, perhaps because of his relative youth, the widow and small children he left behind, or his public image as Washington's gallant aide-de-camp."[46]

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[44] Wells, *supra* note 5.

[45] Alexander Hamilton, "Statement on Impending Duel with Aaron Burr, [28 June–10 July 1804]," *Founders Online*, National Archives, https://founders.archives.gov/documents/Hamilton/01-26-02-0001-0241. [Original source: *The Papers of Alexander Hamilton*, vol. 26, *1 May 1802–23 October 1804*, *Additional Documents 1774-1799*, Addenda and Errata, ed. Harold C. Syrett. New York: Columbia University Press, 1979, pp. 278–281.]

[46] Wells, *supra* note 5.

ii) Burr fled and never really recovered in public opinion (his allegedly later light treason did not help).

III. LAWS INTENDED TO END DUELING

A. Criminalization

1. Laws criminalizing dueling date back to the Holy Roman Empire.

2. People actually following laws criminalizing dueling probably dates back to… maybe never?

a. Abroad.

b. England – illegal under common law (no distinction between assault/murder/incitement).

c. Europe – illegal but not heavily punished.

3. In the United States.

a. Illegal under common law at the country's founding.

b. Straight illegality not especially effective.

c. Continental Congress had to specifically outlaw dueling in the army and then pass an additional amendment to strengthen the rule.[47]

B. Laws intended to interrupt the bond between honor and dueling.

1. Aimed at root causes/practice of dueling.

a. Starting around 1800, legislators focused on laws that targeted causes of dueling, including social approval.[48]

b. Laws against insults likely to incite violence.[49]

c. Laws against issuing challenges, carrying challenges, and arranging duels.[50]

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[47] *Id*.

[48] *Id*.

[49] *Id*.

[50] *Id*.

2. Aimed at extreme punishment/ridicule.

    a. Thomas Jefferson proposed a law that a duelist that killed another would be charged with murder, and if they were the instigator of the duel, their body would be left on the gallows after death; also considered the duelists' estates should be seized by the government.[51]

    b. Massachusetts (1728) – pretty severe.[52]

        i. Those making a challenge or accepting a challenge were to be carried in a cart to the gallows and made to sit there with a rope around their neck for an hour, then imprisoned for one year.

        ii. Fatal duel – surviving duelist executed for willful murder.

        iii. Body treated as a suicide – buried without a coffin with a stake through his heart.

3. Barring public office.

    a. "Official ostracism" – not being able to hold public office meant one was not a gentleman.[53]

    b. The idea behind these laws was two-fold:[54]

        i. Men who did not want to duel could deflect on these grounds.

        ii. Being barred from public office would be shameful/ dishonorable.

    c. Ban from holding public office.

        i. Kentucky – 1799.

        ii. North Carolina – 1802.

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[51] *Id*.

[52] *Id*.

[53] *Id*.

[54] *Id*.

iii. Tennessee – 1809.

iv. Virginia – 1810.

4. Barred from public office and practicing law, medicine, trades.

i. South Carolina – 1812.

ii. Illinois – 1815.

iii. Georgia – 1816.

iv. Alabama –1819.

v. Mississippi and DC – 1822.

5. Tennessee: State Supreme Court disbarred an attorney who participated in a duel and warned it would be doing the same to any others.[55]

6. Mississippi and Kentucky also added provisions to their state constitutions.[56]

C. Enforcement/Public Opinion

1. Burr/Hamilton:[57] Seconds were charged and lost their voting right as punishment.

2. Post-congressional duel (Cilley/Graves).[58]

a. Senate introduced a bill to make dueling illegal in D.C. Sending a challenge was a felony punishable by five years in prison.

b. Hotly contested.

i. Arkansas Senator Ambrose Sevier said that dueling was often necessary because "nine out of ten [duels] were fought for causes that could not be got over any other way."

[55] *Id*.

[56] *Id*.

[57] *Id*.

[58] *Id*.

ii. Henry Clay said the law would not likely have much effect because dueling was already illegal everywhere but people still dueled but supported it because he hoped it might change public opinion on dueling (only when "public opinion was renovated, and chastened by reason, religion, and humanity [would] the practice of dueling be... discountenanced").

3. Mostly there was not much of an appetite for actually enforcing the laws being written on dueling.

a. In South Carolina, the legislature was lobbied by a pastor to create the law, which it did but never really intended to enforce.[59]

i. Governor who signed it was himself a duelist.

ii. Later South Carolina elected the guy who wrote the code of honor.

b. "The most direct cause of the laws' failure was the refusal of state legal actors to enforce them."[60]

c. Judges and jurors who themselves were duelists or sympathizers were unwilling to enforce the laws as written.[61]

d. Laws targeted a social norm that was shared by the people who were in charge of enforcing the laws.[62]

f. Legislatures frequently issued exemptions from the anti-dueling oath.[63]

i. Mississippi – one in 1838 and 15 in 1858.

ii. Alabama – 1841, 1846, and 1848.

iii. Kentucky changed the effective date of the oath 15 times between 1821 and 1848.

[59] *Id*.

[60] *Id*.

[61] *Id*.

[62] *Id*.

[63] *Id*.

4. So, what finally changed?

Public opinion turned against dueling in the post-Civil War era, and this shift in society's viewpoint of dueling made more of a difference than any laws aimed at ending the practice.[64]

IV. DUELING: DON'T CALL IT A COMEBACK

A. Could breakdown in civility cause change in public opinion?

B. Could there be a change in laws surrounding dueling?

V. DUELING AND THE MODEL RULES

A. Do the Model Rules prevent dueling?

B. Model Rule 8.4(d) – "It is professional misconduct for a lawyer to:. . . . (d) engage in conduct that is prejudicial to the administration of justice..." We don't have this clause in Kentucky.

C. Model Rule 8.4(b), SCR 3.130(8.4)(b) – "It is professional misconduct for a lawyer to: . . . . (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;. . . ."

1. Dueling is certainly a crime in Kentucky – KRS 437.030.

> **437.030 Challenge to duel – Accepting and delivering challenge.**
>
> Any person who, in this state, challenges another to fight with any deadly weapon, in or out of this state, and any person who accepts the challenge, shall be fined five hundred dollars ($500) and imprisoned for not less than six (6) nor more than twelve (12) months. Any person who knowingly carries or delivers such a challenge in this state, or consents in this state to be a second to either party shall be fined one hundred dollars ($100) and imprisoned for thirty (30) days.
>
> **Effective:** October 1, 1942
>
> **History:** Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1269.

[64] *Id.*

2. Does it reflect on honesty, trustworthiness, or fitness as a lawyer? Possibly the latter.

> **Preamble: A Lawyer's Responsibilities**
>
> . . . .
>
> II. A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice.
>
> . . . .
>
> VI. A lawyer's conduct shall conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer shall use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer shall demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.
>
> VII. . . . [A] lawyer should further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority.
>
> . . . .
>
> XIV. Lawyers play a vital role in the preservation of society. . . .

D. Further Thoughts

1. You may need to reveal that your client is about to engage in a duel.

> SCR 3.130(1.6) Confidentiality of information.
>
> . . . .
>
> (b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

(1) to prevent reasonably certain death or substantial bodily harm; . . . .

2. You may need to reveal that a colleague or judge is about to engage or has engaged in a duel.

SCR 3.130(8.3) Reporting professional misconduct

(a) A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the Association's Bar Counsel.

(b) A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall report such violation to the Judicial Conduct Commission.

3. Duelists can't just cross state lines like in the olden days.

SCR 3.130(8.5) Disciplinary authority; choice of law.

(a) Disciplinary Authority. A lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction, regardless of where the lawyer's conduct occurs....

4. Comment to Rule 8.4.

[2] Many kinds of illegal conduct reflect adversely on fitness to practice law, such as offenses involving fraud and the offense of willful failure to file an income tax return. However, some kinds of offenses carry no such implication. Traditionally, the distinction was drawn in terms of offenses involving "moral turpitude." That concept can be construed to include offenses concerning some matters of personal morality, such as adultery and comparable offenses, that have no specific connection to fitness for the practice of law. Although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, breach of trust, or serious interference with the administration of justice are in that category. A pattern of repeated offenses, even ones of minor significance when considered separately, can indicate indifference to legal obligation.

VI. LACK OF CIVILITY: THE MODERN DUEL

A. Lawyers Behaving Badly

1. "[P]romulgating outrageous and overwhelming discovery demands; delaying production of discovery responses via ongoing frivolous objections; engaging in repeated allegations of unethical behavior; early morning and late-night service of documents due on earlier dates; repeated emails on Sundays and holidays; an overwhelming number of phone calls; serial lawsuit and motion filings; and other tactics to burden and pressure opposing counsel."[65]

2. Also just being rude, name-calling.

3. *Ohio-Disciplinary Counsel v. Blakeslee*: Pringles can poop lawyer (conduct that reflected on fitness to practice law; Prof.Cond.R. 8.4(h) – no other rules were implicated).

B. Call to Make This a Violation of the Ethics Rules

1. Comment to Rule 1.3 (emphasis added).

> [1] A lawyer should pursue a matter on behalf of a client despite opposition, obstruction or personal inconvenience to the lawyer, and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer must also act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf. *A lawyer is not bound, however, to press for every advantage that might be realized for a client. For example, a lawyer may have authority to exercise professional discretion in determining the means by which a matter should be pursued. See Rule 1.2. The lawyer's duty to act with reasonable diligence does not require the use of offensive tactics or preclude the treating of all persons involved in the legal process with courtesy and respect.*

2. Some state bars are beginning to issue general guidelines calling for civility.

[65] Sarah Sloan Batson and Keely G. Fresh, "Countering Unprofessional Behavior: Civility in Litigation and Navigating Difficult Opposing Counsel," Maynard Nexsen (May 5, 2023) *available at* https://www.maynardnexsen.com/publication-countering-unprofessional-behavior-civility-in-litigation-and-navigating-difficult-opposing-counsel.

C. Call to Make This Dishonorable

1. Chief Justice VanMeter's admonition when about to give the oath: "Oath reminds us of our respect for the rule of law, and that we submit our differences to the courtroom and not the field of honor."

2. Lesson from dueling laws: "Laws aimed at changing a social norm will likely succeed only if a significant percentage of the population has already rejected the disfavored norm."[66]

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(No. 2023-0741 – Submitted July 18, 2023 – Decided November 29, 2023.)
ON CERTIFIED REPORT by the Board of Professional Conduct of the Supreme Court, No. 2022-046.

Per Curiam.

Respondent, Jack Allen Blakeslee, of Caldwell, Ohio, Attorney Registration No. 0001005, was admitted to the practice of law in Ohio in 1976.[1] In a November 2022 complaint, relator, disciplinary counsel, charged Blakeslee with professional misconduct for throwing a feces-filled Pringles can into the parking lot of a victim-advocacy center involved in a capital-murder case in which Blakeslee was representing the defendant. Blakeslee waived a probable-cause determination and, in his answer, admitted many of relator's factual allegations and the single alleged rule violation. The parties also submitted joint stipulations of fact, misconduct, and aggravating and mitigating factors.

After conducting a hearing, a panel of the Board of Professional Conduct issued a report finding by clear and convincing evidence that Blakeslee had committed the charged misconduct and recommending that we publicly reprimand him for that misconduct. The board adopted the panel's findings and recommendation. For the reasons that follow, we adopt the board's finding of misconduct but suspend Blakeslee from the practice of law for one year with six months stayed on the condition that he engage in no further misconduct.

MISCONDUCT

On June 1, 2021, Alexander Wells was indicted in the Guernsey County Court of Common Pleas for various offenses, including aggravated murder. *See State v. Wells,* Guernsey C.P. No. 21CR000088. The aggravated-murder offense included a specification that the victim was under the age of 13, making it a capital offense, *see* R.C. 2929.04(A)(9).

On June 7, 2021, Blakeslee appeared at Wells's arraignment and was formally appointed by the court to represent him. Victim advocate Michelle Carpenter Wilkinson,[2] who had known Blakeslee professionally for many years, also attended Wells's arraignment. Blakeslee and Carpenter Wilkinson, who serves as chief executive officer of Haven of Hope, a victim-advocacy center in Cambridge, attended several additional court proceedings in the *Wells* case between June 11 and September 30, 2021.

[1] During his disciplinary hearing, Blakeslee testified that he is also admitted to practice in the United States Court of Appeals for the Sixth Circuit, the United States District Court for the Northern District of Ohio, and the United States Tax Court.

[2] Throughout these proceedings, the parties and the board have identified the victim's advocate as Michelle Wilkinson or Michelle Wilkinson-Carpenter. We note, however, that in two documents in the record, she has identified herself as Michelle Carpenter Wilkinson, and we therefore refer to her by that name.

The trial court scheduled another pretrial hearing in Wells's case for November 30, 2021, at 8:30 a.m. Before leaving his home on the morning of that hearing, Blakeslee deposited his feces into an empty Pringles can. He then drove approximately 20 minutes from his home in Coal Ridge to Cambridge with the open can of feces. Between 8:10 and 8:15 a.m., Blakeslee turned his vehicle down an alley where the Haven of Hope parking lot is located, approximately two-tenths of a mile from the Guernsey County Common Pleas courthouse. A sign on the building at the entrance to the alley indicated "Haven of Hope Administrative Offices" above a bold arrow pointing down the alley. Surveillance video shows that Blakeslee slowed his vehicle as he initially passed Haven of Hope's parking lot. He continued driving further down the alley, passing several other parking lots, before turning around. He slowed again as he passed Haven of Hope's parking lot a second time, threw the Pringles can containing his feces into the lot, and then drove to the courthouse for the 8:30 a.m. pretrial hearing in Wells's case.

Carpenter Wilkinson saw Blakeslee throw the can out of his vehicle toward the Haven of Hope parking lot. After Blakeslee drove away, Carpenter Wilkson approached the item and discovered that it was a Pringles can containing what appeared to be human feces. She then left for the courthouse to attend Wells's pretrial hearing. Upon arriving at the courthouse, she noticed that Blakeslee was also present for the hearing.[3]

Later that day, after discussing the matter with a prosecutor assigned to the *Wells* case, Carpenter Wilkinson filed a report with the Cambridge Police Department. Thereafter, Blakeslee was charged with and pleaded guilty to minor-misdemeanor charges of disorderly conduct and littering. He ultimately paid $248 in fines and court costs for those offenses.

During his disciplinary hearing, Blakeslee testified that he had engaged in similar misconduct on at least ten other occasions that year and that he randomly chose the locations where he deposited the Pringles cans containing his feces. He also specifically denied having any knowledge that the parking lot in question belonged to Haven of Hope when he threw the can from his vehicle on November 30, 2021.

The parties stipulated and the board found that Blakeslee's conduct violated Prof.Cond.R. 8.4(h) (prohibiting a lawyer from engaging in conduct that adversely reflects on the lawyer's fitness to practice law).

We adopt that finding of misconduct and expressly find that Blakeslee's conduct adversely reflects on his fitness to practice law even though that conduct is not expressly prohibited by another rule. *See Disciplinary Counsel v. Bricker*, 137 Ohio St.3d 35, 2013-Ohio-3998, 997 N.E.2d 500, ¶ 21 (holding that even when a lawyer's conduct is not specifically prohibited by the Rules of Professional Conduct, he may be found to have violated Prof.Cond.R. 8.4(h) if there is clear and convincing evidence that he engaged in misconduct that adversely reflects on his fitness to practice law).

[3] In January 2022, the trial court granted Blakeslee's motion to withdraw from Wells's representation on the ground that he had previously represented three people identified as potential witnesses in the case.

RECOMMENDED SANCTION

When imposing sanctions for attorney misconduct, we consider all relevant factors, including the ethical duties that the lawyer violated, the aggravating and mitigating factors listed in Gov.Bar R. V(13), and the sanctions imposed in similar cases.

As for aggravating factors, the parties stipulated that Blakeslee had engaged in a pattern of misconduct, presumably based on his admission that he threw feces-filled Pringles cans from his vehicle on at least ten other occasions. *See* Gov.Bar R. V(13)(B)(3). The board disagreed, noting that "[a] 'pattern of misconduct,' is typically found where a respondent engages in multiple acts of misconduct, thus forming a pattern." Finding that this case involved just one rule violation arising from a single incident of misconduct – and that there was no evidence to establish the circumstances surrounding the additional instances of misconduct that Blakeslee had admitted in his testimony – the board rejected the parties' stipulated aggravating factor. We, however, accept the parties' stipulation that Blakeslee engaged in a pattern of misconduct. Regardless of whether Blakeslee randomly deposited the additional cans of feces or targeted particular locations or individuals, he freely admitted that he had engaged in similar acts of misconduct on multiple other occasions.

As for mitigating factors, the parties stipulated to the absence of a prior disciplinary record, and the board found that Blakeslee has had a distinguished criminal-defense trial practice for more than four decades with no prior discipline. *See* Gov.Bar R. V(13)(C)(1). In addition, the parties stipulated and the board found that Blakeslee also had made full and free disclosure to the board and demonstrated a cooperative attitude toward the disciplinary proceedings, presented evidence of his good character and reputation, and had other penalties and sanctions imposed for his misconduct – namely, the nominal fines and court costs imposed for his misdemeanor convictions. *See* Gov.Bar R. V(13)(C)(4), (5), and (6). The board also found that neither Wells nor Carpenter Wilkinson had been harmed by Blakeslee's actions.

In addition, the board found that Blakeslee had accepted full responsibility for his actions, expressed genuine remorse, and testified that he is no longer engaging in the misconduct. Although Blakeslee testified that he was a Vietnam veteran and that he had received psychological treatment for posttraumatic stress disorder ("PTSD") related to his military service as well as child abuse, he did not seek to establish his disorder as a mitigating factor under Gov.Bar R. V(13)(C)(7).

Blakeslee has described his misconduct as a "prank" and admitted that it was "stupid." He also acknowledged that he was embarrassed by the public revelation of his misconduct and the resulting media attention.

Relator took the position that Blakeslee deposited the can of feces in the Haven of Hope parking lot with the intent of targeting Haven of Hope. In support of this position, relator relied on circumstantial evidence, including Blakeslee's 20-minute drive, the sign pointing toward access to Haven of Hope's office, Blakeslee's slow drive down the alley, and the fact that he went to court immediately after he deposited the can of feces to attend a hearing in the *Wells* case where Carpenter Wilkinson would be present. However, Blakeslee denied having any knowledge of Haven of Hope's location on November 30, 2021, and maintained that he had chosen all the locations for his deposits at random. The hearing panel and the board found Blakeslee's testimony to be credible and concluded that relator's position was not supported by clear and convincing evidence.

During closing argument, relator argued that Blakeslee's misconduct warrants a conditionally stayed six-month suspension whereas Blakeslee suggested that a public reprimand would be appropriate. Both parties acknowledged that very few, if any, prior cases offer guidance regarding the appropriate sanction for the misconduct at issue here.

Relying primarily on *Columbus Bar Assn. v. Linnen*, 111 Ohio St.3d 507, 2006-Ohio-5480, 857 N.E.2d 539, *Butler Cty. Bar Assn. v. Blauvelt*, 160 Ohio St.3d 333, 2020-Ohio-3325, 156 N.E.3d 891, and the precept that the primary purpose of the disciplinary sanction is not to punish the offender but to protect the public, the board recommends that we publicly reprimand Blakeslee for his misconduct.

Over a period of nearly two years, Linnen approached at least 30 different women throughout Franklin County wearing only athletic shoes and a stocking cap and photographed their reactions. Linnen at ¶ 3. He admitted that he would sometimes tap or pinch a victim's rear end to get her attention and that he may have masturbated in front of his first couple of victims. *Id.* Linnen pleaded guilty to 53 misdemeanor offenses – two first-degree misdemeanor counts of sexual imposition, one first-degree misdemeanor count of aggravated trespass, 11 third-degree misdemeanor counts of sexual imposition, and 39 fourth-degree misdemeanor counts of public indecency. *Id.* at ¶ 5. He was sentenced to 18 months of work release, fined $3,000, and ordered to continue counseling. *Id.* We found that Linnen violated professional-conduct rules prohibiting attorneys from engaging in illegal conduct involving moral turpitude and conduct that adversely reflects on a lawyer's fitness to practice. *Id.* at ¶ 21.

In aggravation, we found that Linnen had engaged in a pattern of misconduct involving multiple offenses and that he had acted with a dishonest or selfish motive, the latter finding based on his testimony that the impetus for his crimes was "definitely an adrenalin[e] rush or euphoria * * * very much like a powerful drug." (Ellipsis sic.) *Id.* at ¶ 8. We also found that Linnen had failed to genuinely acknowledge the wrongful nature of his misconduct, focusing primarily on his own embarrassment and hardship rather than the harm he had caused to his victims. *Id.* at ¶ 10, 23-24. In mitigation, Linnen had no prior disciplinary record, had cooperated completely in the disciplinary process, and had presented evidence of his good character. *Id.* at ¶ 18. We indefinitely suspended him for his misconduct. *Id.* at ¶ 33.

In *Blauvelt*, 160 Ohio St.3d 333, 2020-Ohio-3325, 156 N.E.3d 891, the attorney was twice caught driving naked. The first time, he was stopped for a headlight violation and the officer observed he was naked but filed no charges against him. The second time, after receiving a report that a motorist was masturbating while driving, a state trooper stopped Blauvelt's vehicle and found him naked with pants covering his lap. Blauvelt was charged with public indecency and operating a vehicle while under the influence; he later pleaded guilty to public indecency and an amended charge of reckless operation of a vehicle. *Id.* at ¶ 7. He was sentenced to suspended jail terms and ordered to pay fines, complete a driver-intervention program, and serve a one-year term of nonreporting probation. *Id.*

During Blauvelt's disciplinary proceedings, he acknowledged that he had driven while naked on other occasions without getting caught. *Id.* at ¶ 8. Aggravating factors consisted of a pattern of misconduct and submitting a false statement during a psychological evaluation conducted as part of the disciplinary process. *Id.* at ¶ 11. In mitigation, Blauvelt had a clean disciplinary record and had had a cooperative attitude toward the disciplinary proceedings, submitted evidence of his good character and reputation, and had other penalties imposed for some of his misconduct. *Id.* at ¶ 12. And in contrast to Linnen, Blauvelt expressed sincere remorse for his conduct, established the

existence of a qualifying mental disorder, and did not appear to have targeted anyone with his conduct. *See id.* at ¶ 12-13, 18. We imposed a two-year suspension, stayed in its entirety on conditions focused on mental-health treatment, for Blauvelt's misconduct. *Id.* at ¶ 21. We later indefinitely suspended Blauvelt for continuing to engage in similar acts of misconduct. *Butler Cty. Bar Assn. v. Blauvelt*, 168 Ohio St.3d 268, 2022-Ohio- 2108, 198 N.E.3d 84.

Here, the board found that Blakeslee's misconduct was less egregious than that of Blauvelt, in part because Blakeslee did not act with a sexual motivation. It also noted that the Supreme Court of Oklahoma recently disbarred an attorney who, among numerous other substantial violations, had issued to a client a refund check that was soiled with feces. *See State ex rel. Oklahoma Bar Assn. v. Bailey*, 2023 OK 34, 530 P.3d 24. The court found that whether Bailey's delivery of a soiled check was an intentional or an unintentional act, his conduct "is contrary to prescribed standards of conduct in our society where people recognize the potential harm from exposure to fecal matter, and also view its transfer from one to another as criminal in some circumstances." (Footnote omitted.) *Id.* at ¶ 45. Noting that Bailey's delivery of the soiled check had been discussed in the media, the court determined that it brought discredit to the legal profession. *Id.* It therefore concluded that Bailey violated Rule 1.3 of the Oklahoma Rules Governing Disciplinary Proceedings, which provides that an attorney should not "act contrary to prescribed standards of conduct" when the act "would reasonably be found to bring discredit upon the legal profession." *Bailey* at ¶ 45.

Ohio has no comparable rule. However, the evidence in this case shows that despite societal standards of cleanliness and decorum, Blakeslee failed to control his own bizarre impulses to place feces-filled cans out in public for unsuspecting people to find. His aberrant conduct has adversely reflected on his own fitness to practice law and brought discredit to the profession through significant media attention.

We typically defer to a hearing panel's credibility determinations unless the record weighs heavily against those findings, inasmuch as the panel members had the opportunity to see and hear the witnesses firsthand. *Cincinnati Bar Assn. v. Statzer*, 101 Ohio St.3d 14, 2003-Ohio-6649, 800 N.E.2d 1117, ¶ 8. But here, although Blakeslee testified that he randomly selected all the locations in which he deposited his feces-filled cans, the circumstantial evidence in the record weighs heavily against his testimony that he randomly chose the Haven of Hope parking lot as his drop zone on November 30, 2021.

The board found that Blakeslee had known Carpenter Wilkinson professionally for many years. In fact, Blakeslee testified that he had known her for 20 years and that she had been a victim's advocate at Haven of Hope for as long as he had known her. In addition to their association through Haven of Hope, Blakeslee stated that he and Carpenter Wilkinson were friends on Facebook and that he had represented her daughter in a legal matter. He also testified that he knew everyone at Haven of Hope and indicated, during his deposition testimony, that he "deal[t] with them on a daily basis." Despite his close and long-term working relationship with Carpenter Wilkinson and her colleagues, Blakeslee maintained that he had had no knowledge of where their administrative office was located.

In his deposition testimony, Blakeslee claimed that "[i]t was an indiscriminate choice," that he "had no plans to throw that thing in Cambridge" that morning, and that "[i]t just so happened that [he] did." He also claimed, "I didn't pick the spot. It was just on the way down that alley." But at his disciplinary hearing, he testified that when he engages in this behavior, he routinely disposes of the can "on the way to work."

On the day in question, Blakeslee was headed to the Guernsey County courthouse for Wells's hearing. He was likely to see Carpenter Wilkinson there because she had attended most of the previous hearings in that case. He drove for approximately 20 minutes from his home to Cambridge with the open can of feces in his car without previously disposing of the can somewhere else.

Blakeslee can be seen on surveillance video turning his vehicle down the alley where Haven of Hope's administrative office is located, approximately two-tenths of a mile from the courthouse. Video from other cameras in the alley show him slow down as he passed the Haven of Hope parking lot and then speed up. The video also shows him turn around in another parking lot to take a second pass down the alley in the opposite direction. Once again, he slowed his car as he passed the Haven of Hope parking lot – only that time, he tossed the Pringles can out the window before speeding up and driving away. Another video shows Blakeslee exiting the alley at approximately 8:14 a.m. and driving toward the courthouse. Video from the courthouse shows him entering the building just a few minutes later.

Although Blakeslee claimed that he had "no specific targets" and engaged in "random incidents" when previously engaging in this type of misconduct, he also stated that before this incident, he usually would throw the can in the street. He explained during his deposition and hearing testimony that he threw the feces-filled cans "to blo[w] off steam" and that he "got a kick out of it," imagining the "look of surprise" on peoples' faces when they would find them. Blakeslee's statement that "[i]t was kind of like a release" suggests that like Linnen, he engaged in aberrant conduct to seek an adrenaline rush or thrill. *See Linnen*, 111 Ohio St.3d 507, 2006-Ohio-5480, 857 N.E.2d 539, at ¶ 8.

These facts weigh heavily against Blakeslee's testimony that the location of his November 30, 2021 deposit was random or coincidental. Rather, they present clear and convincing evidence not only that he intentionally selected that location but also that he escalated a preexisting pattern of conduct to seek an even greater thrill by pulling his prank on someone he knew – be it Carpenter Wilkinson or one of her colleagues – just minutes before he would see one of them in court. Although Blakeslee maintained throughout his disciplinary proceeding that his misconduct had nothing to do with his PTSD, he agreed during his deposition that the misconduct was not normal and stated, "There has to be something going on that's related to some of the things I went through in early life." And during his disciplinary hearing, he suggested that his misconduct may be a "protest of some kind." But when asked what he was protesting, he responded somewhat evasively, stating, "Well, we all protest something."

In this case – as in *Blauvelt* and *Linnen* before it – we are dealing with admittedly bizarre behavior that falls far short of the standard of conduct expected of lawyers and tends to bring the legal profession into disrepute. Each of the three cases presents unique facts. *Linnen* involved criminal conduct that consisted of accosting numerous female victims (sometimes touching them) and violating them by photographing their reactions to his indecent exposure. Blauvelt's conduct, while inappropriate and disreputable, did not target particular victims or cause them harm. Because we find that Blakeslee's misconduct was directed at Carpenter Wilkinson and her colleagues, we also find that it has implicated his professional life in a way that neither Blauvelt's nor Linnen's did. And for those reasons, we find that the severity of Blakeslee's misconduct falls somewhere between that of Blauvelt and Linnen.

We acknowledge that Blakeslee does not appear to have harbored any animosity toward Carpenter Wilkinson, her colleagues, or their work as victim's advocates. Nor did he intend to intimidate them.

But while the record demonstrates that Blakeslee regrets his misconduct, it also shows that he lacks sufficient insight into the origin of and motivation for his inappropriate behavior to effectuate positive change. We therefore reject the board's assessment that there is no factual basis for concluding that the public needs to be protected from additional violations, and we conclude that the appropriate sanction for Blakeslee's misconduct is a one-year suspension with six months stayed on the condition that he engage in no further misconduct.

CONCLUSION

Accordingly, Jack Allen Blakeslee is suspended from the practice of law in Ohio for one year with six months stayed on the condition that he engage in no further misconduct. If Blakeslee fails to comply with the condition of the stay, the stay will be lifted and he will serve the entire one-year suspension. Costs are taxed to Blakeslee.

Judgment accordingly.

KENNEDY, C.J., and DONNELLY, STEWART, and DETERS, JJ., concur.

DEWINE, J., concurs in judgment only.

FISCHER, J., concurs in part and dissents in part and would impose a two-year suspension, all stayed, and two years of probation.

BRUNNER, J., not participating.

Joseph M. Caligiuri, Disciplinary Counsel, for relator.

Charles J. Kettlewell, L.L.C., and Charles J. Kettlewell, for respondent.
