

STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS

6th CIRCUIT – DISTRICT DIVISION
HILLSBOROUGH

The State of New Hampshire

Case No. #444-2024-CR-00109

v.

Joseph Hart

RESPONSE TO OBJECTION TO APPEARANCE

NOW COMES Bradley Jardis, Attorney-in-Fact for Joseph Hart, and states the following:

1. New Hampshire Circuit Court-District Division Rule 1.3(D)(1) which governs the appearance of non-lawyer representatives states the following:

No person who is not a lawyer will be permitted to appear, plead, prosecute or defend ***any action*** for any party, other than himself or herself, unless of good character and until there is on file with the Clerk: (1) a valid authorizing document constituting said person his or her attorney to appear in the particular action; and (2) a written statement in which said person discloses (a) all of said person's misdemeanor and felony convictions (other than those in which a record of the conviction has been annulled by statute), (b) all instances in which said person has been found by any court to have violated a court order or any provision of the rules of professional conduct applicable to nonlawyer representatives, (c) all prior proceedings in which said person has been permitted to appear, plead, prosecute or defend any action for any party, other than himself or herself, in any court, (d) all prior proceedings in which said person has not been permitted to appear, plead, prosecute or defend any action for any party, other than himself or herself, in any court, and (e) all prior proceedings in which said person's permission to appear, plead, prosecute or defend any action for any party, other than himself or herself, in any court has been revoked. This statement shall be signed and shall indicate the person's understanding that making a false statement in the pleading may subject that person to criminal penalties. Any person who is not a lawyer who is permitted to represent any other person before any court of this State must comply with the Rules of Professional Conduct as set forth in Professional Conduct Rule 8.5, and shall be subject to the jurisdiction of the committee on professional conduct.

(Emphasis added)

2. Circuit Court-District Division Rule 1.3 (D)(1) is not a rule governing **civil** cases in the Circuit Court system, it is a general rule governing appearances in the entire Circuit Court-District

Division system. Would the intent of the non-lawyer appearance rule have been limiting non-lawyers to civil cases the words "any action" would not have been used. It is safe to assume that great care is taken when these rules are crafted.

3. New Hampshire RSA 311:7 states as follows:

No person shall be permitted commonly ***to practice as an attorney*** in court unless he has been admitted by the court and taken the oath prescribed in RSA 311:6.

4. The plain wording of RSA 311:7 suggests that individuals who have not taken an oath and subsequently been admitted to the Bar are still entitled to practice as an "attorney," so long as it is not done commonly, or frequently. There is no legislative block to an individual who has not taken the oath prescribed by RSA 311:6 from representing an individual in a criminal matter. The General Court created the Bar Association monopoly on the practice of law and they also created an exception to being a member to practice law, so long as you don't do it "commonly."
5. NH Rule of Criminal Procedure #42 does not regulate "non-lawyer representatives." The rule governs attorneys, police officers who act as prosecutors, and attorneys admitted Pro Hac Vice. If the New Hampshire Supreme Court wanted to bar non-lawyer representatives from representing individuals in criminal matters, it could have plainly stated so in its rule. The Supreme Court could have also directed the lower courts to change Rule 1.3(D)(1) to specifically only permit civil actions to be tried.
6. Had the Supreme Court tried to issue a bar to non-lawyer representatives practicing in criminal matters it would have create a constitutional crisis of sorts due to the legislative branch being the one who ultimately has the authority to create the monopoly on the practice of law AND the exception to practicing outside that monopoly. This is most likely why the Supreme Court was silent on the issue when it crafted Rule #42.
7. I have been admitted by the Cheshire County Superior Court and the 9th Circuit-District Division Merrimack District Court in criminal matters. Both times admitted to practice I reached favorable conclusions for the parties I represented.
8. My last appearance was in the year 2012, I am not acting as an Attorney "commonly."

Prayer for Relief

WHEREFORE, Bradley Jardis requests this Honorable Court to order the following relief:

- A. Allow his Appearance pursuant to RSA 311:7 and Circuit Court-District Division Rule 1.3(D) to represent Joseph Hart as Mr. Hart requests, or
- B. Schedule a hearing if the Court is inclined to deny this motion in which Mr. Jardis respectfully requests five minutes for oral argument; and

C. Grant any other relief this Honorable Court deems just and proper.
Respectfully submitted,

Bradley Jardis
10 Congress Street #302
Amesbury, MA 01913

**PURSUANT TO CIRCUIT COURT-DISTRICT DIVISION RULE 1.8 (B), THIS
MOTION BEING GROUNDED IN BOTH FACT AND NOTICE PLEADING,
COUNSEL ACKNOWLEDGES THAT MAKING FALSE STATEMENTS COULD
SUBJECT HIM TO CRIMINAL PENALTIES.**

03/06/24

I hereby certify that on the above date a copy of this response was e-mailed to Attorney George Wattendorf.

Bradley Jardis