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ENTRY ORDER

2026 VT 45

SUPREME COURT CASE NO. 26-AP-081

SEPTEMBER TERM, 2026

In re Eva Vekos, Esq.	}	Original Jurisdiction
(Office of Disciplinary Counsel)	}	
	}	Professional Responsibility Board
	}	
	}	CASE NO. PRB-097-2024

In the above-entitled cause, the Clerk will enter:

¶ 1. Respondent seeks to vacate her interim suspension under Administrative Order 9, Rule 21(F) and Rule 21(D)(2). We deny her request.

¶ 2. Respondent is the Addison County State’s Attorney. She has been on interim suspension status since April 2026 when the Court found that she was convicted of a “serious crime” under Administrative Order 9, Rule 21. See In re Vekos, 2026 VT 11, __ Vt. __, __ A.3d __ (mem.). The Court explained there that an interim suspension under these circumstances “protect[s] the profession and the administration of justice from the specter created where an individual found guilty of a ‘serious crime’ continues to serve as an officer of the court in good standing.” Id. ¶ 3 (quotation omitted). A formal disciplinary complaint was filed against respondent in June 2026, but a hearing panel has not yet been assigned to the case. We emphasize that the adjudication of the merits of the disciplinary proceeding should proceed without undue delay.

¶ 3. Respondent filed two prior motions to vacate her interim suspension, which were denied. She now files a third request.

¶ 4. Respondent first argues that she is entitled to automatic reinstatement under Administrative Order 9, Rule 21(F) because the trial court has now issued an expungement order in her criminal case pursuant to 13 V.S.A. § 7041(e). The trial court’s expungement order, issued over the State’s objection, mirrors the language in § 7041(e). The court “expunge[d] all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the deferred sentence” and directed that copies of the order be “sent to each agency, department, or official named therein.” 13 V.S.A. § 7041(e). Pursuant to the expungement order, “the court, law enforcement officers, agencies, and departments shall

reply to any request for information that no record exists with respect to such person upon inquiry in the matter.” Id.

¶ 5. Administrative Order 9, Rule 21(F) provides:

Automatic Reinstatement from Interim Suspension upon Reversal of Conviction. If a lawyer suspended solely under the provisions of paragraph D demonstrates that the underlying conviction has been reversed or vacated, the order for interim suspension shall be vacated and the lawyer placed on active status. The vacating of the interim suspension will not automatically terminate any formal proceeding then pending against the lawyer, the disposition of which shall be determined by the hearing panel on the basis of the available evidence other than conviction.

¶ 6. Respondent previously sought reinstatement under Rule 21(F) after she successfully completed her deferred sentence and the trial court struck the adjudication of guilt under 13 V.S.A. § 7041(e). In a July 2026 order, the Court denied her request. See In re Vekos, 2026 VT 35, ¶ 7, __ Vt. __, __ A.3d __ (mem.). We concluded that respondent failed to show that her “underlying conviction has been reversed or vacated” as required by Rule 21(F). We explained that the deferred-sentence statute did not contain language about vacating convictions, the Legislature recognized a distinction between the terms “strike” and “vacate” in criminal statutes, and this distinction is also recognized in case law and the dictionary definitions of these terms. The Court held that “[a]utomatic reinstatement is appropriate [under Rule 21(F)] if there is a legal or factual deficiency in the underlying conviction.” Id. ¶ 10. We concluded that respondent’s circumstances did not satisfy this requirement. We explained that the “posture of [her] criminal case d[id] not undermine our previous assessment of the serious nature of respondent’s conviction,” and considered this conclusion “consistent with the purposes underlying Rule 21 . . . , including preserving public confidence in the profession.” Id. ¶ 10. We noted there that, although respondent briefed the issue of expungement, that question was not before us, and expungement “was not identified as a basis for automatic reinstatement in Rule 21(F).” Id.

¶ 7. Respondent now argues that given the court’s expungement order, “the underlying criminal matter has . . . been completed” and the “serious-crime basis” for her interim suspension does not currently “present an immediate danger to clients or to the public.” Respondent recognizes that the Court rejected her assertion that she was entitled to reinstatement because she successfully completed her deferred sentence and the trial court struck her conviction. She maintains, however, that Vermont law contemplates a broad reach for expungements. She notes that unlike the federal expungement statute discussed in United States v. Crowell, 374 F.3d 790, 792 (9th Cir. 2004), which the Court cited in its July 2026 order, a defendant in Vermont who successfully completes a deferred sentence is entitled under § 7041(e) to have the adjudication of guilt stricken and the records expunged. She contends that expungements in Vermont operate to “change court history for beneficial purposes.” In re Guardianship of A.S., 2012 VT 70, ¶ 21, 192 Vt. 631, 57 A.3d 716 (mem.) (Dooley, J., concurring). According to respondent, it follows that she “has satisfied the conditions necessary to move on from her conviction without impacting the pending [Professional Responsibility Board] disciplinary proceeding.”

¶ 8. We reject respondent’s argument for reasons similar to those set forth in our July 2026 order. The plain language of the rule does not include “expungement” as a basis for automatic reinstatement. Section 7041(e) of Title 13—which calls both for striking an adjudication of guilt and an expungement order—does not purport to vacate or reverse

respondent's conviction. As Disciplinary Counsel argues, moreover, the policy perspectives offered by respondent are not found in the plain language of Rule 21(F). Rule 21 similarly does not require a showing of immediate danger to clients or the public, as respondent suggests. It requires, in relevant part, proof that respondent was convicted of a "serious crime," which is "any felony or lesser crime that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects." A.O. 9, Rule 21(C). We have concluded in this case "that the facts surrounding respondent's DUI conviction," which included her role as an elected prosecutor, the commission of the crime "while performing her official duties," and respondent's attempt to "avoid the consequences of her criminal act" at the time of her arrest and processing, "taken together, support the conclusion that respondent was convicted of a 'serious crime' warranting her immediate interim suspension under Rule 21." In re Vekos, 2026 VT 11, ¶¶ 18-20. As with the trial court's order striking the adjudication of guilt, the fact that respondent's records have now been expunged does not show that respondent's "underlying conviction has been reversed or vacated" as required by Rule 21(F).

¶ 9. Respondent next seeks reinstatement based on "extraordinary circumstances" under Administrative Order 9, Rule 21(D)(2). Rule 21(D)(2) provides:

The Court has exclusive power to terminate an interim suspension. In the interest of justice, the Court may terminate an interim suspension at any time upon a showing of extraordinary circumstances, after affording disciplinary counsel notice and an opportunity to be heard.

¶ 10. Respondent sought reinstatement under this same provision in May 2026. She complained then that no formal disciplinary petition had yet been filed against her and argued that her suspension was adversely affecting the administration of justice in Addison County. Respondent maintained that "[c]ontinued delay in resolution of the anticipated complaint w[ould] likely exacerbate the untenable situation in Addison County." In re Vekos, No. 26-AP-081 (Vt. May 13, 2026) (unpub. mem.). We rejected this argument and held that respondent failed to show "extraordinary circumstances" that warranted her reinstatement or that doing so would be "[i]n the interest of justice." Id. We considered this "particularly true given that there is a process in place to provide support and resources to the Addison County State's Attorney's Office in the wake of respondent's interim suspension, and mindful that the office has operated under similar circumstances during respondent's interim suspension in March 2024." Id.

¶ 11. Respondent argues that circumstances have changed since that decision. She states that the remaining licensed prosecutor left the Addison County State's Attorney's Office on August 7, 2026. Recognizing this individual's departure, the Office of the Attorney General designated a Rutland County Deputy State's Attorney as a Special Assistant Attorney General and indicated that, "[w]ith this designation, all prosecutions in Addison County will be overseen by the Attorney General." The Attorney General's Office reiterated that "Attorney General Clark remains committed to supporting the criminal justice system in Addison County to ensure that victims are supported, defendants are treated fairly, and that the criminal justice system functions in a way that serves the broader interests of the community and Vermont."

¶ 12. Respondent maintains that the help being offered is insufficient. She provides data about caseloads and other related matters in support of her request. Respondent contends that there is a backlog in the office and that delays cause serious adverse consequences for victims, defendants, law enforcement, and the Judiciary. According to respondent, these circumstances satisfy Rule 21(D)(2) and failing to take her off interim-suspension status undermines the

administration of justice in Addison County. She asserts that given her “lack of recidivism, acceptance of responsibility, and compliance with court orders,” In re Vekos, 2026 VT 35, ¶ 15 (Nolan, J., concurring), her reinstatement promotes the goals of protecting the public and maintaining faith in the legal system.

¶ 13. Disciplinary Counsel opposes respondent’s request. He contends that respondent’s argument is vague, speculative, and similar to that previously rejected by the Court. Disciplinary Counsel notes that respondent does not identify any specific prosecution in which the interests of the State, defendants, or victims have been actually prejudiced due to respondent’s inability to practice law. Even if she could do so, and she could show that inadequate staffing was due to her interim suspension, Disciplinary Counsel argues that this would not justify respondent’s reinstatement. Disciplinary Counsel cites the official commentary to the American Bar Association’s Model Rule 19 for Lawyer Disciplinary Enforcement (August 2002), which states that while a “respondent may petition the court to terminate an interim suspension on the grounds that extraordinary circumstances exist, the relief authorized should be limited to that which is absolutely necessary.” Disciplinary Counsel asserts that respondent fails to show that her reinstatement to practice is “absolutely necessary”—that is, it is the only viable option to address the claimed attorney-staffing inadequacies of the Addison County State’s Attorney’s Office.

¶ 14. We agree with Disciplinary Counsel that respondent fails to demonstrate “extraordinary circumstances” here that warrant the termination of her interim suspension “[i]n the interests of justice.” A.O. 9, Rule 21(D)(2). It remains true, as we stated in May 2026, “that there is a process in place to provide support and resources to the Addison County State’s Attorney’s Office in the wake of respondent’s interim suspension.” In re Vekos, No. 26-AP-081. This is illustrated by the recent steps taken by the Office of the Attorney General, which now oversees all prosecutions in Addison County. We are not persuaded that it is “absolutely necessary” that respondent’s license be reinstated or that it would be “in the interests of justice” to do so. As we emphasized in our initial suspension decision, respondent’s conduct “indicate[s] lack of those characteristics relevant to law practice and an indifference to legal obligation affecting her practice and drawing into question her suitability as a practitioner.” Vekos, 2026 VT 11, ¶ 16 (quotations and brackets omitted). Given the public policy considerations underlying Rule 21, and mindful of the conduct that led to the interim suspension and the availability of ongoing assistance from the Office of the Attorney General and others, respondent has not shown that her reinstatement is “absolutely necessary” and warranted under Rule 21(D)(2). We therefore deny her request.

Respondent’s motion for reinstatement under A.O. 9, Rule 21(D)(2) and (F) is denied.

¶ 15. **NOLAN, J., dissenting.** I disagreed with the majority’s original decision to suspend respondent’s law license. My concerns centered on my assessment that a sanction so severe as license suspension—in the name of protection of the public and the profession—did not fit the low-level nonrecidivist nature of respondent’s increasingly remote offense. In re Vekos, 2026 VT 11, ¶ 21, __ Vt. __, __ A.3d __ (mem.) (Nolan, J., dissenting). Further, I believed that response did not align with the protracted period of years Disciplinary Counsel waited to seek her suspension, and the even longer time he waited to file formal disciplinary charges stemming from her conduct.¹ I thought interim suspension was too heavy-handed given respondent’s lack of

¹ Respondent was arrested in January 2024 and pled guilty to first-offense driving under the influence (DUI) in December 2025. In March 2026—more than two years after the arrest and several months after the conviction—Disciplinary Counsel moved for an interim suspension based on conviction of a serious crime. Vekos, 2026 VT 11, ¶¶ 4-5. In July 2026, Disciplinary Counsel

recidivism, compliance with court conditions, and the impending expiration of her deferred sentence and probationary period—which if reached would trigger the expungement of her entire criminal case record. *Id.* ¶¶ 23-25.

¶ 16. That expungement has since come to pass, and by operation of the expungement statute, respondent’s underlying case and conviction no longer exist. 13 V.S.A. § 7041(e) (providing that upon fulfillment of terms of deferred sentence, court “shall strike the adjudication of guilt” and that record will be expunged absent good cause). Moreover, in the time since the suspension, according to respondent’s sworn filings, her office has experienced serious and growing staffing shortages. Disciplinary Counsel does not appear to dispute most (if any) of these contentions, only the conclusions that should flow from them.² Among other challenges, respondent, as the State’s Attorney, shouldered the lion’s share of the office’s overall administrative and case-related duties before her suspension. Additionally, her only deputy state’s attorney resigned after the suspension. This left the office with no prosecutors. As a result, prosecutors are being pulled away from other offices and other public-safety assignments to fill the gaps in Addison County.

¶ 17. Whatever one’s view of the rationale for interim suspension six months ago, this Court has the power now to end respondent’s interim suspension and return her to work for “extraordinary circumstances” and “[i]n the interest of justice.” A.O. 9, Rule 21(D)(2). From my perspective, it should do so. The decision to continue respondent’s interim suspension before a merits hearing, all these thirty-two months since her offense, should be anchored in some possible purpose that sanction is meant to serve—be it public safety, or protection of the profession and the administration of justice. *In re Vekos*, 2026 VT 11, ¶ 26 (Nolan, J., dissenting). In my view, on this record, if there was ever a time in which preventing the elected state’s attorney from working could have promoted these goals in any meaningful way, it has long since passed.

¶ 18. First, we have no evidence that respondent poses a present danger to clients, the courts, or the public. Although respondent engaged in serious behavior, her first-offense DUI did not involve dishonesty, theft, or serious interference with the administration of justice. It did not involve violence. On the record before us, I can think of no more we could reasonably expect respondent to do to show accountability for the offense; there is little if any more that can be done than accept responsibility, comply perfectly with court requirements, and refrain from reoffending, as respondent has done. Indeed, ordinarily we regard such a positive pattern of post-offense behavior as the hallmark of rehabilitation and earned redemption—not a harbinger of dangerousness or a discredit to a profession. If the majority’s position is that respondent can do nothing to earn reinstatement of her license to practice, I respectfully disagree that these circumstances call for such an inflexible stance.

¶ 19. Moreover, I cannot conceive of how we might need to protect “clients and the courts” from respondent at the present time. She has no private clients. She was elected to stand for the interest of the people of Addison County in criminal matters before her county court and she cannot do so now because her license to practice has been suspended. Her term of elective office is reaching its final few months. What’s more, before suspension of her license and in the wake of her offense, respondent practiced on behalf of Addison County and before the courts of

filed a formal petition of misconduct against respondent, but there has been little progress because a hearing panel has not yet been assigned to the matter. See A.O. 9, Rule 13.D(2).

² And as described here, I view the conclusions he draws in good faith as insupportable.

Addison County continuously for twenty-six months. Disciplinary Counsel brought no new disciplinary charges to the fore during that period. And respondent's constituents have not been kept in the dark about her criminal case. Even though the case no longer exists under the expungement statute, the courts and public are familiar with it through these proceedings, if for no other reason.

¶ 20. Likewise, a continued interim suspension is not required to protect public confidence in the profession. Respondent took responsibility for her action, followed the conditions imposed by the criminal court, and successfully completed her deferred sentence, resulting in the expungement of her conviction.³ Our attorney regulation system “has long focused on prevention and education as much as on disciplinary prosecution.” See Reporter's Notes, A.O. 9, Purpose. Respondent has shown an inclination and ability to rehabilitate herself, and there is no evidence of recidivism. We may, by seeing the disciplinary merits process through to conclusion and without diminishing our profession, hold respondent fully accountable for her poor decisions on one night while also recognizing and even crediting her positive behavior and apparent steps toward rehabilitation since that time. Especially because she has already experienced a period of interim suspension and the conviction forming the basis of the suspension is now expunged, I respectfully suggest that the fair approach would allow her to return to duty for the final months of her term in office. In any event, I do not see how a second chance at this stage reflects negatively on the profession.

¶ 21. With the passage of time, it also becomes increasingly clear that interim suspension has resulted, and will continue to result, in harm not only to respondent—a legitimate consideration not addressed by the majority—but also to her office and its public-safety mission. See Vekos, 2026 VT 11, ¶ 27 (Nolan, J., dissenting) (explaining harms to lawyer that may result from suspension of practice including loss of clients and reputation). Respondent has proffered evidence showing that there are many matters at the office that require her help, and that her suspension is resulting in backlogs and delays. She has provided information showing that there is no longer any licensed prosecutor in the office and that this is creating difficulties for victims, defendants, law enforcement, and the courts. Although the majority discounts respondent's proffer of possible harms and relies on the assurance that the Attorney General is overseeing prosecutions, we have not engaged in any factfinding to make that determination and have in fact denied respondent's request for a hearing on the concerns detailed in her affidavit. If we are to decide this motion based on the filed documents, as the majority has decided, then I think the better and more cautious course for purposes of public safety is to accept respondent's proffer as to the rather dire situation in her office. In any event, even if, as respondent maintains, the Attorney General is covering prosecution of cases and a special prosecutor is being reassigned to Addison County from the Rutland County State's Attorney's Office, respondent has detailed a litany of shortages related to other core functions of the office. These include notifying victims, responding to child-protection emergencies, attending urgent court hearings, making time-sensitive legal decisions, and providing law enforcement with timely guidance on warrant requests and other matters. And that's not to mention that the reassigned prosecutors' own offices need them to perform the regular public-safety duties for which they were hired.

¶ 22. Finally, underlying all of this is my concern about the slow pace of disciplinary proceedings against respondent. Not only is the apparent lack of urgency to prosecute the disciplinary case incongruous with the sense of urgency inherent in a request for interim license

³ I agree with the majority that the expungement of respondent's conviction does not entitle her to automatic reinstatement under A.O. 9, Rule 21(F) because her conviction was not “reversed or vacated.”

suspension, but, at this rate, respondent may end up serving a longer suspension—and therefore receiving a more serious sanction—on the interim suspension than what she might otherwise get after resolution of the merits. See In re Discipline of Treffinger, 393 P.3d 1084, 1089 (Nev. 2017) (concluding that equities favored staying interim suspension while disciplinary process proceeded to avoid “possibility of pre-discipline suspension exacting a stiffer price than the sanction that is ultimately imposed”). I believe that respondent is entitled to an adjudication of the underlying disciplinary charges before she receives such a prolonged suspension of her license.

¶ 23. Respondent’s continued suspension does not promote the goals of our attorney-regulation system, and that should be enough to grant reinstatement of her license. But I believe we are also called upon here to balance the equities. I think it is unduly harsh to treat respondent’s more than two-and-a-half-year-old offense and expunged misdemeanor conviction as so serious that we could not now grant her request to assist with the work of her office for the balance of her elected term—rather than merely sit on the sidelines and hold the office and salary without contribution while it struggles to make ends meet. Like anyone else, respondent ought to be able to earn redemption and a second chance to practice law, just as she earned expungement of her misdemeanor conviction, and the privacy and clean record that would have gone along with it for anyone else.

¶ 24. In my view, the equities favor dissolving the interim suspension and allowing respondent the opportunity to carry out the important work of her office for the short remainder of her term. This outcome better promotes the goals of our attorney-regulation system—chief among them public safety. I therefore respectfully dissent.

BY THE COURT:

Dissenting:

Christina E. Nolan, Associate Justice

Paul L. Reiber, Chief Justice

Harold E. Eaton, Jr., Associate Justice

Nancy J. Waples, Associate Justice

Michael P. Drescher, Associate Justice