

IN DISCIPLINARY DISTRICT VI  
OF THE  
BOARD OF PROFESSIONAL RESPONSIBILITY  
OF THE  
SUPREME COURT OF TENNESSEE

FILED

2017 MAY 11 PM 4:18

BOARD OF PROFESSIONAL  
RESPONSIBILITY

 EXEC. SEC.

IN RE: JOHN JAY CLARK,  
BPR No. 24360, an  
Attorney Licensed to  
Practice Law in Tennessee  
(Williamson County)

DOCKET NO. 2016-2649-6-AJ-22.3

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**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

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This matter came before the Hearing Panel on May 1, 2017, to consider the extent of final discipline based upon John Jay Clark's conviction of a serious crime, i.e., forgery, in violation of T.C.A. §39-14-114. On November 2, 2016, the Supreme Court suspended Mr. Clark pursuant to Sup. Ct. R. 9, § 22, and directed the Board to institute formal disciplinary proceedings in which the sole issue to be determined is the extent of final discipline. The Board filed a Petition for Final Discipline on November 22, 2016, and Mr. Clark was personally served on December 24, 2016. Notice of this Hearing was provided to Mr. Clark by the Executive Secretary of the Board.

Present at the Hearing were Hearing Panel Chair, Kirk Vandivort, Hearing Panel Members, Robert Thomas Bateman and John Gregory Burlison, and Disciplinary Counsel, Alan D. Johnson. The Hearing was set for 10:00 a. m. and the Hearing Panel waited until 10:10 a. m. to begin the hearing. Mr. Clark did not appear.

**STATEMENT OF THE FACTS**

Supreme Court Rule 9, § 22.6 states that "[a] certified copy of the judgment, plea of nolo contendere or guilty plea, or an affidavit or declaration under penalty of perjury with other

adequate proof of a conviction of an attorney for any crime, shall be conclusive evidence of the commission of that crime in any disciplinary proceeding instituted against the attorney based upon the conviction.” Certified copies of the Judgments in *State of Tennessee v. John Jay Clark* were submitted to the Supreme Court pursuant to Supreme Court Rule 9, § 22, and introduced as Exhibits A and B.

Disciplinary Counsel also introduced a letter from Assistant District Attorney, James W. Milam, to Disciplinary Counsel summarizing Mr. Clark’s conduct that resulted in his convictions. A copy of General Milam’s letter was introduced as Exhibit C. According to Mr. Milam, Mr. Clark forged the signature of a judge on two divorce decrees that he delivered to his clients, leading them to believe that their divorce was final. In one case, the spouse of Mr. Clark’s client relied on the forged decree and married another woman.

Mr. Clark was also ordered to pay restitution to three (3) victims in the total amount of \$3,322.00. Two of the victims of Mr. Clark’s criminal conduct are his former clients, James Edgar and Christine Coleman. The third victim is the spouse of Christine Coleman, Troy Coleman.

Disciplinary Counsel also introduced an Order of Enforcement from the Supreme Court dated December 15, 2016, in which the Court disbarred Mr. Clark from the practice of law.

### **CONCLUSIONS OF LAW**

Pursuant to Tenn. S. Ct. R. 9, § 3, the license to practice law in this state is a privilege and it is the duty of every recipient of that privilege to conduct himself at all times in conformity with the standards imposed upon members of the bar as conditions for the privilege to practice law. Acts or omissions by an attorney which violate the Rules of Professional Conduct (hereinafter “RPC”) of the State of Tennessee shall constitute misconduct and be grounds for discipline.

The record in this case establishes that Mr. Clark violated Tennessee Rules of Professional Conduct 8.4 (a-c) which are as follows:

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;
- (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;

When disciplinary violations are established by a preponderance of the evidence, the appropriate discipline must be based upon application of the *ABA Standards for Imposing Lawyer Sanctions*, (“ABA Standards”) pursuant to Section 8.4, Rule 9 of the Rules of the Supreme Court.

The following ABA Standards apply in this matter:

#### **4.6 Lack of Candor**

- 4.61 Disbarment is generally appropriate when a lawyer knowingly deceives a client with the intent to benefit the lawyer or another, and causes serious injury or potential serious injury to a client.

#### **5.0 Violations of Duties Owed to the Public**

- 5.11 Disbarment is generally appropriate when:
- (a) a lawyer engages in serious criminal conduct a necessary element of which includes intentional interference with the administration of justice, false swearing, misrepresentation, fraud, extortion, misappropriation, or theft; or the sale, distribution or importation of controlled substances; or the intentional killing of another; or an attempt or conspiracy or solicitation of another to commit any of these offenses; or
  - (b) a lawyer engages in any other intentional conduct involving dishonesty, fraud, deceit, or misrepresentation that seriously adversely reflects on the lawyer’s fitness to practice.

## **6.0 Violations of Duties owed to the Legal System**

- 6.11 Disbarment is generally appropriate when a lawyer, with the intent to deceive the court, makes a false statement, submits a false document, or improperly withholds material information, and causes serious or potentially serious injury to a party, or causes a significant or potentially significant adverse effect on the legal proceeding.

## **7.0 Violation of Duties Owed to the Profession**

- 7.1 Disbarment is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty owed as a professional with the intent to obtain a benefit for the lawyer or another, and causes serious or potentially serious injury to a client, the public, or the legal system.

### **Aggravating Factors**

Pursuant to ABA Standard 9.22, the following aggravating factors are present in this case:

- (a) prior disciplinary offenses (Mr. Clark was previously suspended and subsequently disbarred based for conduct that included forgery);
- (b) dishonest or selfish motive;
- (c) a pattern of misconduct (the established facts establish a pattern of misconduct);
- (d) multiple offenses (the established facts establish multiple offenses);
- (h) vulnerability of victims; and
- (i) substantial experience in the practice of law (Mr. Clark was licensed to practice in 1992).

### **PROPOSED SANCTION**

Pursuant to the ABA Standards, the appropriate sanction in this case is disbarment. Docket No. 2014-2318-2-AJ-22.3, is subject to the requirement of Section 22.5 that “any suspension or disbarment ordered pursuant to Section 22.3 (c) shall be served consecutive to any period of incarceration imposed upon the attorney as a result of the attorney’s conviction in the underlying criminal case.” Mr. Clark served five (5) weekends in jail that ended on December 16, 2016.

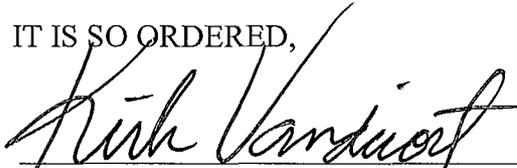
As a condition of reinstatement, Mr. Clark must pay the restitution ordered in *State of Tennessee v. John Jay Clark*, as follows:

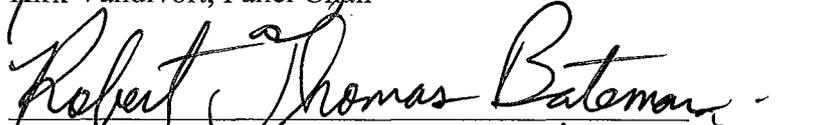
- a) James D. Edgar: \$932.50
- b) Christina Coleman: \$1,789.50
- c) Troy Coleman: \$600.00

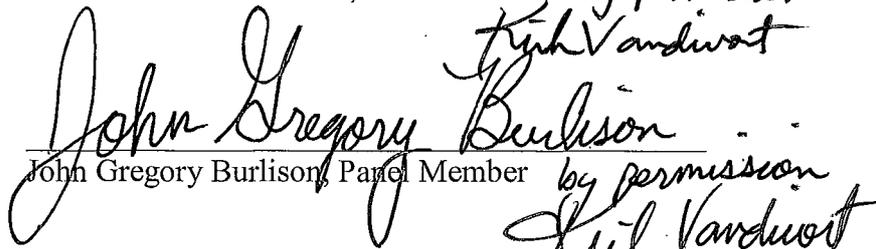
In the event restitution is made by the Tennessee Lawyers' Fund for Protection of Clients (TLFCP), Mr. Clark will be responsible for reimbursement of TLFCP in the same amount. Mr. Clark must also meet all other requirements for reinstatement set forth in Rule 9.

The costs of this cause, as set forth in Tenn. Sup. Ct. R. 9, § 31.3 (a), will be taxed to Respondent following entry of this judgment pursuant to the procedures established in Tenn. Sup. Ct. R. 9, § 31.3 (a).

IT IS SO ORDERED,

  
Kirk Vandivort, Panel Chair

  
Robert Thomas Bateman, Panel Member *by permission*

  
John Gregory Burlison, Panel Member *by permission*

**NOTICE:** This judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 1.3 by filing a Petition for Writ of Certiorari, which petition shall be made under oath or affirmation and shall state that it is the first application for the Writ. See Tenn. Code Ann. § 27-8-104(a) and 27-8-106.

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing has been sent to Respondent, John Jay Clark, 111 Riverside Drive, Columbia, TN 38401-2931, by U.S. First Class Mail, and hand-delivered to Alan D. Johnson, Disciplinary Counsel, on this the 12<sup>th</sup> day of May, 2017.

A handwritten signature in cursive script, appearing to read "Rita Webb", is written over a horizontal line.

Rita Webb  
Executive Secretary