

**IN DISCIPLINARY DISTRICT 0
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE**

IN RE: THOMAS PATRICK COOPER, DOCKET NO. 2018-2888-0-AJ-22.3
BPR #026251, Respondent
An Attorney Licensed and
Admitted to the Practice of
Law in Tennessee
(Miami Beach, Florida)

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This case came on for final hearing on September 25, 2018, at the law office of Butler Snow, LLP, 150 3rd Ave. South, Suite 1600, Nashville, Tennessee 37201, beginning at 1:00 p.m. Present at the hearing were Gary C. Shockley, hearing panel chair; William R. O'Bryan, Jr., hearing panel member; David J. Tarpley, hearing panel member; and Alan D. Johnson, Disciplinary Counsel. Mr. Cooper did not appear after receiving notice of the date, time and location of the hearing.

STATEMENT OF THE CASE

On July 20, 2018, the Supreme Court of Tennessee suspended Thomas Patrick Cooper from the practice of law until further orders of the Court pursuant to Tenn. Sup. Ct. Rule 9, § 22.3. The Court's Order directed Disciplinary Counsel to institute formal proceedings to determine the extent of final discipline based upon Mr. Cooper's plea of *nolo contendere* to one count of Grand Theft and one count of Defrauding a Financial Institution in the 17th Judicial

Circuit Court in and for Broward County, in the matter of *The State of Florida v. Thomas Patrick Cooper*.

Mr. Cooper was served with the Final Petition for Discipline on August 15, 2018. He sent an email to Disciplinary Counsel's office advising that he does not intend to respond.

Disciplinary Counsel introduced four (4) exhibits, including a certified copy of the judgment in the matter of *The State of Florida v. Thomas Patrick Cooper*, and Mr. Cooper's email to the Executive Secretary of the Board stating that he did not plan to formally respond to the Petition for Final Discipline. No testimony was presented.

STATEMENT OF THE FACTS

The Petition for Final Discipline charges Mr. Cooper with violations of Rules of Professional Conduct 8.4(a), (b), (c) and (d) 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;
- and,
- (d) engage in conduct that is prejudicial to the administration of justice.

Supreme Court Rule 9, Section 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.”

CONCLUSIONS OF LAW

Pursuant to Tenn. Sup. Ct. R. 9, § 1, 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 certified copy of the Judgment in the matter of *The State of Florida v. Thomas Patrick Cooper* conclusively establishes that Mr. Cooper committed the crimes of Grand Theft, Fla. Stat. 812.014(1)(a), (b), and (2)(b)1, and Defrauding a Financial Institution, Fla Stat. 655.0322(6).

The offense of Grand Theft is defined as follows:

812.014 Theft.—

(1) A person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or to use, the property of another with intent to, either temporarily or permanently:

(a) Deprive the other person of a right to the property or a benefit from the property.

(b) Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.

....

(2)(b)1. If the property stolen is valued at \$20,000 or more, but less than \$100,000;

the offender commits grand theft in the second degree, punishable as a felony of the second degree, as provided in s. 775.082, s. 775.083, or s. 775.084. . . .

The offense of Defrauding a Financial Institution is defined as follows:

(6) Any person who knowingly executes, or attempts to execute, a scheme or artifice to defraud a financial institution, affiliate, subsidiary, or service corporation or any other entity authorized by law to extend credit, or to obtain the moneys, funds, credits, assets, securities, or other

property owned by, or under the custody or control of, a financial institution, affiliate, subsidiary, service corporation, or other entity authorized by law to extend credit, by means of false or fraudulent pretenses, representations, or promises, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Mr. Cooper's commission of these crimes constitute violations of RPC 8.4 (a-d) as alleged in the Petition for Final Discipline and set forth above.

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 Tenn. Sup. Ct. R. 9, § 15.4.

The following ABA Standards apply in this matter:

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.

Aggravating Factors

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

- (b) dishonest or selfish motive;
- (d) multiple offenses (Mr. Cooper was convicted of Grand Theft and Defrauding a Financial Institution in violation of two statutes); and

- (i) substantial experience in the practice of law (Mr. Cooper was licensed to practice in 2007).

Mitigating Factors

Pursuant to ABA Standard 9.32, the hearing panel finds that the following mitigating factor is present in this case:

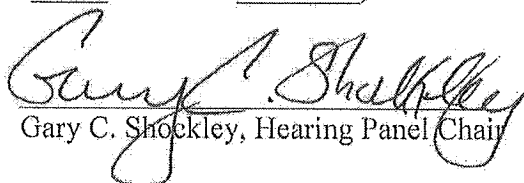
- (e) full and free disclosure to the Board.

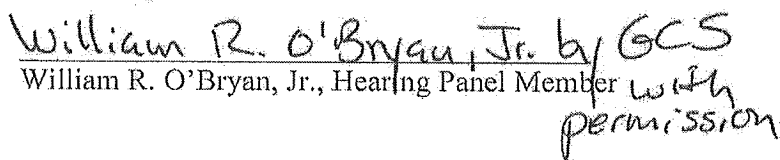
SANCTION

Based upon the conclusive evidence of Mr. Cooper's crimes of Grand Theft and Defrauding a Financial Institution, the aggravating and mitigating factors found by the hearing panel, and application of the ABA Standards, the hearing panel concludes that the appropriate sanction in this case is disbarment. As a condition of reinstatement, Mr. Cooper shall comply with the conditions imposed on him in *The State of Florida v. Thomas Patrick Cooper*, and meet all other requirements for reinstatement set forth in Tenn. Sup. Ct. R. 9.

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

ENTERED ON THIS THE 30th DAY OF October 2018.


Gary C. Shockley, Hearing Panel Chair


William R. O'Bryan, Jr., Hearing Panel Member with permission

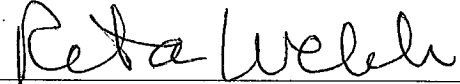
David J. Tarpley by GCS
David J. Tarpley, Hearing Panel Member with
permission

NOTICE OF APPEAL

The findings and judgment of the hearing panel may be appealed pursuant to Tenn. Sup. Ct. R. 9, Section 33. See also Tenn. Sup. Ct. R. 9, Section 31(a).

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been sent to Respondent, Thomas Patrick Cooper, 7227 Bay Drive #25, Miami Beach, FL 33141, and hand-delivered to Alan D. Johnson, Disciplinary Counsel, on this the 31st day of October, 2018.

A handwritten signature in cursive script that reads "Rita Webb". The signature is written in black ink and is positioned above a horizontal line.

Rita Webb
Executive Secretary

NOTICE

This judgment may be appealed by filing a Petition for Review in the appropriate Circuit or Chancery Court in accordance with Tenn. Sup. Ct. R. 9, § 33.