

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

FILED
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STATE OF TENNESSEE
BOARD OF PROFESSIONAL RESPONSIBILITY
Jew EXEC. SEC.

IN RE: CARLA ANN KENT FORD
BPR # 014312, Respondent
An Attorney Licensed and
Admitted to the Practice of
Law in Tennessee
(Rutherford County)

DOCKET No. 2017-2759-4-AJ

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This case came on for final hearing on May 23, 2018, at the law office of Doug Aron, 100 E. Main Street, Manchester, Tennessee 37355, beginning at 1:00 p. m. Present at the hearing were Doug Aron, Hearing Panel Chair, Randall York, Hearing Panel Member, Joy Gothard, Hearing Panel Member and Alan D. Johnson, Disciplinary Counsel. The Respondent, Carla Ann Kent Ford, did not appear.

STATEMENT OF THE CASE

This is a disciplinary proceeding against Carla Ann Kent Ford, an attorney licensed to practice law in Tennessee in 1990. A Petition for Discipline was filed against Ms. Ford on August 11, 2017. Ms. Ford did not file a response or otherwise answer the Petition, and a Default Judgment was entered against her on April 20, 2018. As a result of the Order of Default, the allegations contained within the Petition are deemed admitted.

STATEMENT OF THE FACTS

MS. FORD'S CONVICTION

Disciplinary Counsel introduced evidence at the hearing that established that Ms. Ford was arrested on February 13, 2015, for theft over \$1,000.00 in violation of T. C. A. § 39-13-103, a

felony. Ms. Ford went to trial on May 5, 2016, and was found guilty of theft of more than \$1,000.00 and less than \$10,000.00. She was sentenced to judicial diversion on July 1, 2016, and placed on supervised probation for four (4) years.

Following her adjudication of guilt, Ms. Ford was suspended by the Supreme Court pursuant to Tenn. Sup. Ct. R. 9, § 22, on May 20, 2016. The matter went to a final hearing and on December 22, 2016, the Supreme Court entered an Order of Enforcement suspending Ms. Ford from the practice of law for four (4) years.

In the complaints at issue, Ms. Ford was retained by Mr. Neel in December 2015, by Mr. Martin in April 2016, and by Mr. McPeake in April 2016. While it is unclear if all of these clients were aware of Ms. Ford's own criminal trial scheduled for May 5, 2015, at the time they retained her, it is clear that Mr. McPeake was not. In his complaint to the Board, he complained that "she had no business taking my money when she knew her trial was before mine." (Exhibit D to Petition for Discipline)

Disciplinary Counsel also introduced as exhibits, the Petition for Discipline with attachments, court records from Ms. Ford's criminal prosecution related to the sentence she received, and documents demonstrating Ms. Ford's disciplinary history with the Board.

FILE NO. 49135c-4-ES – COMPLAINANT – DONALD NEEL

In December 2015, Mr. Neel retained Ms. Ford to represent him in two criminal matters in Cannon County and Coffee County. Ms. Ford charged Mr. Neel \$1,500.00 each for representation in the two cases. In December 2015, and January 2016, Mr. Neel's sister, Darlene Neel, paid Ms. Ford \$3,000.00 for the representation. (Exhibit A to Petition for Discipline – Bank of America and Discover statements) It does not appear that Ms. Ford had a written fee agreement with her client, or her client's sister who paid the fee. Ms. Ford appeared in court two times and the cases were

continued. Ms. Ford ceased communicating with Mr. Neel after April 6, 2016.

On May 20, 2016, Ms. Ford's license was summarily suspended pursuant to Tenn. Sup. Ct. R. 9, § 22. Ms. Ford has failed to respond to the disciplinary complaint, failed to diligently represent Mr. Neel, and failed to adequately communicate with him.

By her actions and inactions, Ms. Ford violated RPC 1.3 (diligence), 1.4 (communication), 1.5 (fees), 1.16 (termination of representation), 8.1 (disciplinary matters), and 8.4 (a) (misconduct).

FILE NO. 48813c-4-ES-COMPLAINANT-PIERRE LEESHAWN MARTIN

In April 2016, Mr. Martin retained Ms. Ford to represent him in a criminal case in Rutherford County. Ms. Ford provided Mr. Martin with a written fee agreement that called for a nonrefundable fee of \$2,000.00. The fee agreement called for an initial payment of \$900.00 with the balance to be paid in installments. Mr. Martin's mother, Ms. Hyde, paid the \$900.00. (Exhibit C to Petition for Discipline) Thereafter, Ms. Ford ceased communicating with Mr. Martin.

On May 20, 2016, Ms. Ford's license was summarily suspended pursuant to Tenn. Sup. Ct. R. 9, § 22. Ms. Ford failed to respond to the disciplinary complaint, failed to communicate with Mr. Martin, and failed to diligently represent him.

By her actions and inactions, Ms. Ford violated RPC 1.3 (diligence), 1.4 (communication), 1.5 (fees), 1.16 (termination of representation), 8.1 (disciplinary matters) and 8.4 (a) (misconduct).

FILE NO. 47689c-4-ES - COMPLAINANT - JONATHAN MCPEAKE

On or around April 4, 2016, Mr. McPeake retained Ms. Ford to represent him on criminal charges. Mr. McPeake paid Ms. Ford a total of \$1,500.00. According to the receipt (Exhibit G to Petition for Discipline), the fee was paid to settle the case. Ms. Ford states that she charged a \$1,500.00 non-refundable fee, but there does not appear to be a written fee agreement. Ms. Ford appeared in court on the plea date, April 7, 2016, but was unable to reach a resolution. While Mr. McPeake understood that he would owe additional fees if the case went to trial (Exhibit F to

Petition for Discipline), it is clear that Ms. Ford continued her representation after she was unable to settle the case. (Exhibit E to Petition for Discipline). At some point thereafter, Ms. Ford ceased communicating with Mr. McPeake.

On May 20, 2016, Ms. Ford's license was summarily suspended pursuant to Tenn. Sup. Ct. R. 9, § 22. After her suspension, Ms. Ford was unable to continue representation of Mr. McPeake, and the trial date was continued.

By her actions and inactions, Ms. Ford violated of RPC 1.3 (diligence), 1.4 (communication), 1.16 (termination of representation), and 8.4 (a) (misconduct).

CONCLUSIONS OF LAW

Pursuant to Tenn. S. Ct. R. 9, § 1, the license to practice law in this state is a privilege and it is the duty of every recipient to act 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 of the State of Tennessee shall constitute misconduct and be grounds for discipline.

The admitted facts establish that Ms. Ford accepted fees from clients, performed little if any work on their behalf and abandoned the cases when she ceased communicating with them in April 2016.

1. Ms. Ford violated RPC 1.3 (diligence) by failing to sufficiently move the cases forward.
2. Ms. Ford violated RPC 1.4 (communication) by failing to adequately communicate with her clients after she was retained and ceasing all communication in April 2016.
3. Ms. Ford violated RPC 1.16 (d) (terminating representation) by failing to provide reasonable notice that she was discontinuing representation.

4. Ms. Ford violated RPC 1.5 (f) (fees) by failing to enter into a written fee agreement, signed by the clients, with Mr. Neel and Mr. McPeake. In addition, based upon the limited work performed for her clients, the amount she charged was unreasonable in violation of RPC 1.5(a).

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 Standard apply in this matter:

4.41 Disbarment is generally appropriate when:

- (a) a lawyer abandons the practice and causes serious or potentially serious injury to a client; or
- (b) a lawyer knowingly fails to perform services for a client and causes serious or potentially serious injury to a client; or
- (c) a lawyer engages in a pattern of neglect with respect to client matters and causes serious or potentially serious injury to a client.

4.42 Suspension is generally appropriate when:

- (a) a lawyer knowingly fails to perform services for a client and causes injury or potential injury to a client, or
- (b) a lawyer engages in a pattern of neglect and causes injury or potential injury to a client.

4.62 Suspension is generally appropriate when a lawyer knowingly deceives a client, and causes injury or potential injury to the client.

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.

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.

- 7.2 Suspension is generally appropriate when a lawyer knowingly engages in conduct that is a violation of a duty as a professional and causes injury or potential injury to a client, the public, or the legal system.

Ms. Ford abandoned her clients resulting in serious injury. Ms. Ford deceived at least Mr. McPeake, by agreeing to take his case, and accepting a fee, and not informing him that she was set to go to trial on her own criminal case before his case was set for trial. Ms. Ford knowingly engaged in conduct that is a violation of the duties she owed to her clients that resulted in serious injury to her clients (they had to retain substitute counsel) and the legal system (the courts were required to adjust the schedules for her clients to allow them to retain substitute counsel).

Aggravating Factors

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

1. Ms. Ford's prior disciplinary offenses are an aggravating circumstance justifying an increase in discipline. Ms. Ford's disciplinary history is as follows:
 - Suspension – December 22, 2016 (criminal act and dishonesty)
 - Summary Suspension – May 20, 2016 (serious crime)
 - Private Informal Admonition – November 13, 2003 (diligence)
 - Public Censure – October 31, 2002 (safekeeping of property and funds)
 - Private Informal Admonition – February 18, 1998 (communication)
2. Ms. Ford's multiple offenses are an aggravating circumstance justifying an increase in discipline.
3. Ms. Ford's bad faith obstruction of disciplinary proceedings by failing to respond to Disciplinary Counsel is an aggravating circumstance justifying an increase in discipline.
4. Ms. Ford's substantial experience in the practice of law, having been licensed in Tennessee in 1990, is an aggravating circumstance justifying an increase in discipline.
5. The vulnerability of Ms. Ford's clients is an aggravating circumstance justifying an increase in discipline.

CONCLUSION

The Hearing Panel concludes that Ms. Ford should be suspended from the practice of law for five (5) years. Pursuant to Tenn. Sup. Ct. R. 9, § 12.7, Ms. Ford shall be required to make restitution to the following individuals:

1. Donald Neel or his sister, Darlene Neel, in the amount of \$3,000.00.
2. Pierre Martin, or his mother, Patoria Hyde, in the amount of \$900.00.

Payment of restitution is a condition precedent to reinstatement. In the event restitution is made by the Tennessee Lawyer's Fund for Client Protection ("TLFCP"), Ms. Ford will be responsible for reimbursement to the TLFCP of the same amount.

Further, the Hearing Panel recommends that upon applying for reinstatement to the practice of law, Ms. Ford be evaluated by the Tennessee Lawyer Assistance Program, or a comparable organization such as the Vanderbilt Comprehensive Assessment program, and submit the results of such evaluation to the Hearing Panel that presides over her petition for reinstatement.

Finally, should Ms. Ford be reinstated to the practice of law, the Hearing Panel recommends that she be assigned a practice monitor pursuant to Tenn. Sup. Ct. R. 9, § 12.9, for a period of time that the reinstatement Hearing Panel decides, and that the practice monitor report on her progress no less than once every sixty (60) days. If Ms. Ford is reinstated, the Hearing Panel recommends that she be required to complete an additional forty (40) hours of Continuing Legal Education with fifteen (15) of those hours to be taken through the Tennessee Law Institute, and the remaining twenty-five (25) hours in the areas of law in which she predominately practices.

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

ENTERED ON THIS THE 12 DAY OF June, 2018.


Doug Aaron, Hearing Panel Chair


Joy Gothard, Hearing Panel Member


Randall York, Hearing Panel Member

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, Carla Ann Kent Ford, 4221 Aurora Circle, Murfreesboro, TN 37127, by U.S. First Class Mail, and hand-delivered to Alan D. Johnson, Disciplinary Counsel, on this the 13th day of June, 2018.

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