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IN THE CHANCERY COURT DAVIDSON COUNTY, TENNESSEE
Chancery Court

JAMES A. MEANEY, III,
Petitioner,

vs.

BOARD OF PROFESSIONAL
RESPONSIBILITY of the Supreme Court
of Tennessee,
Respondent.

FO911
Docket No.
13-596-I

2014 FEB 21 PM 2:21
CLERK OF COURT
DAVIDSON COUNTY, TENNESSEE
003M

ORDER

This matter came to be heard on the 7th day of February, 2014. A Petition for Certiorari was filed by James A. Meaney on April 29, 2013, requesting this court for relief from the Judgment of the Hearing Panel, arguing the judgment is unjustified, inappropriate, and disproportionate for the admitted violation of Petitioner. An Answer was filed by the Board on May 7, 2013. After hearing the presentation and argument of counsel for the Board and Mr. Meaney and the record as a whole, this court finds as follows:

FINDINGS OF FACT

1. Mr. Meaney was continually suspended from the practice of law from September 7, 2010, until December 23, 2013. The suspension from September 7, 2010, until April 10, 2012, was for CLE noncompliance; from December 3, 2010, to September 2, 2011, for failure to pay the professional privilege tax; and beginning on March 6, 2012, for failure to respond to disciplinary complaints.
2. On December 15, 2010, Mr. Meaney filed a motion on behalf of Jason Randall in the United States District Court while suspended. Mr. Meaney, while suspended, continued to represent Mr. Randall until February 15, 2011.
3. In January 2011, while suspended, Mr. Meaney represented Kenneth Raye Clark in the Circuit Court for Hamilton County, and Mr. Meaney gave permission for his

name to be signed to an order dated February 8, 2011, in the matter of *Jerry Wayne Roden vs. Kenneth Raye Clark*, No. 10D1889, while suspended.

4. The Board received a complaint from Robin Flores alleging ethical misconduct by Mr. Meaney on August 30, 2011; another complaint from Judge Don Poole on September 1, 2011; and also a complaint from Jerry Roden on October 27, 2011. Mr. Meaney was temporarily suspended on March 6, 2012, for his failure to respond to these complaints. Further, The Board received a letter from John Reese on December 5, 2011. Mr. Reese was responding to the Board's request for information regarding ethical misconduct by Mr. Meaney. As well, on December 6, 2011, the Board received a letter from Honorable Judge Jacqueline S. Bolton alleging ethical misconduct by Mr. Meaney, specifically that Mr. Meaney had held himself out as the attorney of record in an Order of Protection case as well as preparing and signing pleadings before the Circuit Court for Hamilton County, Tennessee, in *Doyle et. al. v. Adams, et. al.*
5. Also while suspended, Mr. Meaney entered an appearance before the Hamilton County Criminal Court Judge Don Poole on June 24, 2011, representing Kenneth Raye Clark. On August 30, 2011, Mr. Meaney appeared before Judge Poole. Mr. Meaney testified Judge Poole called him on August 30, 2011, to inquire about his suspended status, to which Mr. Meaney testified he responded he was aware of the suspensions but continued to practice law in Tennessee.
6. Mr. Meaney testified he continued representing Ms. Doyle after being notified by Judge Poole on August 30, 2011, of his suspension status. He testified he continued to practice law on an additional two (2) cases.
7. Mr. Meaney has received two disciplinary sanctions prior to this action, including a public censure on November 16, 2004, and a private informal admonition on October 5, 1992. Mr. Meaney also conceded he received a public censure from the State Bar of Georgia reciprocal to the November 16, 2004, public censure in Tennessee.
8. The hearing panel determined Mr. Meaney violated Rules 1.4, communication; 5.5(a), unauthorized practice of law; 8.1(b), bar admission and disciplinary matters; and 8.4(a), (d), and (g), misconduct.

9. The hearing panel applied three (3) aggravating factors: Mr. Meaney exhibited a pattern of neglect, he did not self-report the misconduct, and he failed to respond to the board proceeding until the afternoon of February 15, 2013. The hearing panel applied one (1) mitigating factor: remorse.
10. The hearing panel suspended Mr. Meaney from the practice of law for eleven (11) months and twenty-nine (29) days, pursuant to Tenn. Sup. Ct. R. 9, § 4.2. The panel further placed Mr. Meaney on active suspension for only three (3) months, with the remaining months probated pursuant to conditions specified by the panel.
11. The American Bar Association Standard 2.3 states "suspension should be for a period of time equal to or greater than six months..."
12. Mr. Meaney filed this appeal, arguing the board was capricious and arbitrary in suspending him from the practice of law rather than issuing an admonition. He also contends, based upon the prosecution at the case, his actions did not "cause injury or potential injury to a client, the public or the legal system."

CONCLUSIONS OF LAW

Having made the aforementioned findings of fact, this court makes the following conclusions of law. First, Tennessee Supreme Court Rule 9, section 33.1(b), states the standard of review for this matter, in pertinent part:

The review shall be on the transcript of the evidence before the hearing panel and its findings and judgment. If allegations of irregularities in the procedure before the hearing panel are made, the trial court is authorized to take such additional proof as may be necessary to resolve such allegations. The trial court may, in its discretion, permit discovery on appeals limited only to allegations of irregularities in the proceeding. The court may affirm the decision of the hearing panel or remand the case for further proceedings. The court may reverse or modify the decision if the rights of the party filing the Petition for Review have been prejudiced because the hearing panel's findings, inferences, conclusions or decisions are: (1) in violation of constitutional or statutory provisions; (2) in

excess of the hearing panel's jurisdiction; (3) made upon unlawful procedure; (4) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; or (5) unsupported by evidence which is both substantial and material in the light of the entire record. In determining the substantiality of evidence, the court shall take into account whatever in the record fairly detracts from its weight, but the court shall not substitute its judgment for that of the hearing panel as to the weight of the evidence on questions of fact.

Further, "[A]lthough the trial court may affirm, remand, reverse, or modify a hearing panel decision, the trial court may not substitute its judgment for that of the panel as to the weight of the evidence on questions of fact." *Board of Professional Responsibility v. Allison*, 284 S.W.3d 316, 322 (Tenn. 2009)

In particular, this Court will not reverse the decision of a hearing panel so long as the evidence "furnishes a reasonably sound factual basis for the decision being reviewed." *Hughes*, 259 S.W.3d at 641 (quoting *Jackson Mobilphone Co. v. Tenn. Pub. Serv. Comm'n*, 876 S.W.2d 106, 111 (Tenn. Ct. App. 1993)).

In *Jackson Mobilphone Co. v. Tennessee Pub. Serv. Comm'n*, 876 S.W.2d 106, 111 (Tenn. Ct. App. 1993), the Court of Appeals provided "the court should review the record carefully to determine whether the administrative agency's decision is supported by 'such relevant evidence as a rational mind might accept to support a rational conclusion.'" (citing *Clay County Manor v. State Dep't of Health & Environment*, 849 S.W.2d 755, 759 (Tenn. 1993); *Southern Ry. v. State Bd. of Equalization*, 682 S.W.2d 196, 199 (Tenn. 1984)). Pursuant to Rule 9, §8.4 of the Tennessee Supreme Court Rules, the hearing panel imposed disciplinary sanctions upon Mr. Meaney based upon the *ABA Standards for Imposing Lawyer Sanctions*. Specifically, the following standards:

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

6.22: Suspension is generally appropriate when a lawyer knows that he or she is violating a court order or rule, and causes injury or potential injury to a client or party, or causes interference or potential interference with a legal proceeding.

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

Despite being suspended for lengthy periods of time, Mr. Meaney demonstrated a flagrant pattern of continuing to practice law in Tennessee courts. He failed to communicate his licensure status to clients by continuing to represent clients, who were then unable to make an informed decision about hiring new counsel. Mr. Meaney did not respond to complaints of disciplinary misconduct, leading to his temporary suspension. Mr. Meaney has admitted to his continued practice of law without notifying his clients. This Court finds these actions are within the ABA Standards' definition of "potential injury."

The Tennessee Supreme Court stated in *Maddux v. Board of Professional Responsibility of the Supreme Court of Tennessee*, 409 S.W.3d 613, 624 (Tenn. 2013), "which are the guideposts hearing panels and courts in Tennessee use when determining appropriate, consistent sanctions for attorney misconduct." (citing Tenn. Sup.Ct. R. 9, § 8.4; *Cowan*, 388 S.W.3d at 268; *Lockett v. Bd. of Prof'l Responsibility*, 380 S.W.3d 19, 26 (Tenn.2012)) In relying upon the ABA Standards, this Court cannot find the hearing panel acted in an arbitrary and capricious manner, nor can this Court find the panel's decision was unreasonable or characterized by an abuse of discretion.


In review of the hearing panel's decision, this court does not find the panel's findings, inferences, conclusions, or decisions are in violation of constitutional or statutory provisions, in excess of the panel's jurisdiction, made upon unlawful procedure, arbitrary or capricious or characterized by an abuse of discretion or clearly unwarranted exercise of discretion, or unsupported by evidence which is both substantial and material in light of the entire record. The Court finds the hearing panel's findings of fact and conclusions of law are fully supported by the evidence presented in this matter and reversal or modification of the hearing panel's decision is simply not warranted.

Mr. Meaney failed to demonstrate the hearing panel's conclusions were not supported by substantial and material evidence or their decision was arbitrary and capricious. Mr. Meaney's suspension is fully supported by the facts and this Court must not substitute its judgment for that of the panel as to the weight of the evidence on questions of fact.

Mr. Meaney, by letter dated February 10, 2014, submitted post-hearing arguments to this court. The Board has objected to this court considering these arguments. This court sustains the objection of the board.

This Court affirms the decision of the hearing panel and assesses costs to Mr. Meaney.

IT IS SO ORDERED, this the 17 day of Feb, 2014.



DON R. ASH

CERTIFICATE OF SERVICE

I hereby certify the foregoing has been served upon the following by U.S. Mail on this the _____ day of _____, 2014:

James A. Meaney
319 Selvidge Street
Dalton, GA 30720

Krisann Hodges
10 Cadillac Drive, Suite 220
Brentwood, Tennessee 37027



Clerk