

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

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BOARD OF PROFESSIONAL
RESPONSIBILITY

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In Re: JAMES A. MEANEY, III
BPR #13683, Respondent
An Attorney Licensed to
Practice Law in Tennessee
(Dalton, GA)

DOCKET NO. 2012-2155-0-KH

JUDGMENT OF THE HEARING PANEL

This matter came to be heard on the 19th day of February, 2013 for final hearing on the Board's Petition for Discipline before Gary R. Wilkinson, Panel Chair; Matthew T. Harris, Panel Member; and Jonathan Cole, Panel Member. Krisann Hodges, Deputy Chief Disciplinary Counsel, appeared for the Board. Mr. Meaney appeared pro se.

STATEMENT OF THE CASE

This is a disciplinary proceeding against the Respondent, James A. Meaney, III., an attorney licensed to practice law in Tennessee. Mr. Meaney was licensed to practice law in Tennessee in 1989. He is also licensed to practice law in Georgia.

A Petition for Discipline, Docket No. 2012-2155-0-KH, was filed on September 7, 2012. The Petition was sent via certified mail to Mr. Meaney's home address of 198 Westwood Road, Ringgold, Georgia 30736, as registered with the Board and was returned to the Board on October 4, 2012.

An Amended Certificate of Service was filed on October 10, 2012. The Amended Certificate of Service was sent via certified mail to Mr. Meaney's office address of 319 N.

Selvidge Street, Dalton, Georgia, 30720, as registered with the Board, and was delivered to Mr. Meaney on October 12, 2012. The green card was signed by Maria E. Salaices and returned to the Board.

On November 26, 2012, the Board filed a Motion for Default Judgment and That Allegations Contained in the Petition for Discipline Be Deemed Admitted. On January 28, 2013, the Panel entered an Order of Default. As a result of the Order of Default, the allegations contained within the Petition for Discipline are deemed admitted pursuant to Tennessee Supreme Court Rule 9, Section 8.2.

On February 15, 2013, Mr. Meaney served a copy of an Answer to the Panel Members and Disciplinary Counsel, but did not seek permission by the Board Chair to late-file an answer, or to set aside the Order of Default. When asked about the Answer at the hearing, Mr. Meaney stated that he was not seeking to have the default judgment set aside or re-opened; he merely wanted to get his position on the allegations before the panel for its consideration. Mr. Meaney's Answer will not be filed into the official record. Further, the Panel admitted Mr. Meaney's Answer as an evidentiary exhibit to this proceeding. (Exhibit L)

FINDINGS OF FACT

The Panel finds that the following facts have been established:

Mr. Meaney has been continually suspended from the practice of law since September 7, 2010. From September 7, 2010 to April 10, 2012, Mr. Meaney's license was suspended for CLE noncompliance. From December 3, 2010 to September 2, 2011, Mr. Meaney's license was suspended due to his failure to pay the Professional Privilege Tax. Finally, on March 6, 2012, prior to the expiration of the CLE suspension, Mr. Meaney was temporarily suspended for failure to respond to disciplinary complaints. (Exhibit F) That suspension remains in effect.

Additionally, Mr. Meaney has admitted that he failed to comply with Tenn. Sup. Ct. R. 9, § 18 which requires the filing of an affidavit demonstrating that he provided notice to clients, opposing counsel, and the courts of his suspension.

FILE NO. 34449-0-PS – Informants – Robin Flores, Esq. and Honorable Don Poole

On August 30, 2011, the Board received a complaint from Robin Flores alleging ethical misconduct by Mr. Meaney. (Exhibit A) On September 1, 2011, the Board received a complaint from the Honorable Don Poole alleging ethical misconduct by Mr. Meaney. (Exhibit B) Following an initial response, Mr. Meaney failed to respond to the Board's inquiries regarding this complaint. On March 6, 2012, Mr. Meaney was temporarily suspended from the practice of law as a result of his failure to respond to this complaint. (Exhibit F)

On December 15, 2010, while suspended, Mr. Meaney filed a Joint Motion to Revise Scheduling Order, in File No. 1:10-CV-56, on behalf of Jason Randall in the United States District Court, Eastern District, at Chattanooga. Mr. Meaney represented Jason Randall until February 15, 2011, when Mr. Meaney was terminated from the case in the United States District Court, Eastern District, at Chattanooga. (Exhibit E)

On June 24, 2011, while suspended, Mr. Meaney entered appearances representing Kenneth Raye Clark, in Case No. 279673, in Hamilton County Criminal Court before Judge Don Poole. (Collective Exhibit C) On August 30, 2011, while suspended, Mr. Meaney appeared in Hamilton County Criminal Court before Judge Don Poole on behalf of a client.

Mr. Meaney testified that Judge Poole called him on August 30, 2011 to inquire about his suspended status. Mr. Meaney testified that he never checked with CLE to determine whether or not the suspension had been lifted, although he was on notice that he lacked sufficient credits. Mr. Meaney continued to try to make up the missing CLE credits. Mr. Meaney further testified

that he was aware of the suspensions but continued to practice law in Tennessee. Finally, Mr. Meaney testified that he never advised Mr. Clark that he was suspended from the practice of law in Tennessee.

FILE NO. 34617-0-PS – Complainant – Jerry Roden

On October 27, 2011, the Board received a complaint from Jerry Roden alleging ethical misconduct by Mr. Meaney. (Exhibit G) On March 6, 2012, Mr. Meaney was temporarily suspended from the practice of law as a result of his failure to respond to the Board's inquiries about this complaint. (Exhibit F)

In January 2011, while suspended, Mr. Meaney represented Kenneth Raye Clark in the Circuit Court of Hamilton County, No. 10D1889, *Jerry Wayne Roden vs. Kenneth Raye Clark*. While suspended, Mr. Meaney gave permission for his name to be signed to an order dated February 8, 2011, in *Jerry Wayne Roden vs. Kenneth Raye Clark*. (Exhibit G)

FILE NO. 34743-0-PS – Informant – John Reese, Esq.

and

FILE NO. 34744-0-PS – Informant – Honorable Jacqueline Bolton

On December 5, 2011, the Board received a letter from John Reese responding to a request for information regarding ethical misconduct by Mr. Meaney. (Exhibit H) On December 6, 2011, the Board received a letter from the Honorable Jacqueline S. Bolton alleging ethical misconduct by Mr. Meaney. (Exhibit I) On or about October 8, 2010, while suspended, Mr. Meaney prepared and signed an order for entry by the Circuit Court of Hamilton County, Tennessee, Docket No. 07C313, Division I, in the matter of *Doyle, et al. v. Adams, et al.* (Exhibit H)

Mr. Meaney testified that he continued representation of Ms. Doyle even after being notified by Judge Poole on August 30, 2011 of his suspension status. (Exhibit H) He testified that he continued to practice law on two (2) cases. Finally, Mr. Meaney has two prior disciplinary sanctions. He received a public censure on November 16, 2004. (Exhibit J) According to Mr. Meaney, the State Bar of Georgia imposed a reciprocal public censure as a result of the Tennessee sanction. Mr. Meaney received a private informal admonition on October 5, 1992. He testified that he cannot remember receiving the private informal admonition, although he remembers the client associated with that complaint.

CONCLUSIONS OF LAW

1. Mr. Meaney has failed to conduct himself in conformity with said standards and is guilty of acts and omissions in violation of the authority cited within the Petition for Discipline.

2. As noted above, Mr. Meaney failed to answer the Board's Petition for Discipline until the response he offered immediately prior to this hearing. The Hearing Panel has already entered an Order of Default and, therefore, pursuant to Tenn. S. Ct. R. 9, Section 8.2 the charges are deemed admitted.

3. A preponderance of the evidence demonstrates that the acts and omissions by Mr. Meaney constitute ethical misconduct in violation of Rules of Professional Conduct 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. The prior and current versions of these RPCs apply to this matter.

4. The Panel finds that Mr. Meaney improperly continued to practice law during periods of time when he was suspended for CLE noncompliance, failure to pay professional privilege tax, and temporary suspension for failure to respond to disciplinary complaints.

5. Specifically, Mr. Meaney admitted that he knew of the CLE suspension yet he continued to practice law. He failed to confirm that the suspension had been lifted prior to making an appearance in court.

6. Further, he admitted continuing to practice law on two (2) cases following the discussion with Judge Poole about his suspension in which he received actual notice of his suspension

7. Mr. Meaney requests that the Panel consider making any suspension retroactive since he has been on a suspended status for many months. The Panel has taken Mr. Meaney's request under consideration; however, the Panel views the disciplinary violations in this matter to be distinct from the conduct that gave rise to the earlier suspensions.

8. Based upon this Panel's determination that Mr. Meaney has violated the Rules of Professional Conduct, 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, § 8.4. The Panel concludes that the following ABA Standards apply in this matter:

- 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 a 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

9. Further, the Panel finds that the following aggravating factors are present: Mr. Meaney exhibited a pattern of neglect; he did not self-report the misconduct; and he failed to respond to this formal proceeding until the afternoon of February 15, 2013, just before the holiday weekend

prior to trial.

10. The Panel finds that Mr. Meaney has demonstrated some remorse which is a mitigating factor.

JUDGMENT


Based on these findings of fact and conclusions of law, it is the judgment of this Panel that Mr. Meaney shall be suspended from the practice of law for eleven (11) months and twenty-nine (29) days pursuant to Tenn. Sup. Ct. R. 9, § 4.2. However, pursuant to Tenn. Sup. Ct. R. 9, § 8.5, Mr. Meaney shall serve three (3) months as an active suspension with the remainder to be probated subject to the following conditions:

- a) Mr. Meaney shall be required to engage a practice monitor during the period of probation who shall monitor his compliance with continuing legal education and payment of professional privilege taxes. The practice monitor shall submit quarterly reports to the Board regarding Mr. Meaney's compliance. Mr. Meaney shall identify and provide three (3) candidates to serve as practice monitor to the Board for selection no later than thirty (30) days prior to the expiration of his active suspension.
- b) Mr. Meaney shall ensure that he is not practicing law while suspended during the three month active suspension period; Mr. Meaney shall be allowed to practice during the remainder of the probationary period provided he has met the other criteria established herein to do so.
- c) Mr. Meaney shall comply with Tenn. Sup. Ct. R. 9, §§ 18.8 and 19.1 as a condition precedent to reinstatement from the active suspension period.

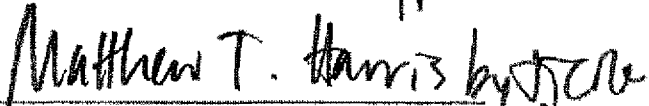
- c) Failure to comply with these conditions will result in a revocation of probation.

Finally, the Panel finds that upon approval and entry of this Order by the Supreme Court, it is appropriate to dissolve the Order of Temporary Suspension entered on March 6, 2012.

IT IS SO ORDERED.



Gary R. Wilkinson, Panel Chair *by J Cole w/ permission*



Matthew T. Harris, Panel Member *by J Cole w/ permission*



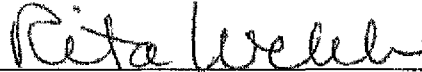
Jonathan Cole, Panel Member

NOTICE TO RESPONDENT

This judgment may be appealed pursuant to Tenn. Sup. Ct. R. 9, § 1.3 by filing a petition for writ of certiorari, which shall be made under oath or affirmation and which shall state that it is the first application for the writ.

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing Judgment of Hearing Panel has been mailed to Respondent, James A. Meaney, III, at 319 North Selvidge Street, Dalton, Georgia 30720 by regular mail, by e-mail to jam@perrottalaw.com, and by hand delivery to Krisann Hodges, Deputy Chief Disciplinary Counsel -- Litigation, at 10 Cadillac Drive, Suite 220, Brentwood, TN 37027 on this the 26th day of February, 2013.



Rita Webb

Executive Secretary of the Tennessee Board of
Professional Responsibility