

IN THE CIRCUIT COURT FOR SHELBY COUNTY, TENNESSEE
AT MEMPHIS

BOARD OF PROFESSIONAL
RESPONSIBILITY OF THE
SUPREME COURT OF TENNESSEE,

Petitioner,

v.

LARRY E. PARISH,

Respondent.

DOCKET NO. CT-001608-16

FILED
DEC 12 2016

CIRCUIT COURT CLERK
BY [Signature] D.C.

ORDER

This matter came on to be heard on the 17th day of November, 2016, before the Honorable Robert E Lee Davies, Senior Judge, upon the Petition for Certiorari filed by the Tennessee Board of Professional Responsibility (sometimes referred to as "Petitioner") The Court has received a copy of the Hearing Panel transcripts, the official record with exhibits, and the briefs filed by each party. After argument of counsel for Petitioner and the Respondent, Larry E. Parish, the Court makes the following findings of fact and conclusions of law:

Factual and Procedural History

This case arose out of complaints filed with the Tennessee Board of Professional Responsibility (the "Board") by three judges of the Court of Appeals for the Western Section of Tennessee as a result of three separate motions for recusal filed by Mr. Parish requesting each of the three judges to recuse themselves in a case involving the existence of a valid trust. The motions to recuse were filed with Judges J Steven Stafford, Holly M Kirby, and David R Farmer, however, all three motions made allegations specifically against Judge Farmer.

The Board filed a Petition of Discipline against Mr. Parish on November 21, 2014 On December 26, 2014, Mr Parish responded with a fifty page affidavit in defense of his conduct

before the Court of Appeals. On April 14, 2015, Mr. Parish filed motions for Rule 11 Sanctions against the Board and against the attorney representing the Board in this case. Mr Parish then attempted to take the deposition of Judge Farmer and submitted written discovery to Judge Farmer, all of which the Hearing Panel quashed in an Order entered April 17, 2015

In May 2015, Mr. Parish filed a Motion to Dismiss for Failure to State a Claim, a Motion for Judgment on the Pleadings, and a Motion for Summary Judgment. Likewise, the Board filed a Motion for Judgment on the Pleadings. The Panel heard oral argument on each of these motions on June 29, 2015. On July 23, 2015, the Hearing Panel entered an Order addressing all of the dispositive motions. Pursuant to the Order, the Hearing Panel denied Mr. Parish's Motion to Dismiss for Failure to State a Claim, denied Mr Parish's Motion for Judgment on the Pleadings, and denied his Motion for Summary Judgment. The Hearing Panel granted the Board's Motion for Judgment on the Pleadings in part and denied it in part. The Hearing Panel found that for purposes of evaluating a lawyer's allegations about the Judiciary in the context of a disciplinary hearing, the parties agreed an objective standard applied. Citing Disciplinary Counsel v Gardner, 793 N.E. 2d 425, 432 (Ohio 2003).¹ The Hearing Panel then found Respondent, Larry Parish had violated the following Rules of Professional Conduct:

- 1 Rule 3.5(e) – Engaging in conduct intended to disrupt a tribunal.
2. Rule 8.2(a) (1) – Making statements that the lawyer knows to be false or that are made with reckless disregard as to their truth or falsity concerning the qualifications or integrity of a judge.
- 3 Rule 8.4(a) – Violating Rules of Professional Conduct

¹ The Panel held an attorney may be sanctioned for making accusations of judicial impropriety that a reasonable attorney would believe are false. The Tennessee Supreme Court has cited Gardner with approval. See Bailey v Board of Professional Responsibility, 441 S.W. 3d 223 (Tenn. 2014), Board of Professional Responsibility v Slavin, 145 S.W. 3d 538 (Tenn. 2004).

4 Rule 8.4(d) – Engaging in conduct that is prejudicial to the administration of justice.

The Hearing Panel also denied Mr Parish’s Motions for Rule 11 Sanctions against the Board and its attorney.

The Hearing Panel then set a final hearing to determine the appropriate sanction. The hearing took place on January 26, 2016. After hearing the evidence presented by the parties and argument of counsel, the Hearing Panel entered a Final Order on February 19, 2016 and found that Mr Parish should be publicly censured.

The facts related to this disciplinary proceeding are undisputed. Mr. Parish represented a niece and nephew of Helen Goza. Helen Goza established a trust for the benefit of her son. Mr. Parish’s clients were the heirs at law of Helen Goza. They filed a declaratory judgment action in Chancery Court seeking a declaration that Ms. Goza’s trust was not valid. The Chancellor granted summary judgment against the clients of Mr. Parish. Mr. Parish appealed, arguing that the Trial Court was without subject matter jurisdiction to adjudicate a declaratory judgment. The Court of Appeals affirmed that the trust was valid and therefore Mr Parish’s clients were not entitled to inherit from Helen Goza.

While the appeal in *Goza I* was pending, one of Mr. Parish’s clients (the nephew) was appointed as the administrator of Ms Goza’s son’s estate. Mr. Parish then filed a petition in Probate Court to require SunTrust, who was acting as trustee, to turn over the assets of the trust to the estate. Before the case was heard, the Court of Appeals issued its *Opinion in Goza I*.² The Probate Court then entered an Order dismissing the Petition on the grounds that the case was barred by res judicata based on the *Goza I* decision. Mr Parish appealed this ruling from the

² *Morrow v SunTrust Bank*, 2011 W L 334507

Probate Court to the Court of Appeals, which affirmed the ruling of the Probate Court. In addition, the Court of Appeals awarded fees to SunTrust. (*Goza II*)³

Mr. Parish on behalf of his clients then filed a third action in the Circuit Court against the trustee, SunTrust. The Trial Court granted SunTrust's Motion to Dismiss, and the Court of Appeals affirmed the dismissal by the Circuit Court on the grounds of res judicata and lack of subject matter jurisdiction, and awarded damages for a frivolous appeal (*Goza III*).⁴

On September 16, 2013, Mr. Parish filed a Motion to Recuse Judge Farmer. Two days later he filed motions seeking the recusal of Judge Kirby and Judge Stafford, respectfully. All three of the motions relied upon the same grounds concerning allegations against Judge Farmer. Specifically, the recusal motions filed by Mr. Parish included the following statements:

- There is absolutely no way under the sun for Estate to fail to prevail in the instant appeal, except by judges deciding the appeal to turn a deaf ear and blind eye to the clearest possible provisions of § 35-15-203
- Additionally, the erroneous *ipse dixit* in Judge Farmer's Memorandum Opinion is a set up, i.e., the point is to forewarn Estate not to exercise its right to an appeal in the case where the erroneous *ipse dixit* is dispositive and, if Estate exercises Estate's right to appeal, Judge Farmer is poised to punish Estate for not heeding Judge Farmer's forewarnings.
- The repeated statements in Judge Farmer's Memorandum Opinion that the court of appeals, twice before, "held" or "decided" that the putative trust exists, for Judge Farmer, is a convenient and illegitimately purposeful fabrication.
- In an effort to provide a façade of legitimacy to Judge Farmer's inclusion about

³ *In Re Estate of Goza*, 397 S W 3d 564 (Tenn Ct App 2012)

⁴ *Estate of Goza v Wells*, 2013 W L 4766544 (Tenn Ct App 2013)

the putative trust, Judge Farmer builds a construct on the false presumption that § 35-15-203 divests circuit court subject matter jurisdiction, the putative trust exists

- The illegitimate purpose for Judge Farmer injecting commentary into Judge Farmer's Memorandum Opinion on the subject of the putative trust is to prejudice, erroneously, the issue and, thereby, signal to trial courts how Judge Farmer will rule on the issue, if (which is certain to occur) the issue is presented to the court of appeals in the future
- By use of a memorandum opinion, Judge Farmer insulates Judge Farmer's manipulation/rigging of the legal system from review by the Tennessee Supreme Court, i e., the Supreme Court, even more so than in the past, reiterates that it is not an error-correcting court. Therefore, a memorandum opinion, which has zero effect on Tennessee law, has zero chance of being reviewed by the Supreme Court. Knowing this, Judge Farmer is confident that Judge Farmer's patent error and abuse of Judge Farmer's judicial power will remain effective to accomplish Judge Farmer's illegitimate objectives.
- Judge Farmer has done a masterful job of covering up the fact that Judge Farmer has stepped out of Judge Farmer's role as an even-handed Judge and into the role of an adversary of Estate, willing to abuse the power of his judicial office to deny Estate's access to unexceptional organic law of Tennessee well-known to Judge Farmer.
- Many authors, among them Alfred Lord Tennyson, have observed that the half-truth is the most sinister of all deception. The point is that sprinkling into deception particles of truth, misused and taken out of context, makes it much

harder to detect deception than a straight out misstatement of objective fact. Judge Farmer has used the half-truth in constructing Judge Farmer's Memorandum Opinion. Judge Farmer's Memorandum Opinion is a patchwork of snippets of truth glued together by adhesive design to close to Estate access to controlling organic law

- It is the contention of appellant, the Estate of John J. Goza, Deceased (hereinafter "Estate"), as a litigant in the instant appeal and in related proceedings, has been and continues to be denied access to the benefit of the organic law of Tennessee by a demonstrated bias and/or appearance of bias, seemingly anchored in Judge Farmer's personal sympathies/sensitivities that dictate an outcome inconsistent with Tennessee's organic law
- Let it be clear that Estate finds no fault with Judge Farmer's personal sympathetic/sensitivities. The fault Estate finds is in Judge Farmer permitting his personal sympathies/sensitivities to prejudice him in exercise of his undeviating duty to apply organic law, even if so doing produces a judgment that offends Judge Farmer's personal sympathies/sensitivities
- First, the personal sympathies/sensitivities are visceral, i.e., based on pure assumptions and presumptions without a scintilla of evidence on which to base a finding of fact consistent with Judge Farmer's personal sympathies/sensitivities. Maybe Judge Farmer's excuses the lack of evidence with what reasonably would be described as a "Come on now, you know and I know" approach appropriate for common parlance and unknown to the legal system and legal process.

- Seventh, the rights of heirs to receive their inheritance from a predeceased ancestor has been part of the organic law of Tennessee, uninterruptedly, since 1796 and part of Anglo-American jurisprudence since time *in memorian*, the personal sympathies/sensitivities of Judge Farmer to the contrary notwithstanding.
- Seventeenth, for Judge Farmer to be influenced to ignore organic law by his personal sympathies/sensitivities in order to manipulate an outcome to deny the heirs of John J. Goza their inheritance and get the Case to charities is usurpation of the value judgment of the General Assembly and violates separation of powers guaranteed by *Tennessee Constitution*, Art. I, Section 17 (constraints on the judiciary) and Art VI.
- Judge Farmer knows the ropes as well as anybody These characteristics make Judge Farmer's Memorandum Opinion in this case stand out as uncharacteristic. Only the most simpleminded person would conclude that, in this case, Judge Farmer made inadvertent mistakes.
- Estate does not wish to create the impression that there is naiveté which keeps Estate from reading between the lines of Judge Farmer's Memorandum Opinion; indeed, Estate perceives that Judge Farmer intended that the non-subtle message between the lines ot be received and headed as a shot over the bow The loud message that bleeds through comes from between the lines is unmistakable and threatening to Estate.
- Added to this feeling, what rings true from what is on the lines of Judge Farmer's Memorandum Opinion is that, if Estate can prove the fraud and the conversion by the individuals who are defendants in the instant case, collecting damages from

the individuals would deplete neither the fee income to SunTrust or the amount to be dribbled out, presumably, to charity, does not offend the Judge Farmer's feelings about what is "right" and "just".

- What role does a judge's oath, practically speaking, play in the day-to-day functioning of a judge? Are there times when it is permissible for judges to lay aside their oath to render a judgment that, though not what the law dictates, is what the judge feels is the "right" thing to do
- To walk off because judges are denying Estate access to organic law that guarantees Estate and, ultimately, the heirs property organic law vests in them would be a violation of multiple oaths and multiple ethical duties of counsel for Estate.

So, warnings between the lines to the contrary notwithstanding, neither Estate nor Estate's counsel can walk off.

- From the outset, Estate makes it clear that Estate has no evidence, has looked for *no evidence and makes no accusation that Judge Farmer has taken a bribe, this is completely out of the question* By this, Estate means that there is no evidence that Judge Farmer, in exchange for cash or any other thing of value, has agreed with another person to do what Estate accuses Judge Farmer of having done.
- Having said that, Estate takes note of the fact that money received by a bribe-taking judge is not the harm such a bribe wreaks on the legal system, on legal process and on the litigants who are victimized by a bribe.

The harm a bribe wreaks on the legal system and the litigant-victims is what happens when a judge abandons his/her oath of office, surrenders up the

impartiality that is essential to a judge functioning in an adjudicative role evenhandedly applying law to facts found from evidence adduced according to rules of evidence.

- While Estate has sought no evidence and has no evidence that Judge Farmer sold his oath and surrendered his impartiality in exchange for money, Estate respectfully suggests that Judge Farmer, in order to victimize Estate as a litigant, has abandoned the loyalty to his oath of office, has surrendered his impartiality and has abused the power entrusted to him by the judicial office he holds and has switched from his role as a judge to become an adversary of Estate. This, in Estate's opinion, is official action of the kind referenced in Rule 8 (RPC), Preamble, section 5
- Otherwise stated, although there is no evidence that Judge Farmer has received a bribe to do what Judge Farmer is doing, Judge Farmer is doing what a bribe-taking judge would do to victimize a litigant who was targeted by a bribe. To a litigant who is targeted, it is totally immaterial what caused the judge to victimize the litigants.
- Judges Farmer, Kirby and Stafford have fabricated "facts" on the face of a Memorandum Opinion, made the fabricated "facts" the basis for the incredulous *obiter dictum* (information unnecessary to a decision as to the one and only question to be decided and the only question actually decided, i.e., whether circuit court's subject matter jurisdiction was interdicted by § 35-15-202) and *ipse dixit* (statements that wholly lack support in the record or in the law), said *obiter dictum/ipse dixit* including, as if accurate statements of law, misstatements that

are far beyond the boundaries of judgment-calls about which reasonable adjudicators or others trained in the law could hold differing opinions.

- Why Judges Farmer, Kirby and Stafford used the Memorandum Opinion as they did is transparent on close examination. The object was and apparently remains to manipulate a result, not only in the instant appeal but in all aspects of the dispute between some or all of the Wells Defendants and Estate, which continues to play out in trial and appellate courts beyond the instant appeal.
- But, it is important to take into account that the Recusal Motions are not made concerning neophyte adjudicators.

The difference in the Recusal Motions, if they were in the context directed toward neophyte adjudicators are opposed to tried and true seasoned adjudicators, may have impact on how a beholder assesses the integrity factor. Judge Farmer, Kirby and Stafford are savvy, and it should be an insult to suggest that either of them did not know exactly what he/she did.

- The Recusal Motions are premised on what Estate contends to be partiality and bias, probably motivated by personal sympathies, deduced from empirically evidenced facts. Estate proceeds on what Estate contends to be facts, some circumstantially established, by words beyond the pale of legitimacy and which are indefensible.
- The answer to the thunderous question, this time, requires only minimal surmise. The briefing and the record on appeal informed Judges Farmer, Kirby and Stafford that a trained eye of a skilled trial judge carefully read *Goza I* and accurately stated on the record what *Goza I* did not hold and to staunch the truth

of the matter stated by Judge Childers from being found by other trial judges, Judges Farmer, Kirby and Stafford were compelled to use a relatively large bolus of an antidote to suppress the truth that, if it took control, would thwart what Judges Farmer, Kirby and Stafford have predetermined the result to be.

- This shot-over-the-bow is not wasted on Estate, but the message is both clear and clearly constitutionally prohibited. The message is that Judges Farmer, Kirby and Stafford are closing courts to any claim by any litigant who asserts right based on an adjudication of the merits of the contested claim of the Wells Defendants that the so-called perpetual trust exists.
- Short of writing on a billboard or posting on YouTube a statement reading something like: “We intend to rule whatever we have to rule, all law to the contrary notwithstanding, to insure that Estate’s decedent’s heirs do not get any of the money which is the rest and residue of Mrs Goza’s revocable trust”, it is hard to conceive how Judges Farmer, Kirby or Stafford more clearly could evidence the bias they have against Estate and in favor of the “charities” they presume, with no proof, will receive the money, if Estate’s decedent’s heirs do not receive their inheritance.
- Why would Judges Farmer, Kirby and Stafford include this wholly erroneous, irrelevant and immaterial observation (i.e., classic *obiter dictum*) in the Memorandum Opinion? There could not be any legitimate reason. The quest is to find what so compels Judges Farmer, Kirby and Stafford that they find it necessary to include the quoted words

- Only in hindsight is it clear what method there was to this madness. Estate did not, at that time, appreciate that Judge Farmer had abandoned his role as an impartial and unbiased adjudicator to become a behind-the-scenes adversary of Estate.
- As a matter of empirical fact there is not a scintilla nor an iota of evidence in the record to support the statement of fact that “the claims asserted in Appellant’s complaint are predicated on the assertion that the Trust did not exist or was invalid.”

This is a statement of fact, out of the whole cloth, manufactured by Judges Farmer, Kirby and Stafford, apparently, to create the false impression that Estate rested Estate’s claims for relief on the cornerstone of the nonexistence of the subject trust

- Circumstantially, Judges Farmer, Kirby and Stafford, being seasoned and knowing the legal system thoroughly, were motivated to put the quoted misstatement in the Memorandum Opinion knowing that any uninvolved and otherwise uninformed person who read the Memorandum Opinion would assume the truth of the misstatement and view Estate and counsel for Estate as if this misstatement were the truth. This maligns counsel by suggesting an incompetence on counsel’s part
- As a matter of empirical fact, who the potential beneficiary might be of the so-called “perpetual charitable trust” could not possibly be less relevant to whether circuit court was stripped of subject matter jurisdiction by § 35-15-203 What possible legitimate reason there could be to make any prejudgment or to include

any word in the Memorandum Opinion of Judges Farmer, Kirby and Stafford on this point is beyond wild imagination. What illegitimate reason there could be is much easier to imagine.

- The reference in the Memorandum Opinion has what appears to be a cover-up or excuse for the prejudice and bias of Judges Farmer, Kirby and Stafford and, at the same time, a chiding of Estate (*supra* at 2) for suggesting that Estate has a right to have a ruling on the merits, there being no record in this case or any other to support any finding of fact either that the referenced trust was created and exists or that recipients of benefits of any such trust, as a matter of fact, would be “the mentally disabled.”

Standard of Review

When reviewing a Hearing Panel’s judgment, a trial court must consider the transcript of the evidence before the Hearing Panel and its findings and judgment. Tenn. Sup. Ct R9, § 1 3 On questions of fact, the trial court may not substitute its judgment for that of the Hearing Panel as to the weight of the evidence. Bd. of Prof. Responsibility v. Allison, 284 S W.3d 316, 323 (Tenn 2009) Any modification to a Hearing Panel’s decision must be based on one of the specific factors set forth in Tenn Sup Ct. R9, §1.3 Bd of Prof. Responsibility v. Love, 256 S.W 3d 644, 652 (Tenn 2008)

Under Section 1 3, a trial court has the discretion to reverse or modify a decision of the Hearing Panel only if the petitioner’s rights have been prejudiced by findings, inferences, conclusions, or decisions that are (1) In violation of constitutional or statutory provisions; (2) In excess of the 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 light of the entire record. Tenn. Sup. Ct Rule 9 § 1.3. This Court reviews questions of law *de novo* but does not substitute its judgment for that of the Hearing Panel as to the weight of the evidence on questions of fact. Tenn. Sup Ct Rule 9 § 1 3, Maddux v Board of Prof'l Responsibility, 409 S.W. 3d 613, 621 (Tenn 2013). However, in the event the trier of fact makes no findings of fact and merely makes a determination without elaboration or explanation, there is nothing in the record on which a presumption of correctness can attach. Kelly v. Kelly, 679 S W. 2d 458, 460 (Tenn. Ct. App. 1984)

ANALYSIS

The Board argues the Hearing Panel applied ABA Standards that are not supported by the evidence and the Panel's findings of fact. Rather than the public censure issued by the Hearing Panel, the Board submits that the application of the correct ABA Standards, along with the aggravating factors, warrants suspension from the practice of law

A. Application of ABA Standards.

In order to determine the appropriate discipline in a given case, the Court looks to the ABA Standards for Imposing Lawyer Sanctions Maddux, 409 S.W. 3d at 624. These standards act as a guide rather than rigid rules, thereby providing courts with discretion in determining the appropriate sanction for a lawyer's misconduct. Maddux, 409 S W 3d at 624 The ABA Standards specify that when imposing a sanction, the court should consider:

- 1) What ethical duty did the lawyer violate (a duty to a client, the public, the legal system, or the profession?);
- 2) What was the lawyer's mental state? (Did the lawyer act intentionally, knowingly, or negligently?);
- 3) What was the extent of the actual or potential injury caused by the lawyer's misconduct? (Was there a serious or potentially serious injury?); and
- 4) Are there any aggravating or mitigating circumstances?

Id (quoting ABA's Standards, theoretical framework)

At the sanction hearing of January 26, 2016, Mr. Parish called three character witnesses. Each character witness was an attorney and described Mr. Parish's reputation in Memphis as excellent. Each of the witnesses described Mr. Parish as a zealous advocate for his client; however, each admitted they would not have used the words which Mr. Parish used in his motions to recuse. Mr. Parish testified that this was a recusal motion about which he was passionate and did not have time to fully reflect upon his choice of words. Again, Mr. Parish justified the filing of his Motion for Recusal on his conclusion that Judge Farmer misapplied the law because of Judge Farmer's intentional wrong motives. However, once again, Mr. Parish had nothing to support his accusation. Finally, Mr. Parish admitted he overreacted by filing a motion for Rule 11 Sanctions against Attorney Alan Johnson.

Although the Board did not put on any proof at the hearing on January 26, 2016, Mr. Johnson, on behalf of the Board, admitted Mr. Parish presented mitigating factors of his character and reputation and that Mr. Parish had no prior disciplinary history. In its final order the Hearing Panel articulated the following reasons for imposing a public censure on Mr. Parish.

Pursuant to Section 15.4, Rule 9 of the Rules of the Supreme Court, the Panel considered the applicable provisions of the ABA Standards for Imposing Lawyer Sanctions. As such, the Panel considered, *inter alia*, the duty violated, respondent's mental state, the injury caused by respondent's misconduct, and the existence of aggravating and mitigating factors. (See, Standards for Imposing Lawyer Sanctions, Sect. 3.0).

Final Order Imposing Sanction entered February 19, 2016.

Although the Hearing Panel never articulated the particular standard upon which it based its sanction of a public censure, the standards which control for violations of duties owed to the legal system are found in 6.0 *et seq*. The Board correctly points out that the standards which recommend a reprimand are conditioned upon a finding that a lawyer was negligent. ABA Standard 6.13 provides for a reprimand when a lawyer is negligent in determining whether

statements or documents are false. In its order of July 23, 2015, the Panel found:

1. Mr. Parish had engaged in conduct which was abusive and obstreperous which was intended to disrupt the Tennessee Court of Appeals proceedings involving his client.
2. Mr. Parish made statements about the integrity of Judges Farmer, Kirby and Stafford that a reasonable attorney would believe were false. Such statements included accusations that the Judges: purposefully ignored binding law, purposefully fabricated facts, manipulated and rigged the legal system, acted in a manner that indicated they had taken bribes, abused their judicial power, surrendered their impartiality, and ruled against his client do to personal sympathies and bias. These accusations were made with *reckless disregard as to their truth or falsity* (emphasis added at 3). . . and that the statements made by Mr. Parish in his recusal motions... were prejudicial to the administration of justice ⁵

Thus, in reviewing the findings of the Panel, at the very least the Panel found Mr. Parish's conduct to be "reckless" After reviewing the voluminous pleadings filed by Mr. Parish and his testimony, this Court concludes Mr Parish knew the statements contained in his pleadings to the Court of Appeals were false. According to the ABA Standards, "knowledge" is the "conscious awareness of the nature of attendant circumstances of the conduct but without the conscious objective or purpose to accomplish a particular result " ABA Standards, Black Letter Rules, definitions. ABA Standards 6 12 provides that:

Suspension is generally appropriate when a lawyer knows that false statements or documents are being submitted to the Court...and takes no remedial action and causes injury or potential injury to a party, to the legal proceeding, or causes an adverse or potentially adverse effect on the legal proceeding.

"Injury" is defined as "harm to a client, the public, the legal system, or the profession which results from a lawyer's misconduct." ABA Standards, Black Letter Rules, definitions.

Likewise:

⁵ In support of the above finding, the Panel cited Farmer v Board of Professional Responsibility, 660 S W 2d 490 (Tenn 1983) and specifically referred to "accusing appellant judges of making intentionally false statements in order to prejudice his client "

Suspension is generally appropriate when a lawyer engages in communication with an individual in the legal system when the lawyer knows that such communication is improper, and causes injury or potential injury to a party, or causes interference or potential interference with the outcome of the legal proceeding.

ABA Standards 6.32.

This Court concurs with the findings of the Hearing Panel that Mr Parish made false statements that the three Appellate Judges purposefully ignored binding law, purposefully fabricated facts, manipulated and rigged the legal system, acted in a manner that indicated they had taken bribes, abused their judicial power, surrendered their impartiality, and ruled against his client due to personal sympathies and bias. It goes without saying that statements of this nature by an attorney which falsely accuse a judge of this type of misconduct are prejudicial to the administration of justice and serve to significantly undermine the integrity and public confidence in the administration of justice. Attorneys have a duty to maintain a “respectful attitude” toward the court, and to refrain from “doing anything which would tend to destroy the confidence of the public in the courts” Ramsey v Board of Professional Responsibility, 771 S W. 2d, 116, 112 (Tenn. 1989)

The Board also takes issue with the Hearing Panel’s failure to articulate any aggravating or mitigating factors which it considered. In reviewing the record, this Court finds there are two mitigating factors: 1) The absence of prior discipline, and 2) Mr. Parish’s positive reputation in the community. On the other hand, the record reflects there are two aggravating factors: 1) Mr. Parish’s substantial experience in the practice of law; and 2) Mr. Parish’s refusal to acknowledge the wrongful nature of his conduct

In all of his pleadings and his oral argument to the Hearing Panel, Mr Parish has steadfastly taken the position that his actions were justified on the ground that he believes the

judiciary is in need of reform. He defended his numerous accusations about the integrity of the appellate judges by claiming he intended to serve the greater good. The question becomes what did Mr. Parish know at the time he wrote and filed the recusal motions impugning the integrity of Judges Farmer, Kirby and Stafford. The answer is nothing other than the Court had ruled against his clients. Rule 10 B, section 1.01 of the Rules of the Supreme Court require any party seeking recusal of a judge to support the motion by affidavit on personal knowledge and any other appropriate materials, and to state with specificity all factual and legal grounds supporting disqualification. Mr. Parish's Motions for Recusal are woefully devoid of any such facts.

Regardless of how well intended Mr. Parish claims his motives were, those intentions do not justify his conduct. In Bailey v. Board of Professional Responsibility, 441 S.W. 3d 223 (Tenn. 2014), the Court made the following observation:

We wholeheartedly agree with the Hearing Panel's conclusion that "simply abusing or insulting the [c]ourt to get rulings in [favor of a client] cannot ever be endorsed or justified by our rules and our system of professional conduct." Indeed, it is especially important that attorneys, who play an integral role in the judicial system, "respect the line separating, in the judicial context, tolerable criticism from unacceptable speech." Slavin, 145 S.W. 3d at 551. Attorneys who cross this line may not avoid punishment by claiming that their misconduct served the greater good or the interest of their clients, as such exceptions would overwhelm the rules.

Bailey at 237

One final fact pertaining to Mr. Parish's refusal to acknowledge the wrongful nature of his conduct is reflected in his attitude toward the Board and in particular, the Board's attorney. Not only did he fail to show any real remorse for his pleadings impugning the integrity of the three Appellate Judges, Mr. Parish also filed motions against the Board and the Board's attorney requesting Rule 11 Sanctions for filing the petition for discipline against him.

B. The Assessment of Aggravating and Mitigating Factors

After identifying the presumptively appropriate sanction applicable to the established misconduct, which in Mr. Parish's case is suspension pursuant to ABA Standard 6.12 and 6.32, the next task is to consider whether the sanction should be increased or decreased due to aggravating and mitigating circumstances. In this case, the mitigating factors are outweighed by the aggravating factors that Mr. Parish has substantial experience in the practice of law and more importantly, that he refused to acknowledge the wrongful nature of his conduct.

After considering the actions of Respondent, Larry Edward Parish, the aggravating and mitigating factors, the entire record and testimony in this case, it is the opinion of this Court that Respondent shall be suspended from the practice of law for a period of six months. Pursuant to Rule 9, five months of this suspension shall be suspended in conjunction with a five month period of probation; however, the first thirty days shall be active suspension. In other words, after thirty days of active suspension, Mr. Parish may begin practicing under a probationary period of time for five months. During the period of suspension and probation, Mr. Parish shall incur no new complaints of misconduct that relate to conduct occurring during the period of suspension and probation. In the event Mr. Parish violates this condition of probation, disciplinary counsel is authorized to file a petition to revoke probation. Upon a finding that condition of probation was violated, the Respondent shall serve the entirety of the previously deferred period of suspension.

Conclusion

The specific findings of fact by the Hearing Panel regarding the misconduct of the Respondent are affirmed. The sanction imposed by the Hearing Panel is reversed. Mr. Parish is suspended from the practice of law for six months, one month on active suspension with the remaining five months to be served on probation.

IT IS SO ORDERED, this the 12 day of December, 2016.

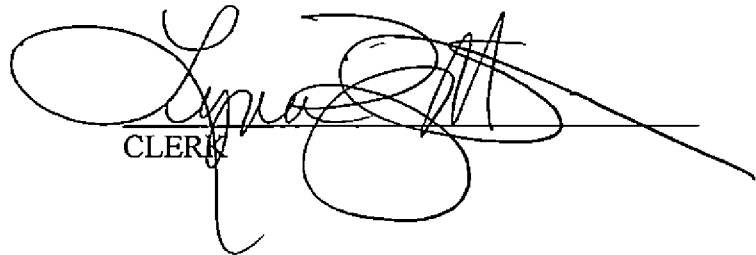

ROBERT E. LEE DAVIES, SENIOR JUDGE

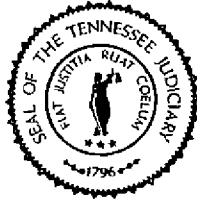
CERTIFICATE OF SERVICE

I hereby certify the foregoing has been served upon the following by U.S. Mail on this the 19TH day of December, 2016.

Alan D. Johnson, Esq.
Board of Professional Responsibility
10 Cadillac Drive, Ste. 220
Nashville, TN 37027

Larry Edward Parish
1661 International Place Dr., Ste. 400
Memphis, TN 38120


CLERK



ROBERT E. LEE DAVIES

SENIOR JUDGE

509 New Hwy 96 W, Ste 201

Franklin, Tennessee 37064

Phone: (615) 716-2966 • Fax: (615) 905-5134

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CANDACE L WILLIAMS

JUDICIAL ASSISTANT

candy.williams@tncourts.gov

December 12, 2016

Shelby County Circuit Court
c/o Jimmy Moore, Circuit Court Clerk
140 Adams Ave., Rm 324
Memphis, TN 38103

Re: Board of Professional Responsibility v. Larry Edward Parrish
Shelby County Circuit Court, Docket No. CT-001608-16

Dear Mr. Moore

Please find enclosed an Order signed by Judge Davies in the above matter for filing with your office.

With kindest regards,

A handwritten signature in black ink that reads "Candace Williams". The signature is written in a cursive style with a large initial "C".

Candace L Williams

Judicial Assistant to Senior Judge Lee Davies

/clw

Enclosure