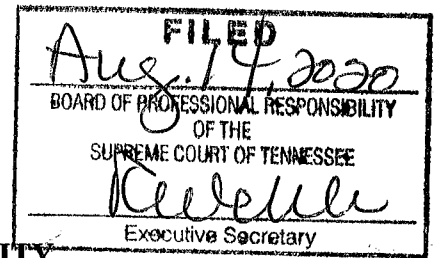


**IN DISCIPLINARY DISTRICT V
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE**



**IN RE: CANDES VONNIEST PREWITT
BPR No. 031269, Respondent,
an Attorney Licensed to Practice
Law in Tennessee
(Davidson County)**

DOCKET NO. 2019-3052-5-BL

FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT

This matter came for a hearing on July 15, 2020 before a Hearing Panel consisting of Keene W. Bartley, Panel Chair; Leroy Johnston Ellis, IV, Panel Member; and Peter C. Robison, Panel Member. The Board of Professional Responsibility (the "Board") was represented by Brittany Lavalle. Ms. Prewitt represented herself in the matter.

FINDINGS OF FACT

1. Ms. Prewitt is a licensed attorney, and has been licensed in Tennessee since 2012.
2. In 2015, Ms. Prewitt was retained to represent Demetrius Tucker in a personal injury case.
3. Beginning in 2012, Ms. Prewitt and Mr. Tucker became involved in a personal and/or sexual relationship which existed both prior to and during the representation.
4. Prior to the representation, the personal and/or sexual relationship was sometimes sexual and was on-and-off in nature.
5. On or about July 18, 2014, Mr. Tucker was shot multiple times in the scope

and course of his employment as a security guard.

6. Mr. Tucker retained Ms. Prewitt to represent him in a personal injury matter.

7. Based on advice and direction from Ms. Prewitt, Mr. Tucker did not pursue a worker's compensation claim in this matter resulting in his forfeiture of any rights to pursue a claim for payment of his medical bills and other expenses.

8. The agreement between Mr. Tucker and Ms. Prewitt was originally a contingency fee agreement alleged to be in writing but not produced at the hearing.

9. Mr. Tucker testified that his understanding was that Ms. Prewitt would obtain 33% of his recovery as her fee based on her representation of him in the matter.

10. On July 16, 2015 Ms. Prewitt filed a civil complaint in the case on behalf of Mr. Tucker and a co-plaintiff, Dionage Harris.

11. On December 30, 2016 Ms. Prewitt filed an amended complaint in the case on behalf of Mr. Tucker and Mr. Harris.

12. The relationship between Ms. Prewitt and Mr. Tucker became sexual in nature again several times during the representation.

13. Mr. Tucker provided monetary relief for Ms. Prewitt by occasionally paying her personal bills based upon their relationship.

14. The in-person interactions between Ms. Prewitt and Mr. Tucker to discuss the case took place at Ms. Prewitt's home or Mr. Tucker's home.

15. During the representation, Ms. Prewitt became pregnant with Mr. Tucker's child.

16. That child was born in December 2018.

17. The close personal and/or sexual relationship and its on-and-off nature

sometimes caused a great deal of friction.

18. This resulted in a contentious attorney-client relationship when the personal relationship was strained.

19. Ms. Prewitt did not recognize any conflict between the personal relationship and legal representation, and did not advise Mr. Tucker of the conflict based upon the nature of the relationship.

20. She also did not obtain Mr. Tucker's written consent to waive the conflict.

21. During the pendency of the lawsuit, Ms. Prewitt was required to provide expert witness disclosures in accordance with Rule 26.02(4).

22. After five months given to provide the appropriate disclosures, Ms. Prewitt made expert disclosures on behalf of Mr. Tucker and Mr. Harris on February 15, 2018 (Exhibit 16).

23. The Court in the underlying civil case found that the expert disclosures made by Ms. Prewitt on behalf of Mr. Tucker and Mr. Harris failed to provide the substance of the facts and opinions to which two of the experts were expected to testify, a summary of the grounds for each opinion, qualifications, publications for ten years, lists of cases for which they have testified as an expert in the prior four years, and statements of compensation as required by Tennessee Rule of Civil Procedure 26.02(4), and entered an order on April 20, 2018, excluding expert testimony of Jennifer Kestner, D.C. and J.C. Shegog.

24. Mr. Tucker was unaware that the experts had been suppressed until he was informed by successor counsel, Caesar Cirigliano.

25. Defendants in the underlying civil action filed Motions for Summary

Judgment on or about April 25, 2018.

26. Ms. Prewitt filed a motion to withdraw from the representation on May 23, 2018.

27. Ms. Prewitt was aware that a Motion for Summary Judgment was pending against Mr. Tucker at the time of the withdrawal.

28. Ms. Prewitt's certificate of service on the motion for withdrawal failed to include Mr. Tucker and Mr. Tucker never received a copy of the motion for withdrawal.

29. Mr. Tucker never asked Ms. Prewitt to perpetrate a fraud, take action she found repugnant or imprudent concerning the lawsuit, or failed to fulfill a financial obligation in the case and her withdrawal was based upon personal differences with Mr. Tucker largely concerning their romantic and/or sexual relationship.

30. By way of an order entered on July 3, 2018, the Court granted Ms. Prewitt's motion to withdraw and continued the hearing on the Motion for Summary Judgment to August 10, 2018.

31. Mr. Tucker approached attorney Caesar Cirigliano about representing Mr. Tucker in the underlying civil action.

32. Mr. Cirigliano spoke with Ms. Prewitt on or about July 12, 2018, and asked that Ms. Prewitt provide a delineation of the fees she wished to obtain from Mr. Tucker's recovery.

33. Ms. Prewitt provided a four-page costs document (Exhibit 6) with a total of \$121,750.00 for her representation.

34. Mr. Cirigliano refused to represent Mr. Tucker initially based on the large amount of fees asserted by Ms. Prewitt.

35. On or about July 16, 2018, Mr. Tucker met with Ms. Prewitt in her mother's driveway and she provided him with the physical file and agreed to lift the \$121,750.00 in exchange for 50% of the recovery.

36. Despite initially agreeing to the new 50% recovery amount, Ms. Prewitt eventually decided not to request any amount from Mr. Tucker.

37. On July 23, 2018, Mr. Cirigliano entered his notice of appearance on behalf of Mr. Tucker in the underlying civil action.

38. Once Mr. Cirigliano obtained the file in the case, he found that it was missing deposition transcripts and a videorecording of the shooting itself.

39. Mr. Cirigliano inquired about these items from Ms. Prewitt and she briefly advised that she had given Mr. Tucker all that she had.

40. Mr. Cirigliano filed a response in opposition to the Motions for Summary Judgment.

41. The Second Circuit Court of Davidson County entered an order on January 17, 2019, granting the defendants' motions for summary judgment and dismissing Mr. Tucker's case.

CONCLUSIONS OF LAW

1. Pursuant to Tenn. Sup. Ct. R. 9, § 8 (2014), attorneys admitted to practice law in Tennessee are subject to the disciplinary jurisdiction of the Supreme Court, the Board of Professional Responsibility, the Hearing Committee, hereinafter established, and the Circuit and Chancery Courts.

2. Pursuant to Tenn. Sup. Ct. R. 9, § 1 (2014), 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 or herself at all times in conformity with the standards imposed upon members of the bar as conditions for the privilege to practice law.

3. Pursuant to Tenn. Sup. Ct. R. 9, § 11 (2014), acts or omissions by an attorney, individually or in concert with any other person, which violate the Rules of Professional Conduct (“RPC”) of the State of Tennessee constitute misconduct and grounds for discipline, whether or not the act or omission occurred in the course of an attorney-client relationship.

4. The Board has proved by a preponderance of the evidence that Ms. Prewitt violated RPC 1.1, 1.3, 1.7, 1.16, and 8.4(a).

RPC 1.1 Competence

5. Regarding RPC 1.1 attorneys are required to provide competent representation to a client. This requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

6. The Board has proven that Ms. Prewitt violated RPC 1.1 by failing to advise Claimant to file a workers compensation claim and failing to properly disclose information concerning expert witnesses to the Defendants in Mr. Tucker’s personal injury case, as found by the Second Circuit Court for Davidson County, including the substance of the facts and opinions to which the experts were expected to testify, a summary of the grounds for each opinion, qualifications, publications for ten years, lists of cases for which they have testified as an expert in the prior four years, and states of

compensation as described in the Court's order. Ms. Prewitt was provided with months to disclose this information specifically requested in interrogatories.

7. The panel concludes that Ms. Prewitt's failure to provide this information and the subsequent exclusion of some expert witnesses demonstrate a lack of legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

RPC 1.3 Diligence

8. RPC 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

9. The panel concludes that Ms. Prewitt failed to advise Mr. Tucker to pursue a workers compensation claim and failed to appropriately disclose required information for all expert witnesses resulting in harm to the clients when two of the experts were excluded, including the only expert for Mr. Harris.

10. The panel further concludes that Ms. Prewitt failed to act with promptness to withdraw upon the knowledge that her personal relationship with Mr. Tucker impacted the professional working relationship and Ms. Prewitt's ability to appropriately represent the client.

RPC 1.7 Conflict of Interest

11. RPC 1.7 requires that a lawyer decline representation of a client if the representation involves a concurrent conflict of interest. The applicable concurrent conflict of interest in this case falls under subsection (2) whereby there is a significant

risk that the representation of one or more clients will be materially limited by. . . a personal interest of the lawyer.

12. The panel finds that there was a personal interest on the part of Ms. Prewitt in the representation.

13. The personal relationship between Ms. Prewitt and Mr. Tucker significantly limited Ms. Prewitt's ability to objectively advise and represent Mr. Tucker.

14. Conflicts within the personal relationship spilled over into the professional representation on a regular basis.

15. Notwithstanding the existence of a concurrent conflict of interest, a lawyer may still represent a client if the lawyer reasonably believes that she will be able to provide competent and diligent representation to the affected client; the representation is not prohibited by law; the representation does not involve the assertion of a claim of one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and each affected client gives informed consent, confirmed in writing.

16. The panel concludes that Ms. Prewitt should have disclosed to Mr. Tucker that her relationship with him could interfere with her ability to provide competent and diligent representation to him, and that Mr. Tucker was not provided with any information concerning the potential conflict or offered the opportunity to waive the potential conflict.

17. There was no such writing whereby Mr. Tucker gives informed consent to the representation despite the conflict.

18. Ms. Prewitt put her personal interests ahead of her clients in advising Mr. Tucker to pursue a civil action and not a workers compensation claim, and in asserting an interest or lien for attorneys' fees after the representation ended.

RPC 1.16 Declining or Terminating Representation

19. RPC 1.16 requires that a lawyer decline representation of a client or withdraw from representation of a client when the representation shall result in a violation of the Rules of Professional Conduct or other law, the lawyer's physical or mental condition materially impairs the lawyer's ability to represent a client; or the lawyer is discharged.

20. The withdrawal can only be accomplished if the withdrawal can be accomplished without material adverse effect on the interests of the client; the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent; the client has used the lawyer's services to perpetrate a crime or fraud, the client insists upon taking action that the lawyer considers repugnant or imprudent; the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled; the representation will result in an unanticipated and substantial financial burden on the lawyer or has been rendered unreasonably difficult by the client; other good cause for withdrawal exists; or the client gives informed consent confirmed in writing to the withdrawal of the lawyer.

21. RPC 1.16 further provides that a lawyer who withdraws shall take steps to protect the client's interests. These steps may include giving reasonable notice to the

client; allowing time for the employment of other counsel; cooperating with any successor counsel engaged by the client; promptly surrendering papers and property to which the client is entitled and any work product prepared by the lawyer for the client and for which the lawyer has been compensated; promptly surrendering any other work product prepared by the lawyer for the client, provided, however, that the lawyer may retain such work product to the extent permitted by other law only if the retention of the work product will not have a materially adverse effect on the client with respect to the subject matter of the representation; and promptly refunding any advance payment of fees that have not been earned or expenses that have not been incurred.

22. The panel concludes that Ms. Prewitt's withdrawal from the case could not be accomplished without material adverse effect on the interest of the client based upon the combination of the upcoming motion for summary judgement, Ms. Prewitt's delay in seeking to withdraw, failure to convey that upcoming motion to future counsel, and the de facto lien placed on the case deterring future representation.

23. Mr. Prewitt also failed to provide a copy of the motion for withdrawal to the client and failed to inform the client of the possible impact of her withdrawal on the case.

24. Ms. Prewitt's behavior failed to give adequate time for the employment of other counsel.

RPC 8.4 (a)

25. RPC 8.4 (a) provides that it is professional misconduct for a lawyer to violate or attempt to violate the Rules of Professional Conduct.

26. By engaging in the aforementioned conduct, Ms. Prewitt also violated RPC 8.4 (a).

APPLICATION OF THE ABA STANDARDS

27. Once disciplinary violations have been established, the Panel is to consider the applicable provisions of ABA Standards for Imposing Lawyer Sanctions.

28. Prior to consideration of any aggravating or mitigating circumstances, the following ABA Standards apply to this case:

4.32 Suspension is generally appropriate when a lawyer knows of a conflict of interest and does not fully disclose to a client the possible effect of that conflict, and causes injury or potential 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 causing injury or potential injury to a client.

29. The panel finds that the presumptive baseline sanction in this matter is a suspension under 4.32 and 4.42. Ms. Prewitt should have recognized that a conflict of interest existed and did not disclose the full, possible effect of that conflict to Mr. Tucker. This caused injury to Mr. Tucker when there was an abrupt withdrawal by Ms. Prewitt in the middle of his case resulting in a very tumultuous attempt to obtain new counsel. Ms. Prewitt also knowingly failed to disclose information in the case resulting in the exclusion of witnesses which caused potential injury to Mr. Tucker. Ms. Prewitt should have advised Mr. Tucker to preserve his rights and remedies under workers' compensation, and by failing to do so, caused potential injury to Mr. Tucker.

AGGRAVATING AND MITIGATING FACTORS

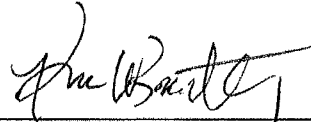
30. Pursuant to ABA Standard 9.2, the Panel finds the following aggravating factors:
9.22(g) Refusal to acknowledge wrongful nature of conduct. Ms. Prewitt feels that she is the victim in the case and still refuses to acknowledge her violations of the Rules of Professional Conduct and how those affected her client.
31. Pursuant to ABA Standard 9.3, the Panel finds the following mitigating factors:
9.32(f) Inexperience in the practice of law. Ms. Prewitt had been in practice less than three years at the time she began representation of Mr. Tucker.
32. Based upon the evidence and admissions in this matter, the Panel finds that a suspension is the appropriate discipline.

JUDGMENT

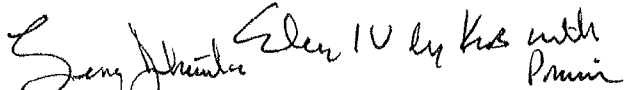
Based upon the facts in this case; the application of the Rules of Professional Conduct and considering the ABA Standards, the Hearing Panel finds by a preponderance of the evidence that Ms. Prewitt committed disciplinary misconduct and should receive a thirty-day active suspension from the practice of law pursuant to Tenn. Sup. Ct. R. 9, § 12.2. Further, as a condition of her reinstatement, Ms. Prewitt shall complete ten (10) hours of legal ethical continuing education, in addition to any ethics hours otherwise required, prior to having her application for reinstatement approved.

As a condition of her reinstatement, pursuant to Tenn. Sup. Ct. R. 9, § 12.9, Ms. Prewitt shall engage a practice monitor to supervise Ms. Prewitt's compliance with the conditions of discipline and all matters of her law practice management for a period of six (6) months.

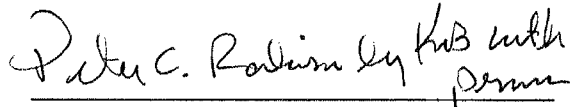
IT IS SO ORDERED.



Keene W. Bartley, Panel Chair



Leroy Johnston Ellis, IV, Panel Member



Peter C. Robison, Panel Member

NOTICE TO RESPONDENT


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.

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of August 2020, a true and correct copy of the foregoing was served via U.S. Mail, postage prepaid, to the following:

Candes Vonniest Prewitt
P. O. Box 1303
Antioch, TN 37011-1303

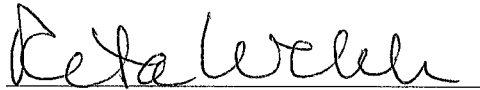
Brittany Lavallo
Disciplinary Counsel - Litigation
10 Cadillac Drive, Suite 220
Brentwood, TN 37027



Keene W. Bartley

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been sent to Respondent, Candes Vonniest Prewitt, Respondent, PO Box 1303, Antioch, TN 37011, via U.S. First Class Mail, and hand-delivered to Brittany Lavalley, Disciplinary Counsel, on this the 14th day of August, 2020.

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