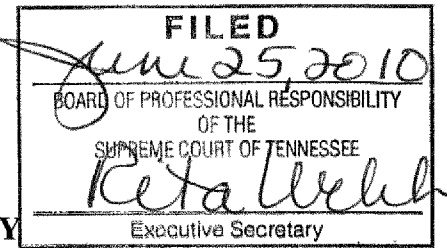


**IN DISCIPLINARY DISTRICT I
OF THE
BOARD OF PROFESSIONAL RESPONSIBILITY
OF THE
SUPREME COURT OF TENNESSEE**



IN RE: FRANCIS XAVIER SANTORE, JR. DOCKET NO. 2009-1857-1-KH
Respondent, BPR No. 11315
An Attorney Licensed
to Practice Law in Tennessee
(Greene County)

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND JUDGMENT

This cause came on to be heard on the 7th day of June, 2010 for a hearing upon the Petition for Discipline filed by the Board against Francis Xavier Santore, Jr., Respondent. Upon statements of counsel, testimony of witnesses, evidence presented, and the entire record as a whole, the Hearing Panel makes the following findings of fact, conclusions of law, and judgment.

FINDINGS OF FACT

On December 9, 2008, the Board received a media report in connection to an incident involving conduct by Respondent on November 25, 2008 in the Greene County Courthouse. On December 22, 2008, the Board sent a copy of the report to Respondent requesting a response within ten (10) days. (Trial Exhibit #1) On December 16, 2008, Respondent also reported the incident to the Board. He states that the facts contained within the newspaper story are accurate. (Trial Exhibit #2)

On November 25, 2008, Respondent appeared for a hearing at the Greene County Circuit Court. Respondent represented a client who was seeking an Order of Protection. Respondent

had been out of town just prior to the November 25, 2008 hearing and he assumed that the matter would be uncontested. Upon appearing at court, Respondent learned that the opposing party intended to contest the matter and was prepared to call several witnesses to testify. Respondent became irate. He threw a cup of coffee across the courtroom, cursed loudly, and then left the courtroom. Respondent testified that the opposing counsel, Linda Woolsey, was present during his outburst. Although court was not in session, Respondent testified that others were in the courtroom, including his own client. Respondent testified that the bailiff asked him to leave the courtroom. As he went down the stairs toward the lobby, Respondent jerked the handrail from the right side of the stairwell causing damage to the courthouse.

After returning to his office, Respondent continued to rage and began breaking and punching items in his own office. Respondent admits that this behavior has been a typical response to adverse situations.

Respondent was taken by ambulance to Johnson City Medical Center to treat injuries to his hand. According to Respondent, the physicians thought he was in a homicidal rage and executed a committal petition to commit him to Lakeshore Mental Hospital in Knoxville. Respondent remained in that facility for six (6) days.

Respondent was criminally charged with vandalism under \$500.00 for damage to the courthouse. (Trial Exhibit # 3) He pled guilty and received a sentence of eleven (11) months, twenty-nine (29) days, with all time suspended on unsupervised probation. Respondent was ordered to continue attending meetings sponsored by Tennessee Lawyers Assistance Program ("TLAP") and to continue mental health treatment.

Respondent entered into a monitoring agreement with TLAP on March 8, 2010. The initial term of the agreement is three (3) years. Respondent has been diagnosed with bi-polar

disorder. He is taking a medication regimen to treat this disorder. Respondent testified that the medication is very effective. According to TLAP, Respondent is compliant with the agreement. (Trial Exhibits #11 & 12)

Respondent testified concerning family history and personal issues which he believes contributed or influenced his actions. Respondent entered affidavits of John Douglas Godbee (TLAP monitor), Linda Woolsey, William Wray, Jr., Charlotte Armstrong, and Ronald Chestnut.

Respondent has been disciplined on three (3) prior occasions. Two (2) of the prior disciplinary sanctions are public censures and one (1) is a private informal admonition. (Trial Exhibits #4-6) Each of these sanctions arise from similar instances of aggressive and unprofessional behavior by Respondent which appear to be related to poor anger management.

CONCLUSIONS OF LAW

Pursuant to Tenn. S. Ct. R. 9, Section 3, 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 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 (hereinafter "RPC") of the State of Tennessee shall constitute misconduct and be grounds for discipline.

The Panel finds that the Board has demonstrated by a preponderance of the evidence that Respondent has violated the following Rules of Professional Conduct ("RPC"s): 8.4(a)(b) and(d), Misconduct.

Once a disciplinary violation has been established, 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. In this matter,

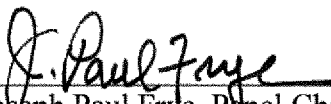
ABA Standards 7.2 and 8.2 apply.

The Panel has also determined that the following aggravating factors are present: prior disciplinary offenses; pattern of misconduct; and substantial experience in the practice of law. The Panel finds that the following mitigating factors are present: emotional and personal problems; timely and full restitution; cooperative attitude towards disciplinary proceedings; and remorse.

JUDGMENT

Based upon the foregoing, it is the judgment of the Hearing Panel that Respondent should be suspended from the practice of law for thirty-three (33) months with all time served on probation except for forty-five (45) days, which shall be served as an active suspension. As conditions of probation, Respondent must remain compliant with the TLAP monitoring agreement for the remainder of the term (33 months). Respondent must continue mental health counseling and must take medication as prescribed. Failure to comply with these terms of probation may result in revocation of probation. Finally, Respondent is required to pay the costs and expenses of the Board of Professional Responsibility prior to the expiration of the forty-five (45) day active suspension period.


IT IS SO ORDERED.



Joseph Paul Frye, Panel Chair



Andrew Todd Wampler, Panel Member



Barry Paul Staubus, Panel Member