

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF GEORGE ALBERT BATES

VSB DOCKET NO. 04-000-3675

**ORDER OF REVOCATION**

This matter came on to be heard on March 25, 2005, before a panel of the Disciplinary Board (the "Board") consisting of Peter A. Dingman, 2<sup>nd</sup> Vice-Chair (the "Chair"), Bruce T. Clark, Ann N. Kathan, Glenn M. Hodge and W. Jefferson O'Flaherty, lay member. The Virginia State Bar ("VSB" or "Bar") was represented by Seth M. Guggenheim. The Respondent, George Albert Bates, presently incarcerated in the Virginia Department of Corrections Augusta Correctional Center, appeared by telephone conference and by his *Guardian ad Litem*, Denise Y. Lunsford who appeared in person.

The Chair polled the members of the Board Panel as to whether any of them was conscious of any personal or financial interest or bias which would preclude any of them from fairly hearing this matter and serving on the panel, to which inquiry each member, including the Chair, responded in the negative. Jennifer L. Hairfield, court reporter, with Chandler & Halasz, P.O. Box 9349, Richmond, Virginia, 23227, (804-730-1222), after being duly sworn, reported the hearing and transcribed the proceedings.

The matter came before the Board on a Rule to Show Cause and Order of Suspension and Hearing entered on June 25, 2004, by the Virginia State Bar Disciplinary Board, suspending the license of the Respondent pursuant to Rules of Court, Part 6, §IV, ¶13.I.5.b., upon the Respondent's felony conviction and ordering the Respondent to show cause why his license to practice law in the Commonwealth of Virginia should not be suspended or revoked. Denise Y.

Lunsford was appointed *Guardian ad Litem* for the Respondent by order of the Virginia State Bar Disciplinary Board entered September 30, 2004.

Before proceeding further with the hearing, the Chair confirmed with the Respondent that he was proceeding *pro se*, that his *Guardian ad Litem* was present in the hearing room to facilitate presentation of the Respondent's case, and that arrangement would be made, upon request, for the Respondent and his *Guardian ad Litem* to consult by telephone outside the Board's presence upon the Respondent's request.

After the opening statement by Bar Counsel, the Respondent and his *Guardian ad Litem*, both stating that they were appearing "specially" for that limited purpose, renewed the Respondent's motion that this matter be tried before a three-judge panel pursuant to Virginia Code §54.1-3935, which motion had previously been denied by the Board's Chair. The Respondent also renewed his motion for a continuance of the hearing and his motion for an order directing that he be transported to the hearing from the Augusta Correctional Center. The Board then retired to consider the Respondent's motions. After reconvening the Board announced that the Chair's prior ruling on the Respondent's motion to be tried before a three-judge panel was affirmed for the reason set forth in the Board's orders of September 30, 2004, and October 25, 2004, and the renewed motion was denied. The Respondent's motion for a continuance was denied because the matter had been continued on two prior occasions and no persuasive reason was advanced to believe that a continuance was necessary to prevent injustice. The Respondent's motion to be transported to the hearing was also denied because he was able to participate by telephone conference and the Bar has no authority to require the Department of Corrections to transport him to a civil proceeding. The Respondent then elected not to participate in the hearing and terminated the telephone conference. The *Guardian ad Litem* then asked that she be permitted to withdraw as *Guardian ad Litem*, which request was denied. Notwithstanding that ruling, she announced her decision not to participate further in the hearing and left the hearing room.

Thereafter, Bar Counsel presented evidence of the Respondent's status as an attorney (VSB Ex. 1), the Respondent's felony conviction (VSB Ex. 2). Upon this evidence, the Board found that the Bar had satisfactorily established the predicate fact that the Respondent had been convicted of a crime. The Bar then presented evidence of the nature of the crime the Respondent committed through testimony of the Albemarle County Assistant Commonwealth's Attorney who prosecuted the case.

### **I. FINDINGS OF FACT**

The Board makes the following findings of fact on the basis of clear and convincing evidence:

1. At all times relevant hereto, the Respondent has been an attorney licensed to practice law in the Commonwealth of Virginia, with his license having been suspended by order of the Virginia State Bar Disciplinary Board entered on June 25, 2004. The Respondent's address of record with the Virginia State Bar is P. O. Box 562, Keswick, Virginia, 22974. The Respondent received proper notice of this proceeding as required by Part Six, § IV, ¶ 13 (E) and (I)(a) of the Rules of Virginia Supreme Court.
2. On April 10, 2002, The Respondent was convicted by a jury of Malicious Wounding, a felony under Virginia Code §18.2-51.

### **II. DISPOSITION**

Upon review of the foregoing findings of fact, upon review of the VSB and the Board Exhibits and upon evidence from the witness presented on behalf of the VSB regarding the

nature of the conviction, the Board recessed to deliberate. After due deliberation the Board reconvened and stated its findings as follows:

The Board determined that the Bar did prove by clear and convincing evidence that on April 10, 2002, the Respondent was convicted of a crime, as defined by the Rules of Supreme Court of Virginia, Part 6, §IV, §13.A.

The Board received further evidence of aggravation from the Bar in the form of the Respondent's prior disciplinary record which consists of one Private Reprimand with terms, two Public Reprimands, two Public Reprimands with Terms and one 90 Day Suspension. The Board recessed to deliberate what sanction to impose upon its findings of misconduct by the Respondent. After due deliberation the Board reconvened to announce the sanction imposed. The Chair announced the sanction as revocation of the Respondent's license to practice law in the Commonwealth of Virginia. In light of the nature of the conviction ( an assault with a baseball bat by the Respondent on his brother over a property dispute) and the Respondent's prior disciplinary record which includes mishandling of client funds, co-mingling client funds with his personal funds, failure to comply with a court order while abandoning a client and threatening criminal charges to gain an advantage in a civil matter, the Board considers the Respondent to be unfit to practice law and that the public should be protected from a lawyer who engages in such conduct.

Accordingly, it is ORDERED that the respondent, George Albert Bates' license to practice law in the Commonwealth of Virginia is revoked effective March 25, 2005.

In view of the fact that the Respondent, has previously complied with the notice requirements of Part Six, § IV, ¶ 13.M of the Rules of the Supreme Court of Virginia as a result of his suspension by order of July 25, 2004, nothing further is required of him in that regard.

It is further ORDERED that, pursuant to Part Six, § IV, ¶ 13.B.8.c. of the Rules of the Supreme Court of Virginia, the Clerk of the Disciplinary System shall assess all costs against the Respondent.

It is further ORDERED that the Clerk of the Disciplinary System shall mail an attested copy of this order to the Respondent at his address of record with the Virginia State Bar, being P. O. Box 562, Keswick, VA 22975, by certified mail, return receipt requested, and a copy by regular mail to the Respondent at the following address: George Albert Bates, #333224, Augusta Correctional Center, B1-41, 1821 Estaline Valley Road, Craigsville, VA 24430. The Clerk of the Disciplinary System shall also mail a copy of this order by regular mail to Denise Y. Lunsford, 700 East High Street, Charlottesville, Virginia 22902 and to Seth M. Guggenheim Assistant Bar Counsel, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, Virginia 23219.

ENTERED this 11<sup>th</sup> day of April, 2005

VIRGINIA STATE BAR DISCIPLINARY BOARD

  
Peter A. Dingman, 2<sup>nd</sup> Vice Chair

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