

VIRGINIA :

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
EVA LAVONNE STEPHENSON PLUM

VSB DOCKET NO. 09-000-076230

ORDER OF SUSPENSION

This matter came on to be heard on September 26, 2008 before a panel of the Virginia State Bar Disciplinary Board convening at the State Corporation Commission, 1300 East Main Street, Richmond, Virginia 23219, Courtroom A. The panel was comprised of Robert E. Eicher, Chair, Timothy A. Coyle, Werner H. Quasebath, Lay Member, David R. Schultz, and Sandra Lea Havrilak. Proceedings in this matter were transcribed by Terry S. Griffith, a certified court reporter, Chandler & Halasz, Post Office Box 9349, Richmond, Virginia 23227, (804) 730-1222. The court reporter was sworn by the Chair.

The Chair inquired of each member of the panel whether they had any personal or financial interest which would impair, or reasonably could be perceived to impair, their ability to be impartial. Each member, including the Chair, answered in the negative; the matter proceeded.

The hearing was originally scheduled to be heard at the Lewis F. Powell, U.S. Courthouse, Tweed Courtroom, Fourth Floor, corner of Tenth and Main Streets, Richmond, Virginia. A certified letter dated September 17, 2008 was sent to the Respondent regarding the location change. The Respondent Eva Lavonne Stephenson

Plum appeared *pro se*. The Virginia State Bar appeared by its counsel, Marian L. Beckett.

This matter came before the Board pursuant to a Rule to Show Cause and Order of Suspension and hearing pursuant to Part Six, § IV, ¶ 13.I.5.b of the Rules of the Supreme Court of Virginia, requiring Eva Lavonne Stephenson Plum to appear and show cause why her law license should not be further suspended or revoked based on her felony conviction.

The Chair explained that, pursuant to Part Six, § IV, ¶ 13.I.5.b of the Rules of the Supreme Court of Virginia, as amended, if the Board were to find that the Respondent has been found guilty or convicted of a crime by a judge or jury, pled guilty or entered a plea wherein the facts found by the court would justify a finding of guilt, an Order would be entered either continuing the Respondent's suspension for a period not in excess of five (5) years or revoking respondent's license to practice law in the Commonwealth of Virginia.

I. FINDINGS OF FACT

This matter came before the Disciplinary Board as a result of the Respondent being convicted of the Felony, Elude the Police By Speed <20 mph Over Speed Limit, by the Circuit Court of Augusta County, Virginia. A Rule to Show Cause and Order of Suspension and Hearing was entered on August 29, 2008. Having considered the evidence, including the Virginia State Bar Exhibits 1 through 3, entered into evidence without objection, the testimony of Respondent and Officer Price, the Board found by clear and convincing evidence as follows:

1. All legal notices of the date and time and place of the hearing were timely sent by the Clerk of the Disciplinary System in the manner prescribed by law.

2. At all relevant times herein, until August 29, 2008, the Respondent was licensed by the Virginia State Bar to practice law in the Commonwealth of Virginia, and her address of record with the Virginia State Bar has been 3835 Little Calf Pasture Highway, Craigsville, Virginia 24430.

3. The Respondent is the same person as Eva Lavonne Stephenson, the defendant in Case No. CR-06000482(00) in the Circuit Court for Augusta County, Virginia.

4. The Respondent pled no contest to the charge of Felony, Elude the Police By Speed <20 mph Over Speed Limit and was convicted by the Circuit Court for Augusta County, Virginia, on July 7, 2007. The Respondent was sentenced to three years of incarceration and this sentence was suspended. The Respondent was also placed on unsupervised probation for three years from June 7, 2007.

The following exhibits were offered by the Virginia State Bar and received into evidence without objection:

VS**B Exhibit 1** – Trial and sentencing order of Augusta County Circuit Court, Virginia, dated July 7, 2007;

VS**B Exhibit 2** – Copy of Statute the Defendant pled to: § 46.2-817(B);

VS**B Exhibit 3** – Affidavit of Diana L. Balch, Custodian, Membership Records.

The Respondent testified that she pled no contest to the charge and was convicted of it. She said that she and her boyfriend were arguing, and she was speeding. Respondent denied seeing the police officer and denied she tried to elude him.

Respondent maintained that her boyfriend was blackmailing her and threatened to have her disbarred if she did not pay him money. Her boyfriend sued her in civil court in an attempt to extort money; however, the case was dismissed. Her boyfriend contacted Officer Price, Respondent said, and one and one-half (1½) years after the offense date, she was charged with the felony. Respondent admitted to signing a guilty plea questionnaire; but said she did not understand what she was signing. The Respondent also testified that due to a previous accident, she had physical health problems for which she was prescribed amphetamines and other medications at the time of the offense charged.

Officer Price, with the U.S. Forest Service, testified that on the day in question, he observed the Respondent's vehicle in his rear view mirror, overtaking him at a high rate of speed in the oncoming traffic lane of a two-lane road. Just as she passed him, Officer Price said, he activated his vehicle's emergency lights and siren and accelerated rapidly to pursue. Because of the winding road, Office Price said, he gave up his pursuit when he reached 80 mph and was not overtaking the speeding vehicle. He observed, however, that the license plate began with "DIVA."

Officer Price's investigation revealed that Respondent hit a stop sign and drove her car into an embankment, but was still able to get away. Officer Price later heard from Mr. Powell, Respondent's boyfriend, and two other witnesses, who reported that Respondent was the operator of the vehicle, and that she was bragging that she outran a police officer. According to Respondent, she drives a Mach I Mustang with a license plate "DIVA EVA." Officer Price also testified that Mr. Powell denied being in the car at the time of the incident. The Board found Officer Price's testimony to be more

credible than the Respondent's and notes that Respondent pled *nolo contendere* to the felony to elude the police charge and was convicted.

II. DISPOSITION

Paragraph 13.I.5.(b) and (c), Part Six, § IV, of the Rules of the Supreme Court of Virginia, as amended, entitled "If a Guilty Plea or Adjudication of a Crime" and "Action by the Board" provide in relevant part:

- (b) Whenever the Clerk of the Disciplinary System receives written notification from any court of competent jurisdiction stating that an attorney (the Respondent) has been found guilty or convicted of a crime by a judge or jury, pled guilty to a crime or entered a plea wherein the facts found by a court would justify a finding of guilty, irrespective of whether sentencing has occurred, a member of the Board shall forthwith and summarily issue an order of suspension on behalf of the Board against the Respondent and shall forthwith cause to be served upon the Respondent a copy of the written notification from the court; a copy of the Board Member's order and notice fixing the time and place of the hearing to determine whether revocation or further suspension is appropriate.
- (c) If the Board finds at the hearing that Respondent has been found guilty or convicted of a crime by a judge or jury, pled guilty to a crime or entered a plea wherein the facts found by a court would justify a finding of guilt, an Order shall be issued and a copy thereof served upon the Respondent in which the Board shall (i) continue the Suspension or issue an Order of Suspension against the Respondent for a stated period of time not in excess of 5 years; or (ii) issue an Order of Revocation against the Respondent.

After hearing the evidence and argument of Bar Counsel and Respondent, the Board retired to closed session and then reconvened to announce that it found by clear and convincing evidence that the Respondent had been convicted of a felony.

Additional testimony and argument were presented regarding mitigation and aggravation. The Respondent has a prior conviction of credit card fraud in 1981 in the City of Richmond, Virginia, and a conviction for destruction of private property in 1999

in West Virginia. The Respondent offered a letter from Duane K. Barro, Sr. Assistant Public Defender, that was received without objection as Respondent Exhibit 1, which explained his recollection of the process and charges.

The Board retired to closed session to deliberate and then reconvened. The Chair announced that the Board had determined, by majority vote, that the Respondent's license to practice law should be suspended for one (1) year and one (1) day effective September 26, 2008, and it is therefore ORDERED, pursuant to ¶ 13.I.5.(c) of the Rules of the Supreme Court of Virginia, as amended, that the license of the Respondent Eva Lavonne Stephenson Plum to practice law in the Commonwealth of Virginia be and the same hereby is suspended for one (1) year and one (1) day effective September 26, 2008.

The Respondent has complied with the requirements of Part Six, § IV, ¶ 13(M) of the Rules of the Supreme Court of Virginia by submitting a notarized Affidavit stating that, as of September 3, 2008, she did not have any clients for whom she was currently handling matters. This Affidavit was received by the Clerk of the Disciplinary System on September 15, 2008.

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 Respondent at her address of record with the Virginia State Bar, being Eva Lavonne Stephenson Plum at 3835 Little Calf Pasture Highway, Craigsville, Virginia 24430, by certified mail, return receipt requested, and by regular

mail to Marian L. Beckett, Assistant Bar Counsel, Virginia State Bar, 100 North Pitt Street, Suite 310, Alexandria, Virginia 22314.

Entered this 7th day of October, 2008.

VIRGINIA STATE BAR DISCIPLINARY BOARD



Robert E. Eicher, Chair

Dissenting Opinion to the Suspension Order

I dissent to the Board's imposition of a suspension of twelve (12) months and one (1) day. The Respondent failed to furnish any evidence or satisfactory reason as to why the Board should not issue an Order of Revocation against her. More particularly, she blamed the Augusta County Commonwealth Attorney's Office, Officer Price, and her ex-boyfriend for her problems with the law.

Officer Price testified that Respondent's car traveled at a high rate of speed (possibly 80 mph), which endangered the lives of five or six other motorists she passed in a no passing zone. Her testimony before the Board was combative and less than candid or forthright. That she would testify that she signed a guilty plea questionnaire, which she did not understand, does not speak well of her competency or credibility. Therefore, I would have revoked her license to practice law in the Commonwealth of Virginia.


David R. Schultz