

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
JAMES BERKLEY PRIEST

VSB Docket No.: 11-000-086613

ORDER

This matter came before the Virginia State Bar Disciplinary Board (the "Board") for hearing on June 24, 2011 upon a Rule to Show Cause and Order of Suspension and Hearing entered on January 20, 2011 (the "Show Cause Order"). A duly convened panel of the Board consisting of Sandra L. Havrilak, Acting Chair, John S. Barr, Robert W. Carter, lay member, Randall G. Johnson, Jr., and David R. Schultz. Marian L. Beckett, Assistant Bar Counsel, appeared on behalf of the Virginia State Bar (the "VSB"). The Respondent, James Berkley Priest, was present but not represented by counsel. Frank G. Uvanni, Esquire appeared as Respondent's appointed guardian *ad litem*. The court reporter for the proceeding, Teresa L. McLean, Chandler and Halasz, P.O. Box 9349, Richmond, Virginia, 23227, telephone 804-730-1222, was duly sworn by the Chair. The Chair polled the members of the Panel to inquire if any member had any personal or financial interest or bias which would preclude him or her from fairly hearing the matter and serving on the Panel, to which inquiry each member, including the Chair, responded in the negative.

Pursuant to Part Six, §IV, ¶13-22(A) of the Rules of the Virginia Supreme Court, whenever the Clerk receives written notification from a Court that a Virginia licensed attorney has pled guilty to a crime; a member of the Board shall "forthwith and summarily enter an order of suspension." This same provision further directs that the suspension order be served on the attorney and instruct the attorney to appear before the

Board at a specified time and place to show cause why the attorney's license should not be further suspended or revoked. Part Six, §IV, ¶13-22(D) directs that the attorney shall bear the burden of proving why his or her license should not be further suspended or revoked.

Procedural Background

On January 6, 2011, Respondent appeared before the Circuit Court of Halifax County and, pursuant to a written agreement (the "Plea Agreement") with the Commonwealth's Attorney, entered a guilty plea to one count of felony Driving While Intoxicated, 3rd or Subsequent Offense Within Five to Ten Years, in violation of Virginia Code §18.2-266 and §18.2-270. Respondent further pled guilty to a pending show cause violation of the terms and conditions of his suspended sentence from a previous conviction of DUI, Second Offense. The court accepted Respondent's plea, convicted him, and imposed the sentence agreed to by the Commonwealth and Respondent in the Plea Agreement. Upon receiving notice of Respondent's convictions, the Board entered the Show Cause Order immediately suspending Respondent's license and scheduled a hearing for February 18, 2011. By letter dated January 25, 2011 and properly served on Respondent, the Clerk notified Respondent of the Show Cause Order and the scheduled hearing. Respondent, who at the time was incarcerated, responded in writing that his incarceration prevented him from attending the February 18, 2011 hearing but that he would be "willing to appear before the Disciplinary Committee upon release from active incarceration." The Board, pursuant to Part Six, §IV, ¶13-22 (B), rescheduled the show cause hearing to June 24, 2011, after Respondent's release from incarceration.

Findings of Fact

During the hearing, the VSB made opening statement and later, during the presentation of evidence, offered the Show Cause Order, the Plea Agreement, and Respondent's letter to the Clerk, which was collectively received as VSB Exhibit 1. The guardian *ad litem* also made an opening statement and presented evidence. Respondent did not present any evidence but testified during the presentation of the guardian *ad litem*'s evidence. After considering all of the evidence, which was uncontested, and pursuant to Part Six, §IV, ¶13-22 (E), the Board made the following findings:

1. Respondent pled guilty to a crime; has been found guilty; and, was convicted of a felony crime by a Judge.
2. All procedural and notice requirements placed on the VSB by the Rules of the Virginia Supreme Court were satisfied.
3. Respondent was ably represented by his appointed guardian *ad litem*, who outlined for the Board the circumstances of Respondent's condition that required his appointment, which was duly considered.
4. Respondent has failed to meet his burden, established by Part Six, §IV, ¶13-22 (D), to show cause why his license should not be further suspended or revoked.

At the conclusion of the evidence and after deliberation, the Board announced that Respondent did not satisfy his burden. After further presentation of evidence and argument by the VSB, the guardian *ad litem*, and Respondent, the Board once again deliberated and announced its decision to continue the suspension of Respondent's license for a period of twelve (12) months, effective June 24, 2011.

Accordingly, it is ORDERED that Respondent's license to practice law in the Commonwealth of Virginia is suspended for a period of twelve (12) months, effective June 24, 2011.

It is further ORDERED that all issues concerning the adequacy of the notice and arrangements required by ¶13-29 were proper as determined by the Board.

It is further ORDERED that the Respondent must comply with the requirements of Part 6, Section IV, ¶13-29. The Respondent shall forthwith give notice by certified mail, return receipt requested, of the suspension of his license to practice law in the Commonwealth of Virginia to all clients for whom he is currently handling matters and to all opposing attorneys and presiding Judges in pending litigation. The Respondent shall also make appropriate arrangements for the disposition of matters presently in his care in conformity with the wishes of his clients. The Respondent shall give such notice within fourteen (14) days of the effective date of the Suspension, and make such arrangements as are required within forty-five (45) days of the effective date of the Suspension. The Respondent shall also furnish proof to the VSB within sixty (60) days of the effective date of the Suspension that such notices have been timely given and such arrangements made for the disposition of matters.

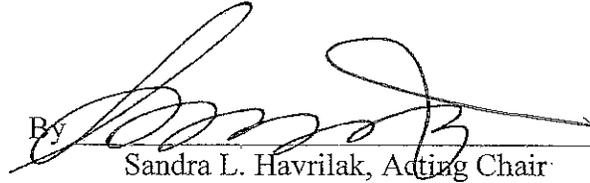
It is further ORDERED that pursuant to Part Six, §IV, ¶13-9(E)(3), the Clerk shall assess all costs against the Respondent.

It is further ORDERED that the Clerk shall mail an attested copy of this Order and Opinion to the Respondent James Berkley Priest, by certified mail, at his address of record with the Virginia State Bar, being The Law Office of James Berkley Priest, 420 Hamilton Blvd., South Boston, VA 24592, and by regular mail to Respondent's guardian

ad litem Frank George Uvanni, Uvanni & Associates, PC, Suite 2, 9410 Atlee Commerce Boulevard, Ashland, VA 23005 and Marian L. Beckett, Assistant Bar Counsel, 707 E. Main Street, Suite 1500, Richmond, VA 23219.

ENTERED THIS 11 DAY OF JULY, 2011.

VIRGINIA STATE BAR DISCIPLINARY BOARD

By 
Sandra L. Havrilak, Acting Chair