

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF MAC ANDRES CHAMBERS

VSB DOCKET NOS. 03-080-4043 (Previously 00-080-0491) (Complainant: Ms. Janis Golding); 03-080-4052 (Previously 01-080-0087) (Complainant: Ms. Pamela Reyes); and 03-080-4051 (Previously, 01-080-0970) (Complainant: VSB/McConnell)

ORDER OF REVOCATION

THIS MATTER came on to be heard on June 25, 2004, before a panel of the Disciplinary Board consisting of Roscoe B. Stephenson, III, Chair, William M. Moffet, Ann N. Kathan, H. Taylor Williams, IV and Donna A. DeCorleto, Lay Member. The Virginia State Bar was represented by Edward L. Davis, Assistant Bar Counsel. The Respondent, Mac Andres Chambers (the “Respondent”), appeared via telephone and represented himself. 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 responded in the negative. Donna T. Chandler, court reporter, of Chandler and Halasz, P.O. Box 9349, Richmond, Virginia 23227, (804) 730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

Three matters came before the Board involving the Respondent. Docket Nos. 03-080-4043 and 03-080-4052 came before the Board on the Certification for Sanction Determination of the Eighth District Committee as a result of the Respondent’s failures to comply with the terms imposed by the two public reprimands issued to the Respondent by the Eighth District Committee on June 26,

2001. Docket No. 03-080-4051 came before the Board on the District Committee Determination (Certification) issued by the Eighth District Committee on July 31, 2003.

I. FINDINGS OF FACT

The VSB's exhibits, presented collectively as Exhibit 1, were admitted without objection. The Board first addressed Docket No. 03-080-4051, which involves the Edward L. Comeaux and the Allen D. Cooper matters relating to traffic cases. Thereafter, the Board addressed Docket Nos. 03-080-4052 and 03-080-4043.1 The Board makes the following findings of fact regarding Docket No. 03-080-4051 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 and his address of record with the Virginia State Bar is 3158 Berry Lane SW, Apartment 84, Roanoke, Virginia 24018. The respondent received proper notice of these proceedings, as well as the proceedings relating to as required by Part Six, § IV, ¶ 13 (E) and (I)(a) of the Rules of Virginia Supreme Court.

The Edward L. Comeaux Matter

2. During 2000, Mr. Chambers participated in a pre-paid legal services program. As a result of Mr. Chambers' participation in this program, Oklahoma attorney James E. Mennella sent a facsimile to Mr. Chambers on July 13, 2000 asking if he could accept the reckless driving case of Edward L. Comeaux. The letter advised that Mr. Comeaux's trial was on July 21, 2000, and that Mr. Mennella would arrange for Mr. Comeaux to be present. The attached warrant indicated that the defendant was charged with reckless driving, was released on a cash bond, and that the case was

1 Because these two matters come before the Board on a Certification for Sanction Determination whereby the Eighth District Committee had ruled unanimously that the Respondent had failed to carry out his burden of proving compliance with the terms of the public reprimands and that alternate dispositions should be imposed, the Board's charge pursuant to the recently amended Rules of Court, Part Six, Section IV, Paragraph 13.I.4.(c) and (d) was to hear evidence only of

scheduled to be heard on July 21, 2000 in the Montgomery County General District Court. Mr. Mennella attached a fee agreement for \$200.00.

3. During a telephone conversation on July 20, 2000, Mr. Chambers advised Mr. Mennella's staff that he would accept the case. Accordingly, Mr. Mennella sent a check in the amount of \$200.00 which Mr. Chambers deposited in his attorney trust account.

4. Neither Mr. Chambers nor the defendant appeared in court on July 21, 2000, and the defendant was tried in his absence, found guilty of reckless driving, and fined \$500.00. On July 25, 2000, Mr. Chambers advised Mr. Mennella's staff that the case was set to be heard on August 28, 2000, and that Mr. Comeaux would need to appear in person.

5. Mr. Chambers, however, never appeared in court on August 28, 2000 because the case was never scheduled for that day. He tried to resolve matters with the court and the Commonwealth's Attorney during the following months, but it was too late.

The Allen D. Cooper Matter

6. On April 12, 2000, Missouri truck driver Allen J. Cooper was issued a summons for speeding, with trial scheduled for June 28, 2000 in the Montgomery County General District Court. Mr. Cooper did not appear, was tried in his absence, found guilty as charged and fined \$39.00.

7. On July 18, 2000, pursuant to Mr. Chambers' participation in the prepaid legal services program, Mr. Mennella sent him a letter by facsimile asking for his assistance with the case. The letter explained that the court never received Mr. Mennella's prior request for a continuance, but that the court said that a motion to rehear could be filed up to July 21, 2000. In August 2000, Mr. Chambers accepted a \$200.00 fee from Mr. Mennella that he deposited in his attorney trust

mitigation and aggravation with respect to compliance or certification and to determine the appropriate sanction.

account. Thereafter, he took no further action, and Mr. Cooper's conviction stood.

8. Mr. Chambers tried to resolve matters with the court and the Commonwealth's Attorney during the following months, but it was too late.

Miscellaneous

9. Mr. Chambers explained that in each case, his assistant/paralegal, Mr. Hebblethwaite, contacted the court to arrange continuances to August 28, 2000, but never confirmed the continuances by letter, and never entered them on Mr. Chambers' calendar. The Cooper matter, however, was already tried on June 28, 2000, and Mr. Chambers was hired only to seek a rehearing.

10. In November 2000, Mr. Chambers received the VSB complaint authored by Mr. McConnell, but never responded, explaining that he was trying to resolve the matters with the Montgomery County Court Clerk and Commonwealth's Attorney.

II. MISCONDUCT

Docket No. 03-080-4051 (Previously No. 01-080-0970)

The Certification in Docket No. 03-080-4051 charged violations of the following provisions of the Virginia Rules of Professional Conduct:

RULE 1.1 Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

RULE 1.3 Diligence

(a) A lawyer shall act with reasonable diligence and promptness in representing a client.

RULE 1.4 Communication

(a) A lawyer shall keep a client reasonably informed about the status of a matter and

promptly comply with reasonable requests for information.

- (c) A lawyer shall inform the client of facts pertinent to the matter and of communications from another party that may significantly affect settlement or resolution of the matter.

III. DISPOSITION

Upon review of the foregoing findings of fact relating to Docket No. 03-080-4051, upon review of exhibits presented by Bar Counsel on behalf of the VSB, and upon evidence presented by Respondent in the form of his own testimony, and at the conclusion of the evidence regarding misconduct, the Board recessed to deliberate. After due deliberation the Board reconvened and stated its unanimous findings as follows:

1. The Board determined that the Bar did prove by clear and convincing evidence that the Respondent was in violation of Rule 1.1 in that the Respondent did not provide the “thoroughness and preparation reasonably necessary for the representation.” However, the Bar did not prove by clear and convincing evidence under Rule 1.1 that the Respondent lacked the legal knowledge or the skill required for the representation.

2. The Board determined that the Bar did prove by clear and convincing evidence that the Respondent was in violation of Rule 1.3(a).

3. The Board determined that the Bar did prove by clear and convincing evidence that the Respondent was in violation of Rule 1.4(a) and (c).

4. Furthermore, pursuant to the Rules of Court, Part Six, Section IV, Paragraph 13.I.4, the Board accepts the findings of misconduct of the Eighth District Committee in Docket Nos. 03-080-4043 and 03-080-4052.

Thereafter, the Board received further evidence of aggravation and mitigation from the Bar and Respondent, including Respondent's prior disciplinary record, for all three matters. The Board recessed to deliberate what sanction to impose upon its findings of misconduct by 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.

The Board's unanimous sanction decision is based upon the totality of the circumstances. First, the Board finds that the VSB has exercised incredible patience regarding the Respondent and has given him more than ample time to fulfill the requirements of the Respondent's public reprimand and to rehabilitate himself. However, the Respondent, by his own admissions, has failed to fulfill those requirements and the Board finds that the Respondent's many explanations as to why he could not fulfill the continuing legal education requirements of the public reprimands are not credible.

Second, the Respondent explained that he is suffering from multiple serious physical and mental health problems, and at most times he is heavily medicated in order to manage the pain resulting from these problems. Under these circumstances the Board finds that the Respondent's ability to practice law is severely impaired and that he should not be handling client matters.

Finally, the Board is deeply concerned about the Respondent's disciplinary record, particularly the Agreed Order that was entered into by the Respondent and the VSB just shortly before the July 25, 2004 Board hearing. Instead of resolving matters and rehabilitating himself, the Respondent continues to decline and the threat of substantial harm to the public is great. It is for these reasons that the Board believes revocation is the appropriate sanction.

Accordingly, it is ORDERED that the license of Respondent, Mac Andres Chambers, to practice law in the Commonwealth of Virginia is hereby revoked effective June 25, 2004.

It is further ORDERED that the Respondent must comply with the requirements of Part Six, § IV, ¶ 13(M) of the Rules of the Supreme Court of Virginia. The Respondent shall forthwith give notice by certified mail, return receipt requested, of the revocation 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 then in his care in conformity with the wishes of his clients. Respondent shall give such notice within 14 days of the effective date of the revocation, and make such arrangements as are required herein within 45 days of the effective date of the revocation. The Respondent shall also furnish proof to the Bar within 60 days of the effective day of the revocation that such notices have been timely given and such arrangements made for the disposition of matters.

It is further ORDERED that if the Respondent is not handling any client matters on the effective date of revocation, he shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13 (M) shall be determined by the Virginia State Bar Disciplinary Board, unless the Respondent makes a timely request for hearing before a three-judge court.

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 his address of record with the Virginia State Bar, being 3158 Berry Lane, SW, Apartment 84, Roanoke, Virginia 24018, by certified mail, return receipt requested, and by regular mail to Edward L. Davis, Assistant Bar Counsel, Virginia State Bar, 707 East Main Street, Suite 1500, Richmond, Virginia 23219.

ENTERED this 14th day of July 2004

VIRGINIA STATE BAR DISCIPLINARY BOARD

Roscoe B. Stephenson, III, Chair