

VIRGINIA: BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF KEVIN LINCOLN CASH
VSB DOCKET NO. 16-000-104082

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OPINION AND ORDER

This private matter came to be heard on March 25, 2016 before a duly-convened panel of the Virginia State Bar Disciplinary Board on a Petition to Lift Respondent's Impairment Suspension, filed with the Board on October 5, 2015. The panel consisted of Esther J. Windmueller, 2nd Vice Chair; R. Lucas Hobbs; Melissa W. Robinson; Jeffrey L. Marks; and Sandra W. Montgomery, lay member.

The Virginia State Bar was represented by Edward J. Dillon, Jr., Assistant Bar Counsel. Respondent Kevin Lincoln Cash was present, and was represented by Bevin R. Alexander, Jr. Angela N. Sidener, court reporter, Chandler and Halasz, Inc., P.O. Box 9349, Richmond, Virginia 23227, (804) 730-1222, after having been duly sworn, reported the hearing and transcribed the proceeding.

The Chair polled members of the Panel regarding any personal or financial interest or conflict they might have which would preclude them from fairly hearing the matter before them. Each member, including the Chair, responded in the negative.

The courtroom was cleared of all persons other than the members of the Panel, the court reporter, the Respondent, Assistant Bar Counsel, Respondent's counsel, staff of the Virginia State Bar's Clerk's Office, and all witnesses until such time as he or she was called to testify.

FINDINGS OF FACT

Exhibits of the parties, numbered as Bar Exhibits 1-10 and Respondent's Exhibit 1 were admitted, without objection.

The parties delivered opening statements.

The Respondent then presented evidence in his case-in-chief, by calling witnesses, including expert witnesses in the field of psychology, and a person well acquainted with Respondent. The Bar cross-examined the witnesses called by Respondent, but presented no witnesses of its own. Each of these witnesses testified to facts and expert opinions that supported the respondent's claim that he is no longer suffers from the impairment that resulted in the voluntary suspension and that he is currently fit to practice law.

APPLICABLE RULE OF PROCEDURE

Respondent's license to practice law was voluntarily suspended due to his impairment on December 8, 2014.

Paragraph 13-23 of Part Six, Section 4 of the Rules of the Supreme Court of Virginia governs this Board's proceedings upon impairments of attorneys admitted to practice in Virginia, and likewise governs termination or lifting of suspensions based on impairments.

In pertinent part, Paragraph 13-23 provides that a suspension for impairment is of indefinite length, and, subject to exceptions not applicable here, shall be terminated or lifted only upon a determination by the Board that a respondent no longer suffers from the impairment for which suspension was imposed. In proceedings to terminate or lift such a suspension, the burden of proof rests with the respondent.

DISPOSITION

Upon consideration of the evidence presented, the panel found by clear and convincing evidence that Respondent has satisfied his burden of proof, and therefore it is hereby

ORDERED that Respondent's license to practice law in the Commonwealth of Virginia shall be and hereby is reinstated, and that his suspension from so practicing shall be and hereby is lifted and terminated; and

ORDERED that an attested copy of this Order be mailed by certified mail, return receipt requested, to Respondent, Kevin Lincoln Cash, at his Virginia State Bar address of record, 613 Wilderness Creek Road, Monroe, VA 24574; and by regular mail to Bevin R. Alexander, Jr., Counsel for Respondent, 1045 Cottontown Road, Lynchburg, VA 24503; and hand-delivered to Edward J. Dillon, Jr., Assistant Bar Counsel, Virginia State Bar, 1111 East Main Street, Suite 700, Richmond, VA 23219-0026.

ENTERED THIS th 30 DAY OF March, 2016

VIRGINIA STATE BAR DISCIPLINARY BOARD

By:


Esther J. Windmueller, 2nd Vice Chair