

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF
Eva Lavonne Stephenson Plum

VSB DOCKET NO. 19-000-113473

ORDER OF REVOCATION

This matter came to be heard on October 26 2018, upon an Order of Summary Suspension and Hearing issued by the Virginia State Bar Disciplinary Board on September 27, 2018, before a panel of the Virginia State Bar Disciplinary Board (“Board”) consisting of Sandra L. Havrilak, 1st Vice Chair (hereinafter “Vice Chair”), John A.C. Keith, John D. Whittington, Donita M. King, and Martha J. Goodman, Lay Member. The Virginia State Bar (the “VSB”) was represented by Christine Corey, Assistant Bar Counsel (“Assistant Bar Counsel”). The Vice Chair called the case at the appointed time and Respondent Eva Lavonne Stephenson Plum (hereinafter “the Respondent”) was not present and was not represented by counsel. The Vice Chair directed the Clerk to call for the Respondent three (3) times whereupon the Clerk exited the Courtroom and called for Respondent. The Clerk returned and reported no response. Seeing no reason to delay the proceedings, the Vice Chair polled the members of the Board as to whether any of them were aware of any personal or financial interest or bias that would preclude any of them from fairly hearing this matter and serving on the panel, to which each member, including the Vice Chair, responded in the negative. Tracy J. Stroh, court reporter, Chandler & Halasz, P.O. Box 9349, Richmond, Virginia 23227, (804) 730-1222, after being duly sworn, reported the hearing and transcribed the proceedings.

All required notices were timely sent by the Clerk of the Disciplinary System to Respondent by certified mail, in the manner prescribed by the *Rules of the Supreme Court of Virginia*, Part Six, §IV, Paragraph 13.

A Rule to Show Cause and Order of Summary Suspension and Hearing (admitted at the hearing as Board Exhibit 1) was issued by the Board on September 27, 2018, effective October 4, 2018, as a result of the Alford plea entered by Respondent to one count of malicious wounding with malicious intent in violation of §18.2-51 of the 1950 *Code of Virginia*, as amended, on August 7, 2018, in the Circuit Court of Augusta County, Virginia the matter of Commonwealth of Virginia vs. Eva Lavonne Stephenson, Case No. CR16000494-00. Respondent was required to appear and show cause why her law license should not be further suspended or revoked based upon her felony conviction.

The Board reviewed Virginia State Bar Exhibits marked as VSB Exhibits 1-5 (VSB Exhibits 1-3 were collectively received as VSB Exhibit 1, the Investigator's Report was admitted as VSB Exhibit 2; and the Membership Affidavit was admitted as VSB Exhibit 3) as previously submitted pursuant to the Pretrial Hearing Order, without objection, and at the hearing Assistant Bar Counsel introduced a certificate regarding the Respondent's disciplinary record propounded by Kathleen LaMotte, Assistant Clerk.¹ The Board took judicial notice of the Clerk's Notice of Hearing, Assistant Bar Counsel made an opening statement and presented her case. The Board proceeded to hear evidence. Assistant Bar Counsel called Robert E. Baker, VSB Investigator (hereinafter "Investigator Baker"), who was sworn in and offered testimony under oath. After the close of the Bar's presentation of evidence, the Board retired to deliberate. All of the factual findings made by the Board were found to have been proven by clear and convincing evidence.

¹ Exhibit 4.

MISCONDUCT

Eva Lavonne Stephenson Plum (hereinafter “the Respondent”) was an attorney licensed to practice law in the Commonwealth of Virginia at all times relevant to the conduct set forth herein. At the time of the hearing, the Respondent was an inactive Associate member of the VSB and not in good standing. She was licensed to practice law in the Commonwealth of Virginia on May 2, 1995.²

On April 16, 2016, the Respondent stabbed an individual on the road after she exited her vehicle and approached the individual in his vehicle. Later that day, she was arrested and denied using a knife to stab the individual. On April 18, 2018, for the first time, Respondent told investigating Augusta County Sheriff’s deputies that the individual had sexually assaulted her on April 10, 2016. The deputies conducted an investigation into the alleged rape and closed the case based upon the many variations in Respondent’s claims.

On August 7, 2018, the Respondent entered an Alford plea to one count of malicious wounding with malicious intent in violation of §18.2-51 of the 1950 *Code of Virginia*, as amended, in the Circuit Court of August County due to her belief that the Commonwealth possessed sufficient evidence to convict her of the offense. The Respondent was present before the Circuit Court of Augusta County, and the Court found that the plea was knowingly, freely, voluntarily, and intelligently made.

RULING

Pursuant to the *Rules of the Supreme Court of Virginia*, Part Six, §IV, Paragraph 13-22, if the Board finds that the Respondent has been found guilty or convicted of a crime by a judge or jury, plead guilty, or entered a plea wherein the facts found by the court would justify a finding

² VSB Exhibit 5 (received as Exhibit 3).

of guilty, an Order must 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. Based upon the evidence presented, including the Rule to Show Cause and Order of Summary Suspension and Hearing received into evidence, and for the reasons more particularly set forth herein, the Board finds, by clear and convincing evidence, that the Respondent has been convicted of a crime, as defined by the *Rules of the Supreme Court of Virginia*, Part 6, Section §IV, Paragraph 13-1.

SANCTIONS PHASE OF HEARING

After the Board announced its findings by clear and convincing evidence that the Respondent had been convicted of a crime, as defined by the *Rules of the Supreme Court of Virginia*, Part 6, Section §IV, Paragraph 13-1, it received further evidence regarding aggravating and mitigating factors applicable to the appropriate sanction of the Respondent. Assistant Bar Counsel recommended revocation of Respondent's license and presented evidence of Respondent's prior disciplinary record, as set forth in VSB's Exhibit 4.

On October 7, 2008, a panel of the Virginia State Bar Disciplinary Board found that Respondent had been convicted of a crime, as defined by the *Rules of the Supreme Court of Virginia*, Part 6, Section §IV, Paragraph 13-1. The conviction that led to the finding consisted of the entry of a plea of *nolo contendere* to one count of eluding the police by speed < 20 mph over speed limit in violation of §46.2-817(B) of the 1950 *Code of Virginia*, as amended, on July 7, 2007, in the Circuit Court of Augusta County, Virginia in the matter of Commonwealth of Virginia vs. Eva Lavonne Stephenson, Case No. CR06000482(00). Such violation is a felony under Virginia law. Respondent testified to the Board at that time that she pled no contest to the charge and was convicted of it. The Board imposed a Suspension of one (1) year and one (1) day pursuant to the

Supreme Court of Virginia, Part 6, Section §IV, Paragraph 13-22.³ Thereafter, Assistant Bar Counsel rested its case.

DISPOSITION

At the conclusion of the evidence in the sanctions phase of this proceeding, the Board recessed to deliberate. After due deliberation and review of the foregoing findings of fact, upon review of exhibits presented by Assistant Bar Counsel on behalf of the VSB, upon the testimony from the witness presented on behalf of the VSB, upon notice to Respondent of the hearing, and upon Respondent's failure to appear or to be represented by counsel, the Board reconvened and stated its finding that, when considered together, Respondent's pattern of misconduct, along with her prior disciplinary record, demonstrate a serious failure to uphold her duties to the profession.

The Board looked to the American Bar Association's Standards for Imposing Lawyer Sanctions for guidance on the appropriate sanction to impose and the factors to be considered in imposing sanctions.⁴ The Board considered factors recommended by the ABA Standards, including as aggravating factors Respondent's (1) prior disciplinary offense, (2) pattern of misconduct, and (3) refusal to acknowledge wrongful nature of conduct.⁵ The Board also considered Respondent's failure to maintain personal integrity based and failure to show remorse. Furthermore, the Board takes into consideration the fact that Respondent failed to attend her own disciplinary hearing, although, according to the testimony of Investigator Baker, she would have been permitted to do so, if requested. This further exhibits her lack of remorse or

³ At the time the Order of Suspension cites *Rules of the Supreme Court of Virginia*, Part 6, Section §IV, Paragraph 13.I.5.(c)

⁴ ABA ANNOTATED STANDARDS FOR IMPOSING LAWYER SANCTIONS (2015).

⁵ ABA ANNOTATED STANDARDS FOR IMPOSING LAWYER SANCTIONS, at 418 (2015).

appreciation of the serious nature of this misconduct. The Board also notes that Respondent has not taken action to rectify her conduct and prevent future violations.

Therefore, upon consideration of the evidence and the nature of the misconduct committed by Respondent, it is ORDERED, by unanimous vote of the Board, that the Respondent's license to practice law in the Commonwealth of Virginia be REVOKED effective October 26, 2018.

It is further ORDERED that Respondent must comply with the requirements of *Rules of the Supreme Court of Virginia*, Part 6, Section § IV, ¶ 13-29. The Respondent shall forthwith give notice by certified mail, return receipt requested, of the revocation of her license to practice law in the Commonwealth of Virginia to all clients for whom she 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 her care in conformity with the wishes of her clients. Respondent shall give such notice within fourteen (14) days of the effective date of the revocation and make such arrangements as are required herein within forty-five (45) days of the effective date of the revocation. Respondent shall also furnish proof to the Bar within sixty (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 Respondent is not handling any client matters on the effective date of revocation, she shall submit an affidavit to that effect to the Clerk of the Disciplinary System at the Virginia State Bar within sixty (60) days of the effective day of the revocation. All issues concerning the adequacy of the notice and arrangements required by Paragraph 13-29 shall be determined by the Virginia State Bar Disciplinary Board, which may

impose a sanction of Revocation or additional Suspension for failure to comply with the requirements of this subparagraph.

It is further ORDERED that pursuant to *Rules of the Supreme Court of Virginia*, Part 6, Section, § IV, ¶ 13-9(E), the Clerk of the Disciplinary System shall assess all costs against 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, certified mail, return receipt requested, with the Virginia State Bar, 3835 Little Calf Pasture Highway, Craigsville, Virginia 24430 and a copy hand-delivered to Christine Corey, Assistant Bar Counsel, Virginia State Bar, 1111 East Main Street, Suite 700, Richmond, VA 23219-0026.

ENTERED this 13th day of November, 2018.

VIRGINIA STATE BAR DISCIPLINARY BOARD

Sandra L. Havrilak

Digitally signed by Sandra L. Havrilak
DN: cn=Sandra L. Havrilak, o, ou,
email=shavrilak@havrilaklaw.com, c=US
Date: 2018.11.13 19:53:28 -05'00'

Sandra L. Havrilak, 1st Vice Chair