

RECEIVED

JUN - 4 2014

STATE OF MAINE

BOARD OF OVERSEERS OF THE BAR

Supreme Judicial Court

Docket No. BAR-13-21

BOARD OF OVERSEERS OF THE BAR)
)
 Plaintiff)
)
 v.)
 ALLAN W. HANSON, ESQ.)
 of Caribou, ME)
 Me. Bar# 006814)
)
 Defendant)

ORDER
M. Bar R. 7.2(b)

This disciplinary matter was filed with the Court by the Board of Overseers of the Bar's information dated January 9, 2014, pursuant to Maine Bar Rule 7.2(b)(1).

Defendant Attorney Allan W. Hanson of Caribou, County of Aroostook, State of Maine was at all times relevant hereto an attorney admitted to and engaging in the practice of law in the State of Maine and subject to the Maine Rules of Professional Conduct and the Maine Bar Rules. Attorney Hanson was admitted to the Maine Bar in 1989, and is currently registered as an active Maine attorney.

FINDINGS

In this proceeding, Attorney Hanson and Bar Counsel have conferred, stipulated, and agreed to the following factual background and involved misconduct by the defendant, Allan W. Hanson, Esq.:

1. On February 15, 2013 Camille Franck and David Blade filed individual grievance complaints against Attorney Hanson alleging misconduct during the course of his representation of Camille Franck in civil proceedings relating to a boundary dispute with Mr. Franck's abutting landowners.
2. On February 19, 2013 Mark J. Theriault filed an unrelated grievance complaint against Attorney Hanson alleging misconduct during his representation of him in a criminal proceeding.

3. On June 25, 2013, a Panel of the Grievance Commission reviewed the complaints made by Camille Franck, David Blade and Mark Theriault, and the respective investigations relating thereto. Based upon that review, the Panel found probable cause to believe that Attorney Hanson had engaged in misconduct subject to sanction under the Maine Rules of Professional Conduct in each of the above matters. Accordingly, in each grievance complaint against Attorney Hanson the Panel authorized and directed Bar Counsel to prepare and present a formal disciplinary Petition for a disciplinary proceeding before a different Panel of the Grievance Commission.
4. A Grievance Commission hearing was then scheduled and set to occur regarding that Petition on November 13, 2013. On that date, a Stipulated Waiver of Grievance Commission Proceedings was executed by Assistant Bar Counsel Alan P. Kelley and Attorney Allan W. Hanson.
5. The Stipulated Waiver was approved by the Court's Order of December 3, 2013 for this disciplinary proceeding to be directly filed with the Court without any further proceedings occurring before the Grievance Commission, and an Information was filed with the Court pursuant to M. Bar R. 7 .2(b) on January 9, 2014

Count I: David Blade & Camille Franck

6. Camille Franck owns real estate located in Limestone, Maine that abuts property used as an automobile junkyard or graveyard, known as Caldwell's Auto Parts.
7. Prior to Attorney Hanson's involvement in Mr. Franck's matter, there was an ongoing dispute between Mr. Franck and Caldwell regarding the location of the boundary between the properties as well as Caldwell's usage of the property for an automobile graveyard/junkyard.
8. In October of 2010, Mr. Franck accompanied and assisted by his friend, David Blade, met with Attorney Hanson at his office and hired him to initiate litigation by filing a court complaint against the Town of Limestone for its reissuance of Caldwell's annual permit to operate the automobile graveyard/junkyard.
9. On January 24, 2011 Mr. Blade and Mr. Franck wrote to Attorney Hanson stating their dissatisfaction with the lack of progress in Mr. Franck's case against the Town, and asking that he immediately seek injunctive relief to terminate all junkyard activities by the abutting property owners until the case was ultimately resolved by the Court.

10. After a delay of approximately six months, on April 19, 2011 Attorney Hanson filed a complaint in the Aroostook County Superior Court, CARSC-CV-2011-00043, against the Town of Limestone alleging that Caldwell's automobile graveyard or junkyard permit had been improperly issued by the Town and requesting that the court suspend Caldwell's permit "pending a proper review of the application of a permit" by the Town of Limestone.
11. On September 13, 2011, Mr. Franck and Mr. Blade again wrote to Attorney Hanson reminding him of their January 24th letter, and expressing their continued concern about the substantial delay in their suit against the Town of Limestone.
12. Attorney Hanson took no further action on the case until he appeared at a pre-trial conference on August 31, 2012, where the court advised him that the complaint in the lawsuit was moot because the Town of Limestone had renewed Caldwell's junkyard permit subsequent to the filing of the lawsuit.
13. On December 13, 2012, more than two years after Camille Franck hired Attorney Hanson to file suit against the Town of Limestone, Attorney Hanson filed a voluntary dismissal of the complaint in CARSC-CV-2011-00043.
14. Mr. Franck and Mr. Blade's letter to Attorney Hanson on September 13, 2011, in addition to expressing their concern about the delay in the pending litigation against the Town of Limestone (CARSC-CV-2011-00043), also requested that he file a second lawsuit against the abutting property owners for related damages. Their request stated that they did, "...not have the time for this case to languish without resolution beyond 2012."
15. Between September 13, 2011 and August 14, 2012, Mr. Franck and Mr. Blade contacted Attorney Hanson, or his office, on eleven separate occasions to inquire about the status of the proposed action against the property abutters.
16. On August 17, 2012, more than eleven months after Mr. Franck and Mr. Blade's first request to file the lawsuit against the abutters, Attorney Hanson filed the complaint in the Camille Franck vs. Caldwell's Auto Parts, LLC, CARSC-CV-2012-00114.
17. Although Mr. Franck and Mr. Blade had requested that Randy Brooker be included in the lawsuit as a party defendant, the complaint filed by Attorney Hanson on August 17, 2012 failed to include him as a defendant.

18. On about October 30, 2012, Mr. Blade called Attorney Hanson to inquire why he had not yet amended the complaint and added Randy Brooker as a co-defendant in CARSC-CV-2012-00114.
19. On or about January 8, 2013, Mr. Franck told Attorney Hanson to amend the complaint and add Randy Brooker as a defendant, or he would get a new attorney and also sue Attorney Hanson.
20. As of February 4, 2013, even though Attorney Hanson had filed the complaint nearly six months earlier, he still had not served Defendant Caldwell with a copy of the complaint, nor had he amended the original complaint to add and include Randy Brooker as a co-defendant as his client had requested.
21. On or about February 15, 2013, Mr. Franck and Mr. Blade filed their complaints with the Board of Overseers in this matter.
22. On or about February 21, 2013, Attorney Hanson dismissed CARSC-CV-2012-00114 without prejudice, and filed a third civil action, Camille Franck v. Scott Caldwell, Robbie Caldwell, and Randy Brooker, CARSC-CV-2013-0019.
23. On or about February 26, 2013 Attorney Hanson was notified and provided with the Franck and Blade grievance complaints by Bar Counsel.
24. On or about April 4, 2013 Attorney Hanson filed a Motion to Withdraw from his representation of Camille Franck in CARSC-CV-2013-0019, as a result of the grievance complaints filed against him by Camille Franck and David Blade.
25. Between October of 2010 and his withdrawal in April of 2013, Attorney Hanson filed three lawsuits on behalf of his client, Camille Franck, and voluntarily dismissed two of them failing to provide competent representation, or to act with reasonable diligence and promptness in pursuing his client's cases against the Town of Limestone and the abutting property owners.
26. Between October of 2010 and his withdrawal in April of 2013, Attorney Hanson failed to reasonably consult with his client or to keep him reasonably informed of the status of his cases.

Count II: Mark J. Theriault

27. Attorney Hanson was court-appointed on September 29, 2009 to represent Mark Theriault on a Class A charge of Unlawful Sexual Contact, allegedly committed against a female child under the age of 12.
28. During the ensuing 16 months while that case was pending against Theriault, Attorney Hanson met with Theriault in his office no more than three times for periods of approximately one hour on each occasion.
29. Attorney Hanson requested and obtained court approval to hire a private investigator; however, Attorney Hanson failed to hire an investigator or conduct any independent investigation of the serious allegations against his client, other than his own discussions with his client.
30. Mr. Theriault suggested areas of investigation and defense theories that he wanted to pursue through investigation; however, Attorney Hanson failed to follow up on Mr. Theriault's suggestions and requests, and did not pursue his client's theory of defense.
31. The trial of Mr. Theriault's matter began on February 7, 2011 with opening statements at 9:25 a.m. Three witnesses, including the victim, appeared for the State, and the trial testimony concluded at 11:40 a.m. on that same date, after less than two hours of testimony.
32. Although Mr. Theriault wanted to testify in his own defense, he followed Attorney Hanson's advice not to testify, and the defense rested without presenting any witnesses or evidence on Mr. Theriault's behalf.
33. Attorney Hanson conducted brief cross-examinations of the State's witnesses, and presented short opening and closing statements.
34. After closing arguments, the jury deliberated for less than 25 minutes prior to returning its "Guilty" verdict.
35. Sentencing was held on February 9, 2011, less than 48 hours after the jury's verdict.
36. Attorney Hanson did not request a pre-sentence investigation, nor did he request sufficient time to prepare for sentencing. He did not prepare or present a written sentencing memorandum or analysis to the court.
37. At the sentencing hearing, Attorney Hanson called Mr. Theriault's mother as a witness, but she just briefly stated that Mr. Theriault did not commit the crime that he had been convicted of committing. In that

regard, the court then informed her: "Ma'am, what you are saying is not helpful."

38. Despite the court's admonition, Attorney Hanson called Mr. Theriault's daughter who told the court that her father, "...would never do such a thing..."
39. Attorney Hanson called no other witnesses at the sentencing proceeding, and when Mr. Theriault was called upon by the court for elocution, he only stated: "Um, just been a long - - been a long week for me. I got a lot on my mind, and I'm just trying to accept what's going on right now, sir."
40. Attorney Hanson failed to adequately prepare Mr. Theriault or his witnesses for the sentencing proceeding, or to present any evidence to the court in mitigation of the sentence to be imposed as a result of Mr. Theriault's conviction of that Class A crime.
41. The court sentenced Mr. Theriault to 16 years of incarceration with all but 8 years suspended and 6 years of probation.

CONCLUSIONS

Based upon the above findings, as well as the parties' presentations to the Court, the Court draws the following conclusions:

1. Attorney Hanson has acknowledged various errors on his part in relation to his representation of Camille Franck. He understands and agrees that by filing two ineffectual lawsuits that ultimately were voluntarily dismissed and failing to join essential parties that he failed to provide competent representation to his client. He understands and agrees that by not actively pursuing those lawsuits and allowing more than two years to pass without taking significant action to benefit his client, that he failed to act with reasonable diligence. He also understands and agrees that he failed to reasonably consult with Mr. Franck and to keep him apprised of the status of his cases. Although his actions were not intentional attempts to violate the Maine Rules of Professional Conduct they nevertheless constitute violations of Rules 1.1; 1.3; 1.4 and 8.4(a)(d).
2. Attorney Hanson has acknowledged various errors on his part in relation to his representation of Mark Theriault. He understands and agrees that he did not utilize the court-approved private investigator to independently investigate the case or to pursue the areas of investigation suggested by his client prior to the trial. He understands and agrees that he did not spend sufficient time with his client to prepare him for the

trial, or to make his decision regarding whether he would testify. He also understands and agrees that he did not request additional time to prepare his case for sentencing, or to prepare his client and the other witnesses for the sentencing proceeding. Attorney Hanson understands and agrees that by those failures, he failed to reasonably communicate with his client; to provide competent representation; or to act with reasonable diligence in his client's defense. Although his actions were not intentional attempts to violate the Maine Rules of Professional Conduct they nevertheless constitute violations of Rules 1.1; 1.3; 1.4 and 8.4(a)(d).

3. Attorney Hanson has been twice before publicly reprimanded:
 - a. On December 7, 2004, a Panel of the Grievance Commission reprimanded Attorney Hanson for failure to diligently handle his clients' claims, conduct unworthy of an attorney, in violation of then Maine Bar Rule 3.1(a); misrepresentation and conduct prejudicial to the administration of justice in violation of then Maine Bar Rule 3.2(f)(3)(4); and failure to use reasonable care and skill and neglect of legal matters in violation of then Maine Bar Rule 3.6(a).
 - b. On August 29, 2011, a Panel of the Grievance Commission reprimanded Attorney Hanson for conduct unworthy of an attorney, in violation of then Maine Bar Rule 3.1(a); handling a legal matter without preparation in violation of then Maine Bar Rule 3.6(a)(2); neglect of a client's legal matter in violation of then Maine Bar Rule 3.6(a)(3); as well as a lack of diligence in violation Rule 1.3 and communication in violation of Rule 1.4 of the Maine Rules of Professional Conduct.
4. At the time of the August 29, 2011 reprimand, Attorney Hanson voluntarily agreed to involvement with the Maine Assistance Program for Lawyers (MAP) and a Confidential Monitoring Agreement by another attorney.
5. Although Attorney Hanson's conduct in the Mark Theriault matter pre-dates the imposition of the August 29, 2011 reprimand, and his subsequent involvement with MAP and the Confidential Monitoring Agreement, much of the conduct in the Franck and Blade matter occurred after the imposition of that reprimand.
6. Attorney Hanson has appeared before the Court and acknowledged his errors in judgment and his failure to appreciate his responsibilities to his clients. He has taken full responsibility for his actions, and expressed his contrition for his conduct.

7. Attorney Hanson has appeared before the Court and acknowledged and agreed that based upon his history of prior reprimands together with the conduct discussed above, that his practice of law should be limited to specific areas of law and that it should be monitored to ensure his ability to provide diligent and competent representation to his current and future clients.

SANCTION

ACCORDINGLY, it is hereby ORDERED as follows:

1. ALLAN W. HANSON, ESQ. is hereby suspended from the practice of law in the State of Maine for a period of SIXTY (60) Days;
2. The actual SIXTY (60) day period of suspension is hereby suspended for a period of TWO (2) YEARS subject to the following conditions:
 - a. Attorney Hanson will participate in the Maine Assistance Program for Lawyers (MAP), with the agreement that MAP will report directly to Bar Counsel on Attorney Hanson's status, and, or progress upon Bar Counsel's request.
 - b. Attorney Hanson's practice of law will be limited to the following specified areas during the two year period:
 - i. Criminal Defense,
 - ii. Child Protective Proceedings,
 - iii. Emancipation Proceedings,
 - iv. Such other areas as are specified and approved by agreement with Bar Counsel, and
 - v. Attorney Hanson will be allowed to complete any cases outside those areas of practice, existing in his office at the time of this order.
 - c. Attorney Hanson will provide confidentially to Bar Counsel a list of client names and cases, including the type of case, and status of case, on a monthly basis, or on such other schedule as directed by Bar Counsel.
 - d. Attorney Hanson will provide to Bar Counsel a schedule of all upcoming court appearances on a weekly basis, or on such other schedule as approved by Bar Counsel.
 - e. Attorney Hanson will not commit any new ethical violations.
 - f. For any new apparent ethical violation, or for any violation of the specific provisions of this Order, Bar Counsel shall bring the alleged violation directly before this Court for hearing on an

expedited basis. Upon a finding of any violation by this Court, it may impose all or any portion, of the actual underlying 60-day period of suspension.

3. Upon certification to the Court by Bar Counsel that the defendant has completed the requirements described above, the period of suspension, and underlying suspension from the practice of law, shall terminate without further order of the Court.

Dated: June 2, 2014

/s/

Andrew Mead, Associate Justice
Maine Supreme Judicial Court

RECEIVED

JUN 12 2014
Clerk's Office
Maine Supreme Judicial Court