

PCB 92

[07-Jul-1995]

STATE OF VERMONT
PROFESSIONAL CONDUCT BOARD

IN RE: PCB File No. 93.48

NOTICE OF DECISION

DECISION NO. 92

This matter was presented to us by stipulation between Respondent and Special Bar Counsel, William M. Dorsch. We adopt the stipulated facts as our own and impose a private admonition.

This case concerns the Respondent's neglect of a post-divorce matter. The Complainant retained Respondent in 1991 after Complainant's former wife filed a Motion to Modify the final divorce order, seeking custody of their two minor children. The Family Court granted the motion and Respondent filed an appeal.

The Family Court initially scheduled a hearing to establish Complainant's child support obligations and then rescheduled the hearing to allow time to obtain additional information. The Court notified Respondent of the new date and time. Respondent, however, failed to so notify his client who, accordingly, failed to appear at the support hearing.

As a result of Respondent's failure to attend the rescheduled hearing, the

Court entered a support order without the benefit of any evidence or argument from Complainant or his counsel.

Later, the Vermont Supreme Court notified Respondent that he was obliged to order the transcript of the hearing which he was appealing on behalf of his client. Respondent failed to do so and, as a result, his client's case was dismissed.

Respondent's conduct violated DR 6-101(A)(3). This is the second time he has been disciplined for client neglect. See PCB File 91.12, Decision No. 43 (December 4, 1992). Under normal circumstances, this case would warrant imposition of public discipline. However, there are additional circumstances in this case which lead us to agree with recommendation of both Respondent and Special Bar Counsel to impose only a private admonition.

Respondent has been a member of the Vermont Bar for nearly 20 years. In the early 1990's, Respondent became seriously ill. The illness so interfered with Respondent's ability to practice law that he stopped practicing law in 1993. Respondent is currently on inactive status and intends never to reactivate his license to practice law.

Given that Respondent has removed himself from the practice of law, imposition of a public sanction would achieve nothing but the public humiliation of Respondent to the detriment of Respondent's health. Further, Respondent agrees that should he ever seek to reactivate his law license in Vermont or any other jurisdiction, this Board is free to recommend to the Vermont Supreme Court that a public reprimand be imposed in this case.

Respondent will not oppose that recommendation. For all of these reasons, a private admonition will issue.

Dated at Montpelier, Vermont this 7th day of July, 1995.

PROFESSIONAL CONDUCT BOARD

/s/

Deborah S. Banse, Chair

/s/

George Crosby

Donald Marsh

/s/

Joseph F. Cahill, Esq.

Karen Miller, Esq.

/s/

/s/

Nancy Corsones, Esq.

Mark Sperry, Esq.

/s/

/s/

Paul S. Ferber, Esq.

Robert F. O'Neill, Esq.

/s/

Nancy Foster

Ruth Stokes

/s/

/s/

Rosalyn L. Hunneman

Jane Woodruff, Esq.

/s/

Robert P. Keiner, Esq.

Charles Cummings, Esq.

/usr3/wsc/9348.dec