

13 PRB

[4-Dec-2000]

STATE OF VERMONT
PROFESSIONAL RESPONSIBILITY BOARD
DECISION NO. 13

In Re: Joseph S. Wool, Esq.

PRB File Nos. 99.180, 99.189, 2000.050

2000.061, 2000.077, 2000.082 and 2000.087

AMENDED ORDER

The Hearing Panel issues this Order based upon the evidence presented at the hearings held on May 3, 2000 and November 16, 2000, and upon the representations of the parties made during the May 12, 2000, August 24, 2000, October 17, 2000 and November 8, 2000 telephone conferences in this matter, the June 2000 Stipulation and other filings by the parties.

Procedural History

1. A hearing on these matters was commenced on May 3, 2000.

Attorney Wool, his attorney Peter Langrock, and Attorney Michael Kennedy of the Office of Disciplinary Counsel ("ODC") were present. At the hearing, Attorney Wool conceded the violations as charged; thereafter, the sanctions phase of the proceedings commenced. At the close of the evidence and arguments, the Hearing Panel took the matter under advisement.

2. During subsequent deliberations, the Hearing Panel concluded that the sanctions phase needed to be reopened to determine whether Attorney Wool and Mr. Langrock would stipulate to certain conditions suggested by Mr. Langrock during the May 3, 2000 hearing, plus additional conditions deemed necessary by the Hearing Panel.

3. On May 12, 2000, the sanctions phase was reconvened with a telephone conference of the Hearing Panel and Attorneys Kennedy and Langrock.

4. On July 26, 2000, Mr. Langrock advised the Hearing Panel that his firm had undertaken a review of Attorney Wool's active files, and advised further that he and his firm would agree to oversee these files if Attorney Wool and ODC could reach a stipulation.

5. On August 24, 2000, the Hearing Panel conducted an additional telephone conference in this matter to learn the status of the proposed stipulation. The parties were given one week to file any final written stipulation(s).

6. On September 2, 2000, the parties faxed in a Stipulation.

The relevant terms of the Stipulation are:

(a) Attorney Wool shall not accept any new clients after August 31, 2000.

(b) Attorney Wool shall not undertake any new matters for existing clients after August 31, 2000.

(c) The ODC shall inform the Superior, Family, District and Supreme Courts that Attorney Wool has agreed not to accept any new clients after August 31, 2000.

(d) The ODC shall inform the Superior, Family, District and Supreme Courts that Attorney Wool has agreed not to undertake new matters for existing clients after August 31, 2000.

(e) On or before September 15, 2000, Attorney Wool shall provide the Court Administrator and the Board of Bar Examiners with written notice that he will retire from the practice of law as of January 1, 2001. The notice shall be copied to ODC.

(f) On or before January 15, 2001, ODC shall inform the Superior, Family, District and Supreme Courts that Attorney Wool has retired from the practice of law as of January 1, 2001.

(g) Attorney Wool shall not practice law after January 1, 2001.

(h) As soon as practicable, Attorney Langrock, or a member(s) of his firm, shall review each of Attorney Wool's existing files. If the review of the files reveals evidence of a violation of the Code of Professional Responsibility or the Vermont Rules of Professional Conduct, that evidence

shall be transmitted immediately to ODC. It is expected that virtually all files will be reviewed and notice of appearances entered by substitute counsel by October 1, 2000.

(i) Upon reviewing Attorney Wool's files, Attorney Langrock or a member(s) of his firm will take the steps necessary to attempt to correct any problems with the manner in which any of the files have been handled.

(j) Attorney Langrock or a member(s) of his firm, after reviewing Attorney Wool's files, shall become co-counsel, where appropriate, on each of Attorney Wool's active files. As soon as practicable, the attorney who becomes co-counsel in a particular case or matter shall provide written notice to the client, the appropriate court, and the opposing party of the fact that he or she has become co-counsel. If it is not appropriate for Attorney Langrock or a member of his firm to become co-counsel in a particular case or matter, Attorney Wool shall associate with other counsel on that particular case or matter.

(k) On or before October 1, 2000, Attorney Wool shall comply with each of the conditions of his existing disciplinary probation order. If Attorney Wool is unable to comply with the conditions of the disciplinary probation order, Attorney Wool shall, by October 1, 2000, provide the ODC with a written explanation of the reasons he is unable to do so.

(l) Within five days of each date for compliance recited herein, the ODC shall advise the Hearing Panel of Attorney Wool's compliance or non-compliance with the condition(s) or requirement(s) pertinent to that deadline.

7. On October 2, 2000, the Board issued its Order in this case.

8. On October 3, 2000, the Order was filed with the Vermont Supreme Court.

9. On October 5, 2000, the ODC filed a Motion to Alter and/or Amend and Motion to Reconsider.

10. To consider the October 5, 2000 Motion, the Hearing Panel asked the Supreme Court to remand this matter for further proceeding. This request was granted.

11. Additional filings and updates were received and on November 16, 2000, the Hearing Panel held a hearing on all outstanding issues.

COUNT I

Nos. 99.180, 99.189, 2000.050 2000.061, 2000.077, 2000.082 and 2000.087

Findings of Facts and Conclusions of Law

1. Attorney Wool is an attorney licensed to practice law in the State of Vermont.

2. Attorney Wool was admitted to practice in the State of

Vermont on October 7, 1938.

3. On May 10, 1999, the Supreme Court publicly reprimanded Attorney Wool and placed him on probation. See *In Re Joseph S. Wool, Esq.*, 10 Vt.L.Wk 146 (1999).

4. The Court ordered the period of probation to commence on June 1, 1999, and to run for 18 months.

5. As a condition of his disciplinary probation, Attorney Wool is required to submit a written report to Disciplinary Counsel every 60 days. See Condition 6, *id.* at 147-148.

6. The reports are required to "detail the status of his compliance with the terms of [his disciplinary] probation." 10 Vt.L.Wk at 148.

7. As of the date of the hearing in this matter, Attorney Wool had not provided ODC with a single report detailing the status of his compliance with the terms of his probation.

8. Attorney Wool violated Condition 6 of his probation by failing to provide the required reports to the ODC.

COUNT II

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2000.087

9. On September 30, 1999, ODC sent a letter to Attorney Wool's attorney. Among other things, ODC reminded Attorney Wool of his reporting obligations and asked him to file the missing reports.

10. As of the date of the hearing in this matter, Attorney Wool had not replied to the September 30, 1999 ODC letter.

11. By failing to respond to the ODC's letter dated September 30, 1999, which simply reminded Attorney Wool of and asked for the status reports required by the terms of his disciplinary probation, Attorney Wool failed to respond to a reasonable legitimate request from the ODC.

12. The failure to respond to a request from the ODC violates Rule 7(D) of Administrative Order 9 and Rule 8.4(d) of Vermont Rules of Professional Conduct.

13. Attorney Wool is in violation of the conditions of his probation by virtue of committing the new disciplinary offense of failing to respond to a request from the ODC.

COUNT III - NO. 99.180

14. The conditions of Attorney Wool's disciplinary probation state that Attorney Wool shall not "have [any] new, proven disciplinary offenses, the allegations of which are currently unknown to Bar Counsel, during the period of probation,...." See Condition 2, 10 Vt.L.Wk at 147.

15. In 1995, Attorney Wool agreed to represent Isaac Leader in a case involving a bicycling accident in which Mr. Leader's bicycle was seriously damaged.

16. In June of 1999, Mr. Leader filed an ethics complaint alleging that Attorney Wool had neglected his case. This complaint was received within Attorney Wool's "period of probation," which began on June 1, 1999. See 10 Vt.L.Wk 146.

17. By letter dated June 10, 1999, the ODC asked Attorney Wool to respond to Mr. Leader's complaint.

18. Attorney Wool did not provide the ODC with an answer to Mr. Leader's complaint.

19. By letter dated August 19, 1999, an investigator from the ODC again asked Attorney Wool to respond to Mr. Leader's complaint.

20. Attorney Wool still did not provide the ODC with an answer to Mr. Leader's complaint.

21. By letter dated October 26, 1999, the ODC for the third time asked Attorney Wool to answer Mr. Leader's complaint, no later than November 12, 1999.

22. As of the May 3, 2000 hearing date, Attorney Wool had still not provided ODC with any response to Mr. Leader's complaint.

23. By repeatedly failing to respond to the ODC's requests that he answer Mr. Leader's June 1999 complaint, Attorney Wool violated DR 1-102(A)(5) of the Code of Professional Responsibility by engaging in conduct prejudicial to the administration of justice and, in so doing, also violated the terms of his disciplinary probation by committing a new disciplinary offense.

24. By repeatedly failing to respond to the ODC's requests that he respond to Mr. Leader's complaint, Attorney Wool violated Rule 8.4(d) of the Vermont Rules of Professional Conduct by engaging in conduct prejudicial to the administration of justice and, in so doing, also violated the terms of his probation by committing a new disciplinary offense.

COUNT IV - 99.189

25. The conditions of his disciplinary probation state that

Attorney Wool shall not "have [any] new, proven disciplinary offenses, the allegations of which are currently unknown to Bar Counsel, during the period of probation...." See Condition 2, 10 Vt.L.Wk at 147. Attorney Wool's 18-month "period of probation" began on June 1, 1999. Id. at 146.

26. In June of 1999, Sharon Frazier filed an ethics complaint against Attorney Wool.

27. During the course of the investigation of Ms. Frazier's complaint, Attorney Wool agreed to provide ODC's investigator with certain paperwork and records.

28. By letter dated October 26, 1999, the ODC, having not yet received the promised paperwork or records, asked Attorney Wool to provide the materials by November 12, 1999.

29. As of the May 3, 2000 date of the hearing in this matter, Attorney Wool had still not provided the paperwork or records, and had also not provided the ODC with a written answer to Ms. Frazier's complaint.

30. By failing to comply with a request from the ODC, Attorney Wool violated Rule 8.4(d) of the Vermont Rules of Professional Conduct by engaging in conduct prejudicial to the administration of justice and, in so doing, also violated the terms of his probation by committing a new disciplinary offense.

31. Attorney Wool violated Rule 7(D) of Administrative Order 9 by failing to respond to a request from Disciplinary Counsel and, in so doing, also violated the terms of his probation by committing a new disciplinary offense.

COUNT V - 2000.050

32. The conditions of Attorney Wool's disciplinary probation state that Attorney Wool shall not "have [any] new, proven disciplinary offenses...." See s 14, 25 supra.

33. In May of 1997, Randall Sisk retained Attorney Wool to represent him in a Family Court matter.

34. Attorney Wool represented Mr. Sisk until he was fired as counsel by Mr. Sisk in August 1999.

35. After firing Attorney Wool, Mr. Sisk filed an ethics complaint against him, which was received within Attorney Wool's 18-month period of probation.

36. By letter dated October 26, 1999, the ODC asked Attorney Wool to answer Mr. Sisk's complaint no later than November 12, 1999.

37. As of the date of the May 3, 2000 hearing in this matter, Attorney Wool had yet to provide the ODC with any response to Mr. Sisk's complaint.

38. By failing to provide the ODC with an answer to Mr. Sisk's complaint, Attorney Wool violated Rule 8.4 of the Vermont Rules of Professional Conduct by engaging in conduct prejudicial to the administration of justice and, in so doing, also violated the terms of his probation by committing a new disciplinary offense.

39. By failing to provide the ODC with an answer to Mr. Sisk's complaint, Attorney Wool violated Rule 7(D) of the Administrative Order 9 and, in so doing, also violated the terms of his probation by committing a new disciplinary offense.

COUNT VI - NO. 2000.061

40. The conditions of probation state that Attorney Wool shall not "have [any] new, proven disciplinary offenses...." See s 14, 25 supra.

41. In July 1998, Attorney Wool agreed to represent William Siple in a claim against Mr. Siple's employer.

42. By letter dated October 15, 1999, Mr. Siple filed an ethics complaint against Attorney Wool.

43. By letter dated October 26, 1999, the ODC asked Attorney Wool to answer Mr. Siple's complaint no later than November 12, 1999.

44. As of the date of the May 3, 2000 hearing in this matter, Attorney Wool had still not provided the ODC with any response to Mr. Siple's ethics complaint.

45. By failing to provide the ODC with an answer to Mr. Siple's complaint, Attorney Wool violated Rule 8.4(d) of the Vermont Rules of Professional Conduct by engaging in conduct prejudicial to the administration of justice and, in so doing, also violated the terms of his probation by committing a new disciplinary offense.

46. By failing to provide the ODC with an answer to Mr. Siple's complaint, Attorney Wool violated Rule 7(d) of Administrative Order 9 by failing to respond to a request from Disciplinary Counsel and, in so doing, also violated the terms of his probation by committing a new disciplinary offense.

SANCTIONS

But for the September 2000 Stipulation, the Hearing Panel would have concluded that Attorney Wool's license to practice law should be suspended for no less than six months. Attorney Wool has repeatedly violated Rule

8.4(d) of the Vermont Rules of Professional Conduct, Rule 7(D) of Administrative Order 9, and DR 1-102(A)(5) of the Code of Professional Responsibility. The ABA Standards for Imposing Lawyer Sanctions state, that "[s]evere sanctions should be imposed on lawyers who violate the terms of prior disciplinary orders." *Id.*, Section 8.0. Several jurisdictions have suspended lawyers for violating the conditions of a disciplinary probation. See *In Re Reynolds*, 692 So.2d 1057 (La. 1997); *In the Matter of Rose*, 1997 WL 290186 Cal. Bar. Ct. (1997); *In Re Tapia*, 917 P.2d 1379 (N.M. 1996); *In Re Klemek*, 446 N. W.2d 391 (Mn. 1989). Separate from these grounds, the Hearing Panel would have found the many independent violations involving his failure to cooperate with disciplinary counsel's investigations of these numerous complaints to be sufficient grounds, in and of themselves, to suspend Attorney Wool's license to practice law. See *In Re Bailey*, 1 V.P.C.R. 23 (1991).

However, because of the parties' September 2000 Stipulation, the Hearing Panel finds that a lesser public reprimand is the appropriate sanction in this matter. Under the terms of that Stipulation, Attorney Wool has ceased taking any new clients, or any new matters for existing clients. Attorney Wool will further cease to practice law as of January 1, 2001, and Attorney Wool's counsel, Mr. Langrock, and his firm have undertaken the extraordinary responsibility of becoming co-counsel for all of Attorney Wool's existing clients cases, and pending matters to the extent Mr. Langrock and his firm are able to do so. This resolution provides the most protection to the general public and to Attorney Wool's

clients. In reaching its decision, the Hearing Panel has also considered Attorney Wool's age, the underlying allegations, and other pertinent circumstances specific to these disciplinary cases.

The Hearing Panel further places Mr. Wool on probation until the date of his resignation. During this period, Mr. Wool shall abide by all of the terms of the September 2000 Stipulation.

The Panel is acutely aware of the difficulties Mr. Wool continues to present for the ODC. Even with the assistance of Mr. Langrock, Mr. Wool continues to be late in following through with his responsibilities under the September 2000 Stipulation. The ODC, however, in our opinion, has this matter firmly under control and is monitoring Mr. Wool's compliance and activities, and will promptly take steps to correct any problems if such action is needed.

Dated, at Montpelier, Vermont, this 30th day of November, 2000.

/s/

Robert F. O'Neill, Chair

/s/

S. Stacy Chapman, III, Esq.

/s/

Ruth S. Stokes

FILED DECEMBER 4, 2000