

Supreme Court of Kentucky

2013-SC-000508-KB

PAUL S. GORDINIER
KBA MEMBER NO. 26143

MOVANT

V. IN SUPREME COURT

KENTUCKY BAR ASSOCIATION

RESPONDENT

OPINION AND ORDER

Movant, Paul S. Gordinier, moves this Court to impose a suspension from the practice of law in the Commonwealth of Kentucky for a period of four (4) years beginning June 5, 2012, the date of his automatic suspension pursuant to SCR 3.166(1). Movant's Kentucky Bar Association ("KBA") member number is 26143, and his bar roster address is 120 West Broadway #1119, Louisville, Kentucky 40202. Movant was admitted to the practice of law in the Commonwealth of Kentucky on October 28, 1977.

Case No. 11-CR-0797

On February 16, 2011, Movant operated his motor vehicle while under the influence of alcohol and caused an injury accident. As a result, on March 9, 2011, Movant was indicted in the Jefferson Circuit Court on two counts of Assault in the First Degree and one count of Driving under the Influence of Alcohol, First Offense. On June 4, 2012, Movant pled guilty to two counts of

Assault in the Second Degree, a Class C felony as proscribed in KRS 508.020, and one count of Driving under the Influence of Alcohol, First Offense, a misdemeanor as proscribed in KRS 189A.010(1)(a) and (5)(a). On October 17, 2012, Movant was sentenced to fifteen (15) years imprisonment, probated for five (5) years, with thirty (30) days to be served in jail and sixty (60) days to be served in home incarceration.

Case No. 11-T-029031

On April 22, 2011, Movant was once again arrested for driving while impaired. Movant was charged in the Jefferson District Court with Driving under the Influence of Alcohol, Second Offense, and Reckless Driving and Speeding (60 mph in a 25 mph zone). On June 20, 2011, Movant pled guilty to an amended charge of Driving under the Influence of Alcohol, First Offense, with the remaining charges being dismissed. Movant was sentenced to a \$200.00 fine, thirty (30) days in jail conditionally dismissed for two (2) years, and home incarceration for three (3) days.

KBA File 19549

On June 5, 2012, Movant was automatically suspended from the practice of law pursuant to Supreme Court Rule ("SCR") 3.166(1). On February 4, 2013, the Inquiry Commission issued a one-count Charge against Movant for violating SCR 3.130-8.4(b), which provides that it is professional misconduct for a lawyer to "commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects."

Movant admits that his actions on both February 16 and April 22 of 2011 were in violation of SCR 3.130-8.4(b). Furthermore, the parties have negotiated a sanction pursuant to SCR 3.480(2) in an effort to resolve the pending disciplinary charge. The negotiated sanction suspends Movant from the practice of law in the Commonwealth of Kentucky for a period of four (4) years commencing on June 5, 2012.

Whether this Court will accept the negotiated sanction is within the Court's discretion. *Anderson v. Kentucky Bar Ass'n*, 262 S.W.3d 636, 638 (Ky. 2008). In its response, the KBA contends that the recommended discipline is appropriate and supported by Kentucky case law. The KBA directs us to *Haggard v. Kentucky Bar Ass'n*, 118 S.W.3d 589 (Ky. 2003) and *Kentucky Bar Ass'n v. Hickey*, 31 S.W.3d 434 (Ky. 2000). Similar to the case before us, the attorneys' unlawful conduct in *Haggard* and *Hickey* neither affected the attorneys' clients nor related to the attorneys' law practices. In both situations, we imposed suspensions from the practice of law.

In addition, Movant has presented mitigating factors to persuade us that a four (4) year suspension is appropriate. These factors illustrate that Movant has sought and participated in rehabilitative services. Specifically, Movant has executed a five (5) year supervision agreement with the Kentucky Lawyer Assistance Program. Movant has also completed an intensive outpatient chemical dependency program, in addition to attending a weekly "Continuing Care Program." Lastly, Movant has been participating in Alcoholics Anonymous and is employed by the Wayside Christian Mission.

In light of these mitigating factors, and based on similar discipline imposed for analogous misconduct, this Court finds that the consensual discipline proposed by Movant and agreed to by the KBA is appropriate. Therefore, Movant's motion for suspension from the practice of law is hereby granted.

ACCORDINGLY, IT IS ORDERED THAT:

(1) Movant, Paul S. Gordinier, KBA Member No. 26143, is suspended from the practice of law in the Commonwealth of Kentucky for a period of four (4) years for his violation of SCR 3.130-8.4(b). The suspension shall commence on June 5, 2012, the beginning date of his automatic suspension pursuant to SCR 3.166(1), and shall continue until such time as he is reinstated to the practice of law by order of this Court under SCR 3.510.


(2) Pursuant to SCR 3.450, Movant is directed to pay all costs associated with this disciplinary proceeding in the amount of \$36.37, for which execution may issue from this Court upon finality of this Order.

(3) In accordance with SCR 3.390, and to the extent that he has not done so already, Movant, shall: (a) immediately, to the extent possible, cancel and cease any advertising activities; and (b) notify all courts in which he has matters pending, and all clients for whom he is actively involved in litigation and similar legal matters, of his inability to continue to represent them and of the necessity and urgency of promptly retaining new counsel. Such notification shall be by letter duly placed in the

United States mail within ten (10) days of the finality of this Opinion and Order. Movant shall provide a copy of all such letters to the Office of Bar Counsel.

All sitting. All concur.

ENTERED: September 26, 2013.


CHIEF JUSTICE