

Supreme Court of Kentucky

TO BE PUBLISHED

FINAL

2008-SC-000929-KB

DATE 5/5/09 Kelly Klaber D.C.
MOVANT

KENTUCKY BAR ASSOCIATION

V.

IN SUPREME COURT

WILLIAM A. NISBET, III

RESPONDENT

OPINION AND ORDER

I. Introduction

The Board of Governors of the Kentucky Bar Association (KBA) recommends that Respondent, William A. Nisbet, III, KBA Member No. 51840, be suspended for five (5) years from the practice of law in the Commonwealth of Kentucky for violation of Supreme Court Rule (SCR) 3.130-8.3(b). Nisbet, who was licensed to practice law in 1971, maintains his Bar Roster Address at 10 North Main Street, P.O. Box 706, Madisonville, Kentucky 42431. Nisbet elected not to respond to the Charge brought by the KBA, and the case was presented to the Board of Governors as a default case pursuant to SCR 3.210. Having reviewed the findings of fact and conclusions of law submitted by the KBA, this Court adopts the KBA's recommendation.

II. Background

In July of 2005, Nisbet was arrested by the Madisonville Police on multiple charges for trafficking in cocaine and for participating in a criminal

syndicate. As a result of the investigation, a Hopkins County Grand Jury returned a fourteen (14) count indictment against Nisbet. Thirteen (13) others were also indicted as a result of the same investigation.

On October 2, 2006, Nisbet entered an Alford plea to the charges. As a result of the plea bargain, Nisbet's eight (8) year sentence was probated for five (5) years. On that date, Nisbet wrote Bar Counsel indicating his intent to end his law practice. Subsequently, Nisbet provided Bar Counsel with copies of the letters he sent his clients advising them he would no longer be practicing law. On October 14, 2006, Nisbet was automatically suspended from the practice of law pursuant to SCR 3.166(1).

In accordance with SCR 3.166(6), the Inquiry Commission of the KBA initiated disciplinary proceedings against Nisbet. On December 20, 2007, the Inquiry Commission filed a one count complaint against Nisbet alleging violation of SCR 3.130-8.3(b). In a response filed in January of 2008, Nisbet maintained his innocence. Nisbet claimed he entered an Alford plea in order to obtain a better outcome for his daughter (one of Nisbet's co-defendants). At the conclusion of its investigation, the Inquiry Commission brought a one-count Charge against Nisbet, again alleging violation of SCR 3.130-8.3(b). Despite personal service and written notice, Nisbet elected not to respond to the Charge.

The Charge was presented as a default case to the Board of Governors on November 21, 2008. With a vote of 18-0, the Board of Governors found Nisbet guilty by a preponderance of evidence of violating SCR 3.130-8.3(b). The Board of Governors, again by a vote of 18-0, recommended that Nisbet be suspended

from the practice of law in the Commonwealth of Kentucky for five (5) years. The recommendation would have the suspension be retroactive so as to coincide with Nisbet's criminal probation period.

III. Conclusion

Given the record in this case, we believe the Board of Governors' recommendation of a five (5) year suspension is justified. Nisbet has not sought review under SCR 3.370(8), nor does this Court elect to review the decision of the Board of Governors under SCR 3.370(9). Therefore, the decision of the Board of Governors is adopted in accordance with SCR 3.370(10).

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) William A. Nisbet, III, KBA Member No. 51840, is adjudged guilty of violating SCR 3.130-8.3(b).

(2) William A. Nisbet, III, KBA Member No. 51840, is hereby suspended from the practice of law in the Commonwealth of Kentucky for a period of five (5) years, with said suspension to be retroactive so as to coincide with his five (5) year criminal probation period.

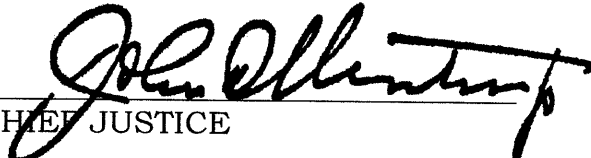
(3) William A. Nisbet, III, KBA Member No. 51840, shall comply with the notice of suspension requirements set out in SCR 3.390. While the record indicates that Nisbet has complied with the requirements concerning notice of his temporary suspension as set out in SCR 3.166, Nisbet shall ensure within ten (10) days of the entry of this Opinion and Order that he has complied with the requirements of SCR 3.390.

(4) In accordance with SCR 3.450, William A. Nisbet, III, KBA Member No. 51840, is directed to pay all costs associated with these disciplinary

proceedings in the amount of \$262.26, for which execution may issue from this Court upon finality of this Opinion and Order.

All sitting. All concur.

ENTERED: April 23, 2009.


CHIEF JUSTICE