

SUPREME COURT OF GEORGIA

Case No. S98Y0911.

Atlanta, May 1, 1998

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

IN THE MATTER OF WAYMON SIMS

Following the State Bar's Formal Complaint against him, Respondent Waymon Sims filed his Petition for Voluntary Discipline in which he admitted violating Standards 22 (prohibiting a lawyer's withdrawal from employment without taking reasonable steps to avoid foreseeable prejudice to the rights of the client) and 44 (prohibiting the wilful abandonment or disregard of a legal matter entrusted to the lawyer) of Bar Rule 4-102. Sims agrees to compensate his former client in the amount of \$3500, to abide by certain conditions, and requests a Review Panel reprimand. The State Bar is in agreement with Sims' petition, and the special master recommends the Court accept it. We have reviewed the record and agree that a Review Panel reprimand, with the additional conditions to which Sims agrees, is an appropriate sanction, and accept Sims' petition.

Sims represented his former client in a personal injury matter against a third party tortfeasor involving a work-related action, for which Sims had previously recovered workers' compensation benefits. Sims filed a complaint for damages on his client's behalf in the United States District Court for the Northern District of Georgia. Subsequently, the Court ordered the parties to show cause why the action should not be dismissed, and, on Sims' failure to respond on his client's behalf, dismissed the action. The Bar in its Formal Complaint charged Sims with violating Standards 4 (prohibiting wilful misrepresentations by a lawyer), 22, and 44 of Bar Rule 4-102.

In his Petition for Voluntary Discipline, Sims states that during the relevant period of time his then secretary misplaced the Federal Court papers relating to the clients' action, and that Sims had no knowledge of the Federal Court's show cause order, of opposing counsel's response thereto, or of the fact that the Federal Court had dismissed his client's action. Sims attached to his Petition the affidavit of his former secretary, in which she admits to misplacing the client's file, and failing to inform Sims of correspondence

concerning the case. In addition, Sims in his Petition admits negligence in handling his former client's case, and agrees to compensate him in the amount of \$3500, which amount, he asserts, would have been the highest he might have been able to recover in the client's case.

We agree that in light of the aggravating factor of Sims' former disciplinary infraction, also involving poor office management practice, and in light of the mitigating factors of his cooperative attitude in these proceedings, and his remorse, a Review Panel Reprimand, with the additional conditions to which Sims agrees, is appropriate. See ABA Standards for Imposing Lawyer Sanctions (1991), Standards 9.22 (a), 9.23 (e) and (1).

Accordingly, it is hereby ordered that Sims be issued a Review Panel reprimand in accordance with Bar Rule 4-102 (b) (4) at the next scheduled meeting of the Review Panel. In addition, Sims is to abide by the following conditions, to which he has agreed:

(a) within sixty (60) days of this Order Sims must compensate his former client in the amount of \$3500.00;



(b) within sixty (60) days of this Order Sims must institute a plan of action for short and long term quality improvement and quality management in accordance with those proposed by the office management consultant he has retained;

(c) for a period of five years from the date of this Order Sims shall not become attorney of record in any civil matters in the United States District Court without first associating other counsel.

SUPREME COURT OF THE STATE OF GEORGIA
Clerk's Office, Atlanta

I hereby certify that the above is a true extract from the minutes of the Supreme Court of Georgia

Witness my signature and the seal of said court hereto affixed the day and year last above written.



Lynne M. Strickland, Chief Deputy Clerk