

In the Supreme Court of Georgia

Decided: **OCT 24 2005**

**S05Y2092. IN THE MATTER OF WALLACE ANTHONY KITCHEN.**

**PER CURIAM.**

It is a violation of the Georgia Rules of Professional Conduct and grounds for disbarment for a lawyer to be convicted of a felony or a misdemeanor involving moral turpitude where the underlying conduct relates to the lawyer's fitness to practice law. See Rule 8.4 (a) (2) and (3) of Bar Rule 4-102 (d). The definition of a conviction specifically includes a guilty plea and the fact that the defendant is punished in accordance with the First Offender Act is immaterial for purposes of the disciplinary rules. See Bar Rule 8.4 (b) and Bar Rule 4-106 (a).

On March 25, 2005, Wallace Anthony Kitchen, who has been a member of the Bar since 1981, pled guilty in the Superior Court of Muscogee County to misdemeanor driving under the influence of alcohol (Count 1) and felony habitual

violator (Count 2). Kitchen was sentenced to 12 months probation on Count 1 and five years probation under the First Offender Act on Count 2. The record contains no evidence of Kitchen's asserting any appellate or post-conviction challenge to either of these convictions. Clearly, therefore, by his conviction on Count 2, Kitchen has violated Rule 8.4 (a) (2) of Bar Rule 4-102 (d). See In the Matter of Witt, 266 Ga. 526 (468 SE2d 356) (1996).

Like the special master, we find in mitigation of punishment that Kitchen is attempting to address his addiction to alcohol. In aggravation of punishment, however, we note that Kitchen not only has two prior disciplinary matters involving four separate client grievances, but also that he has another disciplinary matter currently pending before this Court; that Kitchen's actions display a pattern of misconduct; that Kitchen appears unwilling or unable to acknowledge the wrongful nature of his conduct or to appreciate the serious threat that his conduct poses to himself, his clients, the public and the legal profession; and the presence of multiple offenses in this case. Thus, after consideration of the record in this case, including Kitchen's prior disciplinary action and conduct, and in order to safeguard the integrity of the State Bar of Georgia, see In the Matter of Dowdy, 247 Ga. 488 (277 SE2d 36) (1981), we hereby order that Wallace Anthony

Kitchen be disbarred from the practice of law in this state and his name be stricken from the roll of those allowed to practice in Georgia. Kitchen is reminded of his duties under Bar Rule 4-219 (c).

Disbarred. All the Justices concur.