

In the Supreme Court of Georgia

Decided: JUN 27 1994

S94Y0085. IN THE MATTER OF JOSEPH C. KITCHINGS.

PER CURIAM.

Respondent Joseph Kitchings filed a petition for voluntary discipline, requesting this Court to suspend him from the practice law in Georgia for a period of twelve months for violating Standard 66 of Bar Rule 4-102 (d) (conviction of a felony). Kitchings had pled guilty to the felony offense of purchasing cocaine, a violation of OCGA 16-13-2, and was sentenced to five years probation and a fine of \$2,000.

In his petition for voluntary discipline, Kitchings stated that he became involved in crack cocaine after being severely injured in a car accident which necessitated the use of various prescription drugs and pain medication. As mitigating factors, Kitchings stated, inter alia, that: (1) he had not previously been convicted of a crime or violated a disciplinary rule; (2) he protected the interests of his clients and no clients suffered harm or neglect; (3) upon his arrest, he transferred his clients to other attorneys and properly closed his practice; and (4) he has now overcome his dependency to crack cocaine through voluntary treatment and participation in counseling.

The State Bar objected, recommending that Kitchings be disbarred from the practice of law. The Special Master agreed,

finding that Kitchings did not contact the Committee on Lawyer Impairment or seek any other type of help or counseling prior to his arrest, and that Kitchings admitted using and being addicted to cocaine for several years prior to his arrest.

This Court recognizes that Kitchings has similar mitigating circumstances to those found in In the Matter of John H. Patteson, Jr., 262 Ga. 591 (1992) and In the Matter of Charles A. Lanford, Jr., 260 Ga. 408 (1990). Because the Special Master's findings do not differentiate Kitchings' mitigating factors from Patteson or Lanford, this Court hereby declines to accept the Special Master's recommendation of disbarment. This Court, however, finds that Kitchings' requested twelve-month term of suspension is inadequate, and hereby orders that Kitchings is suspended from the practice of law in Georgia for a minimum period of twenty-four months. The suspension can be lifted only by order of this Court and will continue past the initial twenty-four month period until such an order is obtained, pursuant to the following procedures: (1) Kitchings must seek the services of the Committee on Lawyer Impairment and obtain certification from the Committee that, based on the Committee's observation, Kitchings does not manifest symptoms of any condition that would either mentally or physically impair his competency as an attorney or pose a substantial threat to himself or others; (2) Kitchings must also obtain certification from the Office of General Counsel that it has reviewed its disciplinary records maintained since the date of the issuance of the order of this Court, and that, based on its review of such

disciplinary records, Kitchings has not demonstrated any conduct or manifested any symptom of any condition that would indicate that he would pose a danger to his clients or the public by his return to the practice of law; (3) Upon obtaining these certifications, Kitchings must petition the Review Panel of the State Disciplinary Board to review the record of this proceeding and the certifications and to submit its recommendation to this Court on whether Kitchings' suspension should be lifted; and (4) Once the Review Panel has forwarded its recommendation to this Court, we will issue an order lifting or continuing the suspension.

Kitchings is reminded of his duties under Bar Rule 4-219(c) to timely notify all clients of his inability to represent them, to take all actions necessary to protect the interests of his clients, and to certify to this Court that he has satisfied the requirements of such rule.

All the Justices concur, except, Hunt, C.J., who dissents.