

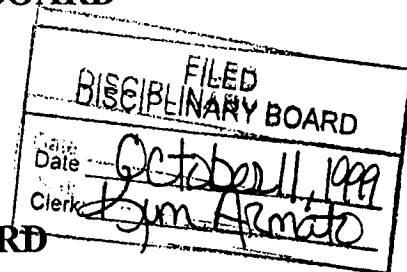
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LOUISIANA ATTORNEY DISCIPLINARY BOARD

NUMBER 99-DB-067

IN RE: WADE P. RICHARD

RULING OF THE DISCIPLINARY BOARD



This is a disciplinary proceeding based on the filing of a petition for consent discipline by the Respondent Wade P. Richard, prior to the filing of formal charges.

PROCEDURAL HISTORY

The Respondent filed a petition for consent discipline on July 14, 1999, prior to the filing of formal charges. Although not specifically stated in the petition for consent, it appears that the Respondent violated rule 8.4(b) of the Rules of Professional Conduct.¹ In his petition for consent the Respondent states that he pled no contest to the charge of unauthorized use of a movable valued less than \$1,000. The Respondent is proposing a sanction in the form of a public reprimand. The Office of Disciplinary Counsel, ("ODC") filed it concurrence in this matter on July 14, 1999.

On August 26, 1999 a panel of the Disciplinary Board review this matter. The Respondent was present and represented by legal counsel, Mr. Mitchell P. Bergeron. Deputy Counsel Robert S. Kennedy represented the Office of Disciplinary Counsel.

FACTUAL BACKGROUND

The Respondent was originally charged with felony theft in the matter entitled State of Louisiana vs. Wade Richard, number 52,189 in the 15th Judicial District Court for the Parish of Acadia. This felony theft arose out of an incident involving a domestic client, Ms. Wendy Stutes in which certain property, namely a knife, pistol and a caller ID

box were reported stolen by the victim. The Respondent pled nolo contendere to an amended misdemeanor charge of unauthorized use of a movable valued at less than \$1,000 in violation of LSA-R.S. 14:68. The Respondent was ordered to pay a fine of \$100.00 plus court cost of \$141.50 and placed on six months of unsupervised probation.

CONSENT DISCIPLINE AND CONCURRENCE BY ODC

The Respondent proposes discipline in the form of a public reprimand for the misconduct as stated above. The ODC states in its concurrence that it is in agreement with the proposed discipline as stated in the petition of the Respondent.

APPLICATION OF FACTORS TO BE CONSIDERED IN IMPOSING SANCTIONS

Louisiana Supreme Court Rule XIX §10C states that in imposing a sanction after a finding of lawyer misconduct, the court or board shall consider the following factors:

- (1) whether the lawyer has violated a duty owed to a client, to the public, to the legal system, or to the profession;
- (2) whether the lawyer acted intentionally, knowingly, or negligently;
- (3) the amount of actual or potential injury caused by the lawyer's misconduct; and
- (4) the existence of any aggravating or mitigating factors.

We find that the Respondent violated his duty owed to his client, the legal system and the profession. Although he was not convicted of felony theft, as originally charged, the Respondent did plead nolo contendere to a misdemeanor. Such a plea indicates that the Respondent's actions were at the very least negligent. There is no indication in the record that actual harm to the client was caused by the Respondent, and it is noted that

¹ Rule 8.4(b) provides, "It is professional misconduct for a lawyer to commit a criminal act especially one that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects."

the Respondent was fined \$100.00 and placed on unsupervised probation by the District Court, thus being a factor in mitigation. Nor does Mr. Richard have any prior disciplinary record.

Pursuant to the ABA Standards For Imposing Lawyer Sanctions, Standard 5.12 provide that when a lawyer engages in criminal conduct, a suspension is generally the appropriate. It further provides that a reprimand is generally appropriate when the lawyer engages in any other conduct that involves dishonesty, fraud, deceit, or misrepresentation. Mitigating and aggravating factors must also be considered when deciding on the sanction.

In reviewing past cases, it appears that the Board has issued reprimands in at least two cases that involved criminal conduct. In the case In re Randal Gaines, 92-DB-038, the Board issued a reprimand against Mr. Gaines for his being convicted of a misdemeanor charge of unauthorized use of a movable. It is noted that this is the same type misdemeanor charge that the Respondent in the instance case plead nolo contendere. In addition to Mr. Gaines' reprimand, the Board placed him on one year probation with the condition that he perform forty hours of pro bono legal work and attend five additional hours of CLE in addition to the 15 hours requirement.

The Board issued a reprimand in the case In re Winston R. Day, 97-DB-059. United States Customs agents arrested Mr. Day for possession of 1.3 ounces of marijuana at the Atlanta Hartsfield International Airport. Mr. Day acknowledged possession of the drugs, but stated he forgot they were on his person when he re-entered the United States after a vacation in Amsterdam, where the use and possession of such drugs are legal. Mr. Day was placed in a Federal Pre-trial Diversion Program designed for first time offenders

in lieu of a criminal conviction. He filed a petition for Consent Discipline proposing a public reprimand, which the Board approved.

In that the Board has issued less severe sanctions in cases involving minor criminal conduct, the proposed consent discipline in the instant case appropriately addresses the misconduct.

RULING

Accordingly, the Disciplinary Board approves the consent discipline proposed by the Respondent in his petition. It is ordered that the Respondent, Wade P. Richard be issued a public reprimand for violating rule 8.4 (b) of the Rules of Professional Conduct. It is further ordered that the Respondent be assessed with all costs and expenses of these proceedings, with legal interest to commence accruing thirty (30) days from the date of finality of this ruling until paid.

LOUISIANA ATTORNEY DISCIPLINARY BOARD

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BY:


JAMES L. PATE

FOR THE ADJUDICATIVE COMMITTEE