

RCVD SJC FEB23'05

STATE OF MAINE

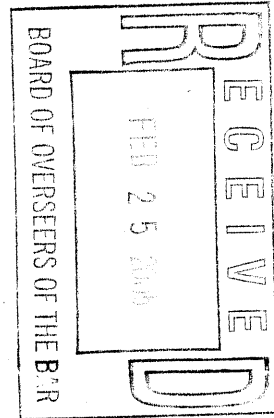
SUPREME JUDICIAL COURT
DOCKET NO. BAR-04-7

BOARD OF OVERSEERS OF THE BAR
Plaintiff

v.

ORDER

RICHARD B. SLOSBERG, ESQ.
of Portland, Maine
Me. Bar # 3446
Defendant



This matter came before the Court for hearing on November 8 and 9, 2004. The Board presented evidence of incidents involving the defendant, Richard Slosberg. In each of the incidents, the Board alleges Slosberg violated one or more of the Maine Bar Rules.

I. COUNT I

The facts presented in support of Count I, involving an incident that occurred on January 22, 2004, in the Cumberland County Superior Court, convince the Court that Slosberg committed conduct unworthy of an attorney in violation of Maine Bar Rule 3.1(a),¹ engaged in conduct that is prejudicial to the administration

¹ M. Bar R. 3.1(a) provides:

3.1 Scope and Effect

(a) This Code shall be binding upon attorneys as provided in Rule 1(a). Violation of these rules shall be deemed to constitute conduct "unworthy of an attorney" for purposes of 4 M.R.S.A. § 851 and Rule 7(e)(6)(A). Nothing in this Code is intended to limit or supersede any provision of law relating to the duties and obligations of attorneys

of justice in violation of Rule 3.2(f)(4),² and engaged in undignified and discourteous conduct that is degrading to the Superior Court in violation of Rule 3.7(e)(2)(vi).³

On that date, Slosberg was representing Sally Morse in a criminal matter before the Superior Court⁴ for the call of the docket to schedule trials for the

or the consequences of a violation; and the prohibition of certain conduct in this Code is not to be interpreted as an approval of conduct not specifically mentioned.

² M. Bar R. 3.2(f)(4) provides:

3.2 Admission, Disclosure and Misconduct

....

(f) Other Misconduct. A lawyer shall not:

....

(4) engage in conduct that is prejudicial to the administration of justice.

³ M. Bar R. 3.7(e)(2)(vi) provides:

3.7 Conduct During Litigation

....

(e) Adversary Conduct.

....

(2) In appearing in a professional capacity before a tribunal, a lawyer shall not:

....

(vi) Engage in undignified or discourteous conduct that is degrading to a tribunal.

⁴ The Superior Court Justice presiding at the time was Thomas E. Delahanty II. Justice Delahanty appeared as a witness in this bar discipline proceeding as to the allegations in Count I. Justice Delahanty is the son of the first cousin of Justice Clifford, the single justice sitting on this case. Justice Clifford fully disclosed the relationship and offered to recuse from participation as a single justice in the case.

following week. Slosberg expected the court to formally appoint him as the attorney for Ms. Morse. Ms. Morse, however, had not been before a financial screener, and had not filled out the requisite paper work concerning her ability to pay for an attorney, and thus the court could not review her indigency status. When the court declined to appoint Slosberg as attorney for Ms. Morse, Slosberg told the court that he found the procedure “very offensive,” and that “[t]hey have screwed me many times with the same problem,” and stated, “I don’t like to be screwed” and “I don’t like the defendant to be screwed.”

When the trial justice told Slosberg that he did not want to argue with him, Slosberg responded, “Well, I want to argue about it, do you understand? I want, I want it on the record.” He also said to the court, “What do you think you are?” and “Don’t tell me where to go. I will tell you where to go.” Additionally, Slosberg threatened to report the presiding justice to the Committee on Judicial Responsibility, and had to be calmed down and directed out of the courtroom by a court officer. His inappropriate conduct continued in the hallway outside the

Mr. Slosberg and the Board waived any objection to Justice Clifford sitting in this case. The entire courtroom proceedings in the Sally Morse incident were transcribed and available to the Court. The Court finds Justice Delahanty’s testimony to be credible. Moreover, all of the witnesses to the incident, including Bruce Bitteng, Megan Elam, and Justice Delahanty, testified consistently with the transcript. The inappropriateness of Attorney Slosberg’s conduct is apparent on the face of the record from the transcript alone.

Additionally, Mr. Slosberg attacks the credibility of all of the witnesses called by the Board on the ground that they are employed by the State or the County. The Court is aware of that possible cause of witness bias, but nevertheless finds the testimony of each of those witnesses to be credible.

courtroom and down to the clerk's office. Such conduct by Slosberg is very serious, inappropriate, disrespectful of the court, and constitutes violations of Maine Bar Rules 3.1(a), 3.2(f)(4), and 3.7(e)(2)(vi).

II. COUNT II

The facts presented in support of Count II concern an incident that occurred on January 24, 2003. Slosberg, representing Robert Machado, a defendant charged with two felony thefts, appeared before the Superior Court in Cumberland County in a proceeding conducted pursuant to M.R. Crim. P. 11A. It appeared that a plea agreement, including an agreement as to sentencing, had been reached between the State, represented by the Deputy District Attorney, and Machado, represented by Slosberg. When the court made inquiry, however, as to the terms of the agreement, it became apparent that Slosberg had failed to understand the agreement being proposed by the State, which involved consecutive sentences for the two separate charges. Machado had agreed to plead guilty based on his understanding that the sentences were to be concurrent, yet Slosberg had not informed Machado that the sentences were consecutive. The court was required to remove Slosberg from the case, and the case had to be continued for a new attorney to be appointed. The Court finds that in the Rule 11A proceeding,

Slosberg violated Maine Bar Rules 3.1(a) and 3.6(a)(2)⁵ in that he handled the matter without preparation adequate in the circumstances.

III. COUNT III

Count III of the Information alleges that Slosberg acted improperly at the Springvale District Court on April 21, 2004. The evidence disclosed that Slosberg represented a client against whom a temporary protection for abuse order had been entered, and that the matter was scheduled for hearing on the request for a permanent order. Slosberg had been requested by the court to discuss the case with the plaintiff, the person who brought the petition for protection from abuse. Slosberg was in the hall outside the courtroom and was told by the plaintiff or her companion that they did not want to discuss settlement of the matter. Slosberg persisted in trying to discuss the case, and the Court Security Officer, Jennifer Escoto, had to instruct Slosberg to stop talking to the other party because it was

⁵ M. Bar R. 3.6(a)(2) provides:

3.6 Conduct During Representation

(a) Standards of Care and Judgment. A lawyer must employ reasonable care and skill and apply the lawyer's best judgment in the performance of professional services. A lawyer shall be punctual in all professional commitments. A lawyer shall take reasonable measures to keep the client informed on the status of the client's affairs. A layer shall not

.....

(2) handle a legal matter without preparation adequate in the circumstances, provided that, with respect to the provision of limited representation, the lawyer may rely

apparent the other party did not want to discuss the case. Slosberg replied in a loud voice that he would talk to them if he wanted to and that Escoto could not tell him what to do. He also waved his cane in the air and threatened to “whack” the person accompanying the plaintiff with his cane. Although Slosberg was standing a substantial distance from that person when those words were spoken, the conduct nevertheless constitutes a violation of Maine Bar Rules 3.1(a), 3.2(f)(4), and 3.7(e)(2)(vi).

IV. SANCTIONS

M. Bar R. 2(a) provides in part: “The purpose of [these] proceeding[s] is not punishment but the protection of the public and the courts from attorneys who by their conduct have demonstrated that they are unable, or likely to be unable, to discharge properly their professional duties.”

The violations committed by Slosberg in this case are serious. Moreover, Slosberg has an extensive history of violations of the Code of Professional Conduct. Slosberg has been subject to Bar disciplinary proceedings on several occasions, beginning in 1992. *See* Bar-92-13, Bar-93-3, Bar-93-10, Bar-95-9, Bar-96-16, Bar-99-1, and Bar-02-7. Some of the violations in these prior cases are similar to the violations found to have occurred in Counts I and II in

this case. *See* Bar-92-13, Order dated November 25, 1992; Bar-93-3, Order dated July 8, 1993; Bar-95-9, Order dated March 21, 1996; and Bar-02-7, Order dated November 21, 2002.

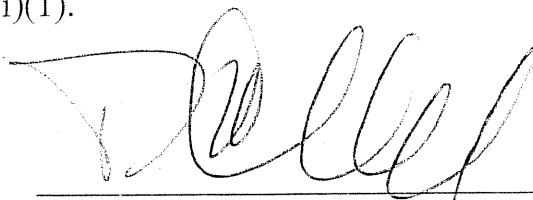
The Court accepts as credible the testimony of Shawn Willson, M.D., a Board certified psychiatrist who testified at the hearing. Dr. Willson has treated Slosberg, and has diagnosed him as Bipolar I and as suffering from depression. Slosberg is irrational and is prone to rages, and he has not followed recommended dosages of prescription drugs. Moreover, Mr. Slosberg has difficulty appreciating the inappropriateness of his conduct, such as his conduct in the Sally Morse matter and his conduct in the Springvale District Court on April 21, 2004. Mr. Slosberg does not have the capacity to look at himself insightfully.

Because of the long history that Slosberg has with Bar Discipline proceedings, and his refusal to acknowledge either the wrongfulness or inappropriateness of his conduct, the Court concludes that Attorney Slosberg must be disbarred. *See Standards for Imposing Lawyer Sanctions*, American Bar Association, Standard 9.2 (1991 Edition).

In view of Slosberg's diagnosis of bipolar and depression, he will be entitled to petition for reinstatement after eighteen months from the effective date of this Order. *See* M. Bar R. 7.3(j)(1).

It is ORDERED that Richard B. Slosberg is hereby disbarred from the practice of law in the State of Maine. Because Slosberg is currently serving an indefinite suspension, the disbarment is effective as of the date of this Order. Slosberg shall comply with M. Bar R. 7.3(i)(1).

Date: February 22, 2005

A handwritten signature in black ink, appearing to read "R. Clifford", written over a horizontal line.

Robert W. Clifford, Associate Justice
Maine Supreme Judicial, Court

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