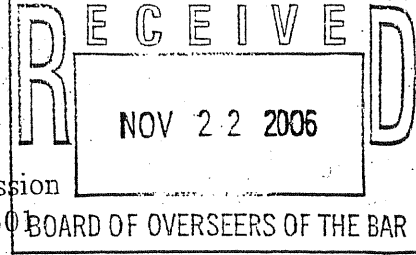


STATE OF MAINE



Board of Overseers of the Bar

Grievance Commission

File No. GCF-05-30

BOARD OF OVERSEERS OF THE BAR

BOARD OF OVERSEERS OF THE BAR,)
 PETITIONER)
)
 v.)
)
 DAVID A. VINCENT, ESQ.,)
 of South Portland, Maine)
 Me. Bar No. 9395)
 RESPONDENT)

**REPORT OF FINDINGS
OF PANEL C OF THE
GRIEVANCE COMMISSION**

On July 10, 2006 and October 10, 2006, Panel C of the Grievance Commission conducted a disciplinary hearing open to the public in accordance with Maine Bar Rule 7.1(e)(2). The Board of Overseers of the Bar was represented by Bar Counsel J. Scott Davis and the Respondent David A. Vincent, Esq. appeared Pro se. This disciplinary proceeding was commenced by the filing of a Petition by the Board of Overseers of the Bar dated May 2, 2006 alleging misconduct in Respondent's representation of two clients in separate cases. For Count I, the Petition alleges violations of M.Bar R. 3.1(a), 3.2(f)(4), and 3.6(a)(1)(2)(3); and in Count II alleged violations of M.Bar R. 3.1(a), 3.2(f)(4), 3.4(a)(2) and 3.6(a)(1)(2)(3).

The Panel admitted Board exhibits 1, 1(a), 1(b), 2 through 9, 9(a) through 9(g), 10 through 16, 16(a), 16(b), 17 through 22, 23(a), 23(b), 24, 25, and 26 and Respondent's exhibit 1.

COUNT I-GCF #05-301 (Carlos Bones)

The Panel heard testimony from the Respondent; the Respondent's former client; Carlos Bones; Katherine Priest, LCSW from the Charleston Correctional Facility; Anne V. Hayward, Associate Clerk of the Washington County Superior Court; and Paul Cavanaugh, Assistant District Attorney for Washington County. Having heard the testimony and upon a review of the evidence presented during the hearing, the Panel makes the following findings:

FINDINGS

At all times relevant, Respondent has been an attorney duly admitted to and engaged in the practice of law in the State of Maine and subject to the Maine Bar Rules..

On April 6, 2005, Justice E. Allen Hunter appointed the Respondent as a court-appointed attorney for Carlos Bones' appeal on a conviction for sexual abuse of a minor. From March of 2005 and during all times relevant hereto, the Respondent was associated with the law firm of Gregory B. Brown, P.A. with an office located at 129 Elm Street in South Portland, Maine, and a Notice of Appointment was sent to Respondent at that address. Prior to the notice being sent to the Respondent, the associate clerk of the Washington County Superior Court had a very difficult time reaching Mr. Vincent at his South Portland office, finally making contact after a number of calls. Respondent recalls receiving a call from the clerk's office although the Respondent testified that he was under the mistaken belief that he was being appointed to represent Mr. Bones in a "post-conviction review" rather than an appeal. Respondent also testified that he received notice of his appointment "a couple of days" before filing a pleading styled as "Motion to Enlarge Time for Filing Petition for Post-Conviction Review" on May 5, 2005, a day before Mr. Bones' law court brief was due for his appeal. At the time of that filing, Respondent made no attempt to ascertain the procedural posture of Mr. Bones' case, and never requested a copy of his file from prior counsel. However, this was only one of many lapses in judgment the Respondent had while representing Mr. Bones.

The Respondent's "Motion to Enlarge Time for Filing Petition for Post-conviction Review" dated May 5, 2005 was granted one month later on June 7, 2005, only to be rescinded two weeks later on June 21, 2006 as Defendant Bones had not exhausted his appellate remedies. But approximately a month and a half after filing his motion, the Respondent still was unaware of the procedural history of his case, and had had no contact with Mr. Bones. As a result of his neglect of this matter, the Law Court issued an Order of Dismissal of Mr. Bones' appeal on June 29, 2005.

The Respondent was uncertain as to whether he received the Notice of Appointment in a timely fashion; uncertain as to whether he received the Assistant District Attorney's Motion to Reconsider dated June 17, 2005; and uncertain as to whether he received a briefing schedule from the Law Court. Even if we take the Respondent's representations of the facts at face value, a simple inquiry to the Washington County clerk's office should have provided Respondent with

an understanding of the case's status and procedural posture. The Panel finds that Respondent easily could have ascertained, in the ordinary course of representation, that the Bones appointment involved an appeal to the Law Court. If he had, the Respondent could have filed an opposition to the State's motion to dismiss the appeal, and after the dismissal of the appeal, the Respondent could have filed a Motion to Reconsider the Law Court's dismissal of the Appeal after he received that Order.

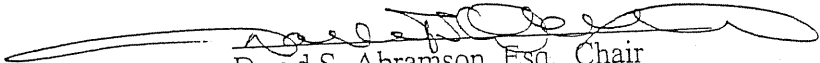
What is clear to the Panel is that the Respondent violated the standard of care of a reasonably prudent attorney by failing to take the steps necessary to fully understand the scope of his appointment as the attorney for Mr. Bones, and to take the steps necessary to protect his client's interests. Upon receipt of his appointment, the Respondent failed to ascertain the applicability of any deadlines which might affect his client, failed to communicate with his client in any way in violation of Maine Bar Rule 3.6(a)(3), and agreed to handle a matter in which he was not qualified to handle in violation of Maine Bar Rule 3.6(a)(1). Although Mr. Bones' appeal was reinstated by a successor counsel, Respondent's conduct resulted in an unnecessary delay in the administration of justice for Mr. Bones regardless of the merits of his appeal.

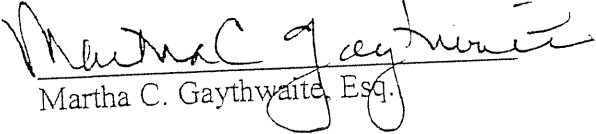
The Panel concludes that Respondent violated Maine Bar Rules 3.1(a)(3) and 3.6(a)(1), and that the appropriate sanction for these violations is that the Respondent receives a public Reprimand.

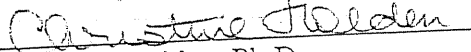
The Panel finds that in view of the above misconduct, an appropriate disposition of this matter is that the Respondent, Attorney David A. Vincent be, and hereby is reprimanded for these violations of the Code of Professional Responsibility.

Dated: November 17, 2006

Panel C of the Grievance Commission


David S. Abramson, Esq., Chair


Martha C. Gaythwaite, Esq.


Christine Holden, Ph.D.