STATE OF MAINE

SUPREME JUDICIAL COURT

DOCKET NO. SJC 53.16

BOARD OF OVERSEERS OF THE BAR)
)
v.) OPINION AND ORDER
)
DANIEL G. AIKEN)

The Board of Overseers of the Bar by information filed with this Court complains that the defendant, Daniel G. Aikèn, has neglected legal matters entrusted to him, failed to keep his clients informed, and failed to comply with directives of Bar Counsel and of the Grievance Commission. The defendant by his response admits the factual allegations of the complaint. In addition, the parties have agreed that the ancillary probate proceedings which formed the basis of the initial complaints have now been completed and that no client suffered any loss other than delay. By stipulation, the parties have submitted argument upon the appropriate sanction to be imposed by the Court.

Through reports submitted to the Court it becomes obvious that the defendant's problem of excessive procrastination in legal matters entrusted to him resulted in substantial part from his problems with alcohol. The defendant has voluntarily undertaken a process of evaluation and rehabilitation at the Eastern Maine Medical Center. Although the Court is aware that alcoholism will be a continuing problem, the Court finds that the defendant has finally recognized the need for treatment and undertaken appropriate corrective measures.

Because of the absence of any misuse of client funds or similar unethical or illegal conduct in this case, the Court recognizes that had the defendant's recognition of the problem and cooperation with Bar Counsel preceded the filing of an information with the Court, in all likelihood the Grievance Commission would have disposed of the matter by private reprimand. The Court also recognizes that the primary function of this proceeding is to protect the public and not to punish the defendant. A critical factor in this instance, however, is the integrity of the disciplinary process. The Court cannot ignore the defendant's continued intransigence, albeit a continuing symptom of his alcoholism, and the fact that only the admonition of the Court to the defendant personally prevailed finally to obtain his response. The Board and the Commission would be reduced to insignificance if any attorney were permitted to ignore the requirement of cooperation contained in Maine Bar Rule 2(c).

Therefore, in consideration of the admitted delay in the handling of his clients affairs, in consideration of the defendant's intransigence in the face of complaints, and in consideration of the necessity to place on record a warning about such conduct by this defendant or any other attorney, this Court hereby enteres its judgment of censure of the defendant.

Dated: December 30, 1981

David G. Roberts
Associate Justice
Supreme Judicial Court