Kennebec, ss.

BOARD OF OVERSEERS OF THE BAR

Petitioner

v.

RICHARD W. GERRITY, ESQ.
of Damariscotta, Maine
Me. Bar #8805

Respondent

Board of Overseers of the Bar
Grievance Commission
File No. 03-208

REPORT OF FINDINGS
OF PANEL E OF THE
GRIEVANCE COMMISSION

On December 1, 2003, pursuant to due notice, Panel E of the Grievance Commission conducted a disciplinary hearing open to the public according to Maine Bar Rule 7.1 (e)(2), to determine whether there were grounds to issue a reprimand or whether probable cause existed to file an information concerning alleged misconduct by the Respondent, Richard W. Gerrity, Esq., (Gerrity), as described in a Petition dated and filed by the Board of Overseers of the Bar (the Board) on October 8, 2003. Assistant Bar Counsel, Geoffrey S. Welsh, Esq., represented the Board, and David Q. Whittier, Esq., represented Gerrity, both being present at the hearing.

The complainant did not attend the hearing. She had, however, been notified and understood that the parties had stipulated to the following facts and agreed upon disposition of this matter by a reprimand, which the Panel now so finds and adopts:

1. On April 25, 2002 Gerrity submitted an affidavit to the Board therein confirming his request and placement on inactive status and thereby rendering him unable to practice law in Maine until later being reinstated pursuant to M. Bar R. 6(c) and 7.3(j).

2. On July 2, 2002 Gerrity submitted to the Board his completed, signed Attorney Registration Statement for Fiscal Year 2003 (FY 03) again therein confirming his inactive status with the Board and consequent inability to practice law.
3. On May 29, June 11 and June 13, 2003 Gerrity wrote various officials of the Maine Department of Corrections (the Department), including its Commissioner, about inmates at the Maine State Prison.

4. Gerrity's letters to the Department were written on his office letterhead clearly identifying him as an attorney at law, argued that the Department was inattentive to the inmates' medical needs, and requested that the Department provide the inmates with better, more humane treatment.

5. Gerrity's correspondence with the Department was practicing law. See Opinion No. 79. His correspondence also violated M. Bar R. 3.2(a)(1), 3.2(f)(1), 6(e)(1) and 7.3(i)(2)(A) because Gerrity was then an inactive practitioner who had not been reinstated to active status.

CONCLUSION

The Panel concludes that the appropriate disposition of this case is a reprimand. Although Gerrity's writing the Department might have been well intentioned and concerned what he perceived was the Department's alleged inadequate treatment of its inmates, his doing so by holding himself out to the Department as an attorney on active status clearly was wrong, and he now so acknowledges that fact. The Panel concludes, therefore, that Gerrity be and he hereby is reprimanded for his misconduct.

Dated this 2nd day of December, 2003

Panel E of the Grievance Commission

Stephen G. Morell, Esq., Chair

Charles W. Smith, Jr., Esq.

Harriet R. Tobin

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1 Issued by the Professional Ethics Commission on May 6, 1987.