

STATE OF MAINE

SUPREME JUDICIAL COURT

DOCKET NO. BAR-00-4

BOARD OF OVERSEERS
OF THE BAR

Plaintiff

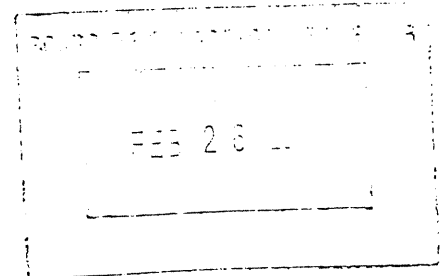
v.

EARLE S. TYLER JR.

Defendant

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ORDER



This matter is before the Court pursuant to M. Bar R. 7.2(b)(2) on an Information filed against Earle S. Tyler Jr.¹ The Board was represented by Assistant Bar Counsel Geoffrey S. Welsh, Esq. and Tyler was represented by Thomas J. Connolly, Esq. In its Information, the Board alleges that Tyler conducted himself in a manner unworthy of an attorney and that he violated certain Maine Bar Rules. Accordingly, the Board seeks his disbarment from the practice of law in the State of Maine.

Tyler admitted to the factual allegations contained in the Information. He acknowledges that on August 19, 1999, he entered his appearance on behalf of Thomas Robinson who had been indicted by the Washington County Grand Jury on December 16, 1997, on the charge of criminal threatening

1. By an Order dated March 13, 1996, Bar Counsel was authorized to file an Information without the necessity of review and hearing by the Grievance Commission under M. Bar R. 7.1(d) & (e).

with the use of a dangerous weapon and on the charge of reckless conduct with the use of a dangerous weapon. The matter was specifically assigned for jury selection to be held on Monday, August 30, 1999.

On August 25, 1999, Tyler moved to continue the trial. On August 26, 1999, Tyler's motion was denied and he was directed to appear with his client for jury selection on the following Monday. Tyler and his client both failed to appear for jury selection on August 30, 1999. During proceedings held on August 30, 1999, the trial court noted, "[b]ecause it appeared to the Court that Mr. Robinson was playing fast and loose with the business of change of counsel in order to avoid this matter coming to trial, the Court denied defendant's motion to continue with an expectation that . . . at the jury call this morning at nine o'clock, that Mr. Robinson and his counsel would be here."

On Wednesday, September 1, 1999, Tyler and his client again appeared before the Court at which time the Court reiterated the following sequence of events, including that: Robinson's motion to continue had been denied on August 26, 1999; the Clerk's office had notified Tyler on August 26 of the denial of the motion; and a jury panel was available, and Tyler failed to appear, on Monday, August 30, for jury selection. Based on these facts, the Court ordered Tyler "[w]ithin ten days, to reimburse this county the sum of four hundred and thirty dollars, the cost of that jury, for your failure to appear." Tyler neither requested a reconsideration nor did he appeal from the Court's Order.

Three weeks later, the Clerk of the Washington County Superior Court,

Marilyn Braley, wrote Tyler a letter, addressed to his post office box, indicating that she had not received the four hundred and thirty dollars the Court had ordered him to pay. Tyler asserts he did not receive Ms. Braley's letter. Receiving no response to her letter, Ms. Braley on January 26, 2000, filed a criminal complaint against Tyler. That same day, Tyler was served at his residence with a summons ordering him to appear on February 1, 2000, to answer to the criminal complaint. When Tyler failed to appear, the Court issued a warrant for his arrest, setting cash bail in the amount of five hundred dollars. Tyler appeared and posted the bond.

On March 2, 2000, Tyler appeared before the Court on Braley's criminal complaint. The Court made the following factual findings, including that: its Order of September 1, 1999, was neither collaterally attacked nor was it ever a subject of a request for reconsideration; Tyler had the ability to pay the sanction imposed upon him; Tyler was angry about what he perceived was an unjust order; there was no justification for Tyler's failure to pay the sanction; and Tyler's failure to pay the sanction was intentional, knowing conduct. The Court then found Tyler guilty of criminal contempt and imposed an additional fine of four hundred and thirty dollars and sentenced him to forty-eight hours in jail.

Tyler appealed his criminal conviction, which was affirmed by the Supreme Judicial Court sitting as the Law Court in a Memorandum of Decision issued October 17, 2000. Tyler served his sentence and paid the fine assessed against him for his criminal contempt.

Subsequent to the Law Court's decision, a grievance complaint was

filed against Tyler regarding his disrespectful and contemptuous conduct toward the Court. That complaint resulted in the present Information filed against Tyler. It was only after the Information was filed that Tyler paid the four hundred and thirty dollars he was ordered to pay to reimburse Washington County.

In the present proceedings, Tyler acknowledged that his refusal to pay the imposed sanction resulted from his anger with the Court and asserted that he misunderstood that the fine imposed upon him on March 2, 2000, was in addition to the prior sanction imposed upon him in September 1999.

This Court concludes that Tyler's actions as recounted herein are actions unworthy of an attorney. He was directed to appear for jury selection; he failed to do so. The Court ordered him to reimburse Washington County its costs in assembling persons to serve on a jury; he failed to do so. Angered by the Court's action, Tyler opted to display abstinent behavior rather than to request reconsideration or to appeal from the Court's Order. Although reminded by the Clerk that he had failed to satisfy the sanction imposed upon him, he continued to squander the meager resources of the Judicial Branch, which resulted in his being held in criminal contempt. Tyler is living proof of the adage that a lawyer who represents himself has a fool for a client. Tyler's behavior constitutes violations of: (1) M. Bar R. 3.2 by "engaging in conduct that is prejudicial to the administration of justice;" (2) M. Bar R. 3.6 in his failure to be punctual in his professional commitments; and (3) M. Bar R. 3.7 in his actions in delaying a trial.

Having concluded that Tyler's behaviors are actions unworthy of an attorney, the Court turns to the matter of an appropriate sanction. Tyler is seventy-two years old and was first admitted to practice law in Massachusetts forty-two years ago. Tyler's record is one for which he should be ashamed. In October 1994, Tyler was suspended from the practice of law for: (1) the chronic neglect of matters undertaken by him, causing injury to his clients, and (2) the failure to cooperate with the Board's investigation of a disciplinary process. In April 1995, Tyler was found in contempt of the Court's October 1994 Order for his failure to comply with the requirements of M. Bar R. 7.3(i). In March 1996, he was again found in contempt for his failure to provide written notice to all of his clients, the opposing attorneys, the courts and the agencies of his suspension. In December 1997, Tyler was found to have violated former M. Bar R. 3.4 when he undertook representation of one former client without the informed consent of another former client, knowing that that former client would object to his representation.

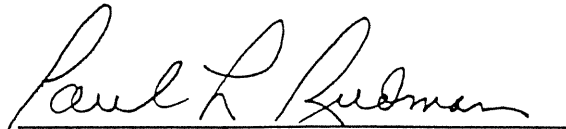
Tyler's record to date has involved numerous violations of the Bar Rules in connection with his representation of clients. In the instant situation, Tyler was his own lawyer. Clouded by his admitted anger, Tyler displayed a disregard of a lawyer's obligation to be punctual in his court appearances, poor judgment, and a contempt for the Court. He has been punished for his contempt. There is a need to prevent a reoccurrence of the events which have prompted this Information. Tyler must learn that he cannot continue to avoid his obligations as a member of the Bar. For his lack

of self-restraint and poor judgment for which he has expressed no remorse, Earle S. Tyler Jr., Esq. is hereby suspended from the practice of law for a period of five months commencing April 1, 2001.

Tyler is specifically reminded of his obligations under the provisions of M. Bar R. 7.3(i).

Bar Counsel may file an information concerning further complaints against Tyler for misconduct without the necessity of Grievance Commission review and hearing.

Dated: February 22, 2001



Paul L. Rudman, Associate Justice

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