

2/6/97

IN THE SUPREME COURT OF MISSISSIPPI

NO. 96-BD-01125-SCT

The MISSISSIPPI BAR

v.

ROBERT WILLIAM MARTIN

ORDER OF SUSPENSION

This matter came before the Court sitting *en banc* as a Formal Complaint filed on October 17, 1996 by the Mississippi Bar against Robert William Martin, a member of the Bar now stationed at the U.S. Army Barracks, Fort Leavenworth, Kansas. Mr. Martin was convicted by a military court-martial of numerous charges including but not limited to attempted larceny, larceny, forgery, making checks without sufficient funds, obtaining services under false pretenses, obstruction of justice, wilful disobedience of a superior officer and conduct unbecoming an officer. Mr. Martin was sentenced to forfeit all pay and allowances, to be confined for two years, and to be dismissed from the Army. Mr. Martin was decertified as counsel and permanently suspended from practicing law throughout the United States before Army courts-martial and the Army Court of Criminal Appeals.

The Mississippi Bar sought to disbar him pursuant to Rule 13 of the Rules of Discipline for The Mississippi Bar. Mr. Martin subsequently moved this Court to hold this cause in abeyance pending his exercise of his statutory right to appeal pursuant to 10 U.S.C. 1552, and his automatic appeal of right to the United States Army Court of Criminal Appeals as set forth in 10 U.S.C. 866(b)(1).

The Court, having fully considered the Formal Complaint and Motion to Hold in Abeyance and being fully advised in the premises, finds as follows:

Mr. Martin was convicted by general court-martial on February 29, 1996 of numerous offenses demonstrating his unprofessional and unethical conduct and conduct evidencing unfitness for the practice of law. He was sentenced to forfeit all pay and allowances, to be confined for two years, and to be dismissed from the Army. On May 14, 1996, Mr. Martin was decertified as counsel and permanently suspended from practicing law throughout the United States before Army courts-martial and the Army Court of Criminal Appeals.

The Formal Complaint filed by The Mississippi Bar is proper under Rule 13 of the Rules of Discipline and it is well taken. Rule 13 provides as follows for the discipline of an attorney who has been sanctioned by another jurisdiction:

When an attorney should be subjected to disciplinary sanctions in another jurisdiction, such sanction shall be grounds for disciplinary action in this state, and certification of such sanction by the appropriate authority of such jurisdiction to the Executive Director of the Bar or to the Court, shall

be conclusive evidence of the guilt of the offense or unprofessional conduct on which said sanction was ordered, and it will not be necessary to prove the grounds for such offense in the disciplinary proceeding in this state. The sole issue to be determined in the disciplinary proceeding in this state shall be the extent of the final discipline to be imposed on the attorney, which may be less or more severe than the discipline imposed by the other jurisdiction.

Pursuant to this rule, Mr. Martin's conviction by a general court-martial and subsequent decertification and permanent suspension from practice in the Army courts, as certified to The Mississippi Bar by the Office of the Judge Advocate General, subjects Mr. Martin to the jurisdiction of this Court and its disciplinary powers.

Mr. Martin contends that he has a period of three years from the date of his conviction within which to exercise his statutory right to appeal his convictions pursuant to 10 U.S.C. 1552, and his automatic appeal of right to the United States Army Court of Criminal Appeals as set forth in 10 U.S.C. 866(b)(1); and that said appeal periods do not expire until May 14, 1999. 10 U.S.C. 1552(b).

After thorough consideration, it is the opinion of this Court that Mr. Martin's Motion to Hold in Abeyance is not well taken and should be denied.

IT IS THEREFORE ORDERED as follows:

1. The Formal Complaint filed by The Mississippi Bar is well taken and proper under Rule 13 of the Rules of Discipline; Mr. Martin's Motion to Hold in Abeyance is denied. Accordingly, the formal complaint filed by The Mississippi Bar will not be held in abeyance until Mr. Martin has exhausted his appellate rights;
2. Robert William Martin is hereby temporarily suspended from the practice of law in the State of Mississippi during the pendency of his statutory rights to appeal and his name shall be immediately removed from the rolls of The Mississippi Bar;
3. The Clerk of the Supreme Court of Mississippi (the Clerk) shall immediately forward to the attorneys of record for each party herein a copy of this Order of Suspension, and shall send Mr. Martin's copy by certified mail, return receipt requested;
4. The Clerk shall immediately forward an attested copy of this Order of Suspension to the Clerks of the United States District Courts for the Northern and Southern Districts of Mississippi, to the Clerk of the United States Court of Appeals for the Fifth Circuit, and to the Clerk of the Supreme Court of the United States;
5. The Clerk shall immediately forward an attested copy of this Order of Suspension to the judges of the circuit, chancery and county courts of the districts where Mr. Martin resided and practiced law, with instructions to include a copy of this judgment upon the minutes of their respective courts;
6. The Clerk shall forward an attested copy of this Order of Suspension to the Executive Director of The Mississippi Bar; and
7. Mr. Martin is hereby enjoined from practicing law in Mississippi; from holding himself out as an attorney at law; from performing any legal service for others; from accepting any fee directly or

indirectly for legal services to be performed for others; from appearing as counsel or in any representative capacity in any proceeding in any court of the State of Mississippi, or before any administrative body or agency thereof; from holding himself out to others as, or using his name in any manner in conjunction with the phrases of, "attorney at law," "attorney," "counselor at law," "counselor," or "lawyer," for the period of his suspension until such time as he is reinstated to the practice of law in this State by the Supreme Court of Mississippi.

SO ORDERED this the day of January, 1997.

DAN LEE, CHIEF JUSTICE

PRATHER AND SULLIVAN, P.JJ., PITTMAN, BANKS, McRAE, ROBERTS, SMITH AND MILLS, JJ., CONCUR.