

VIRGINIA:

BEFORE THE VIRGINIA STATE BAR DISCIPLINARY BOARD

IN THE MATTER OF GARY BLANE VANOVER

VSB DOCKET NO. 05-000-0450

ORDER

THIS MATTER came on to be heard on March 25, 2005, before a panel of the Disciplinary Board consisting of Karen A. Gould, Chair, David R. Schultz, Russell W. Updike, William H. Monroe, Jr., and V. Max Beard, Lay Member. The Virginia State Bar was represented by Kathryn A. Ramey, Assistant Bar Counsel. The Respondent, Gary Blane Vanover (“Vanover”), after proper notice by certified mailing to the last known address provided to the State Bar, failed to appear. Respondent’s interests were represented by John A. Gibney, Esq. as Guardian Ad Litem, appointed by Order of the Board dated March 1, 2005. Valerie L. Schmit, P.O. Box 9349, Richmond, Virginia 23227, (804) 730-1222, after being duly sworn, reported the hearing.

The Chair called the matter in the hearing room as well as having the clerk call the matter in the hallway without response from the Respondent. The Chair polled the members of the Board Panel as to whether any of them was conscious of any personal or financial interest or bias which would preclude any of them from fairly hearing this matter and serving on the panel, to which inquiry each member responded in the negative.

The matter came before the Board on a Petition for Impairment Hearing, pursuant to Part Six, Section IV, Paragraph 13.I.6.e (i) of the Rules of Court. More particularly the Bar believes the Respondent is suffering from an alcohol-related disability that impairs his ability to practice law and that his license should be suspended.

To support its Petition the Bar presented the testimony of Ken Venable, an investigator with the Virginia State Bar, such testimony being in the form of a sworn deposition given on September 24, 2004. Additionally the Bar presented testimony from Dr. James L. Levenson, Vice-Chairman of Psychiatry, VCU Medical Center, who qualified as an expert on the subject of alcoholism. Dr. Levenson gave his professional opinion regarding the Respondent's alcohol dependence based upon his review of several of the Respondent's medical records as well as the facts contained in investigator Venable's report.

FINDINGS OF FACT

Accordingly, the Board makes the following finding of fact on the basis of clear and convincing evidence:

1. Respondent was convicted of a DUI and referred to VASAP on April 26, 2002. VASAP eventually filed a show cause action due to Respondent's failure to comply with its terms and conditions.
2. On April 2, 2004, Judge Vanover of the Dickenson County General District Court found Respondent in violation of the terms and conditions of VASAP and revoked his restricted driver's license.
3. On January 23, 2003, and on March 5, 2003, according to Deputy Dwight Farley, Respondent appeared in Washington County General District Court smelling of alcohol.
4. Judge Joseph Tate of the Washington County General District Court recalled Respondent appearing in court smelling of alcohol and refused to hear his scheduled cases.
5. On July 30, 2003, Respondent appeared before Judge Combs in Russell County General District Court for a VASAP hearing smelling of alcohol. Trooper J.D. Anderson administered an Alco sensor test which indicated a reading of .02 blood alcohol level. Judge Coombs found Respondent guilty of summary contempt and ordered he serve 5 days in jail, suspended upon completion of terms including completing VASAP and meeting with Lawyers Helping Lawyers.
6. On October 17, 2003, Respondent appeared in the Wise County General District Court allegedly smelling of alcohol and was given an Alco sensor test by Bailiff Ernie Caldwell on the order of Judge Larry Lewis. Respondent blew a .13 or .18 and his car keys were taken away.

7. On January 28, 2005, Dr. James L. Levenson, Vice-Chairman of the Department of Psychiatry, VCU Medical Center opined in a written report to Assistant Bar Counsel Kathryn A. Ramey that Respondent suffers from severe chronic alcohol dependence, which could preclude him from being able to competently practice law. In forming this opinion, Dr. Levenson relied upon Respondent's medical records obtained by the Bar pursuant to a Board order and the above-referenced report of Clyde K. Venable. Dr. Levenson had scheduled an independent medical examination of Respondent on January 14, 2005; however, Respondent cancelled.

DISPOSITION

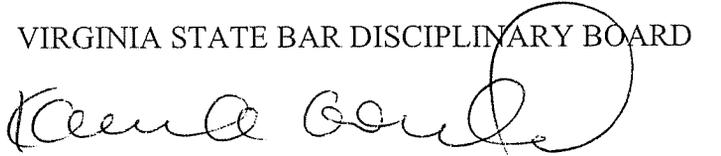
It is therefore ORDERED that Gary Blane Vanover is suspended from the practice of law in the Commonwealth of Virginia pursuant to Part Six, Section IV, Paragraph 13.I.6.e.(i) of the Rules of Court. Such suspension shall be indefinite and shall be terminated only upon determination by the Board that Respondent no longer suffers from such impairment.

It is further ORDERED that pursuant to Part Six, Section IV, Section 13.M of the Rules of the Supreme Court of Virginia, the Respondent shall give notice, by certified mail, return receipt requested of the suspension of his license to practice law in the Commonwealth of Virginia to all clients, to all judges, and any courts before whom the Respondent may have pending matters.

It is further ORDERED that the Clerk of the Disciplinary System shall send a copy of this Order to Gary Blane Vanover at his address of record with the Virginia State Bar, being P.O. Box 890, Clintwood, Virginia 24228, by certified mail, return receipt requested, and by regular mail; and by regular mail to John A. Gibney, Esq., Thompson & McMullan, 100 Shockoe Slip, Richmond, VA 23219; and that a copy be delivered by hand to Kathryn A. Ramey, Assistant Bar Counsel, 707 East Main Street, Suite 1500, Richmond, Virginia 23219.

ENTERED this 5th day of April, 2005

VIRGINIA STATE BAR DISCIPLINARY BOARD



Karen A. Gould, Chair