



BAR COMMUNITY

LAWYER REGULATION

REINSTATED ATTORNEY GREGORY SCOTT BYRD

Bar No. 016408; File Nos. 03-6004

By Supreme Court judgment and order dated May 27, 2004, Gregory Scott Byrd, 2240 S. Elks Lane, #53, Yuma, AZ 85364, was reinstated pursuant to Rule 65, ARIZ.R.S.CT. Mr. Byrd served an 18-month suspension retroactive to Oct. 10, 2001, and, upon reinstatement, was placed on probation for 18 months.

SANCTIONED ATTORNEYS RAY HAYES

Bar No. 016943; File No. 02-1732

By Supreme Court judgment and order dated July 22, 2004, Ray Hayes, P.O. Box 1880, Surprise, AZ 85378, was censured by consent. Mr. Hayes also was ordered to pay the State Bar's costs of \$600, together with interest at the legal rate.

Mr. Hayes represented a client regarding her deceased relative's estate. Respondent divulged confidential client information to a third party and used information relating to the representation to the disadvantage of his client.

One aggravating factor was found: substantial experience in the practice of law. Three mitigating factors were found: absence of a prior disciplinary record; absence of a dishonest or selfish motive; and full and free disclosure to the disciplinary board or cooperative attitude toward the proceeding.

Mr. Hayes violated ERs 1.6(a) and 1.9(b), Rule 42, ARIZ.R.S.CT.

KENNETH J. PEASLEY

Bar No. 004114; File No. 97-1909

By Supreme Court order dated June 29, 2004, Kenneth J. Peasley was disbarred from the practice of law. The court ordered Mr. Peasley to pay the State Bar \$8,106.24 for its costs, together with interest at the legal rate. On July 12, 2004, the Supreme Court issued another order regarding costs only and ordered Mr. Peasley to pay court reporter and transcript costs of \$10,853.95 in addition to the \$8,106.24 previously ordered.

As a longtime prosecutor with the Pima County Attorney's Office, Mr. Peasley assumed responsibility for prosecuting three defendants in the "El Grande" capital murder case. Mr. Peasley deliberately and repeatedly introduced false testimony against two of the defendants, Mr. McCrimmon and Mr. Minnitt, during their trial. They were then convicted and sentenced to death. Both convictions were later reversed for reasons unrelated to the false testimony issue. Then, during a retrial of one defendant, Mr. Peasley again introduced and relied on the false testimony. The retrial ended in a mistrial because the jury could not reach a verdict. This same defendant was retried yet again, was convicted and sentenced to death; however, the Supreme Court overturned the conviction, holding that the third trial should have been barred on double jeopardy grounds because of Mr. Peasley's prosecutorial misconduct in the first two trials. *State v. Minnitt*, 203 Ariz. 431, 440, ¶¶ 44-45, 55 P.3d 774, 783 (2002).

A key piece of evidence in the trials involved witness Keith Woods, who claimed Mr. McCrimmon and Mr. Minnitt both admitted to him their involvement in the crime. Mr. Woods had serious credibility problems, as he was a drug addict with multiple felonies who had made a deal with the state in exchange for his testimony. In addition, the police had conducted untaped and then taped interviews of Mr. Woods, making his testimony susceptible to a defense claim that the police had fed him the information about the suspects. The detective, in fact, considered all three defendants suspects in the El Grande case prior to his interview of Mr. Woods. Mr. Peasley and the detective misled the jury on this critical issue in the trials. Mr. Peasley told the jury in both trials that the detective did not know about the suspects until after his interview of Mr. Woods. The detective so testified under ques-

tioning from Mr. Peasley.

The Supreme Court found that "Peasley's intentional elicitation of false testimony ... and exploitation of that false testimony in the closing argument in both trials, could not have been more harmful to the justice system. ... Peasley's misconduct has severely undermined the public's trust and confidence in Arizona's criminal justice system. ... Any sanction less than disbarment would be an inappropriate statement of what the bar and this court should and would tolerate."

The court found Mr. Peasley's misconduct included lack of candor toward the tribunal; making a false statement of material fact or law; engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation; and conduct prejudicial to the administration of justice.

Three aggravating factors were found: dishonest or selfish motive, multiple offenses, and substantial experience in the practice of law. Four mitigating factors were found: absence of a prior disciplinary record; delay in disciplinary proceedings; full and free disclosure to the disciplinary board or cooperative attitude toward the proceeding; and good character and reputation.

Mr. Peasley violated ERs 3.3(a)(3), 4.1(a), and 8.4(c) and (d), Rule 42, ARIZ.R.S.CT.

ALEXANDER L. SIERRA

Bar No. 009295; File No. 02-2229

By Supreme Court judgment and order dated May 26, 2004, Alexander L. Sierra, 255 N. Granada Ave. #1046, Tucson, AZ 85701, was disbarred. Mr. Sierra also was ordered to pay \$1,632.95 restitution to his client, as well as the State Bar's costs and expenses of \$2,446.78, together with interest at the legal rate.

Mr. Sierra agreed to represent a client regarding a medical malpractice claim and subsequently failed to respond to the defendant's motion for summary judgment, resulting in the court dismissing his client's case with prejudice and

awarding costs against his client. During the course of representation, Mr. Sierra made several misrepresentations to his client regarding the status of the matter, including a fictitious settlement of \$100,000. Furthermore, Mr. Sierra told his client's creditor that the case had settled and executed an assignment of the fictitious settlement proceeds, claiming that they were held in his firm's trust account.

Mr. Sierra's misconduct included lack of competence, diligence and adequate communication; failure to expedite litigation and maintain truthfulness in statements to others; and engaging in conduct involving dishonesty, fraud, deceit or misrepresentation.

Seven aggravating factors were found: prior disciplinary offenses, dishonest or selfish motive, pattern of misconduct, bad-faith obstruction of the disciplinary proceedings by intentionally failing to comply with the rules or orders of the disciplinary agency, vulnerability of the victims, substantial experience in the practice of law and indifference to making restitution. No mitigating factors were found.

Mr. Sierra violated ERs 1.1, 1.3, 1.4, 3.2, 4.1, and 8.4(c), Rule 42, ARIZ.R.S.CT.

MARK A. TORRE

Bar No. 019337; File No. 03-1480

By Supreme Court judgment and order dated June 11, 2004, Mark A. Torre, 896 S. South Cook Rd., Safford, AZ 85546, was disbarred by consent effective retroactively to Dec. 13, 2001. The court also ordered that Mr. Torre be assessed the costs and expenses of the disciplinary proceedings as provided in Rule 60(b), ARIZ.R.S.CT.

On or about Aug. 18, 2001, Mr. Torre was involved in a fatal hit-and-run automobile accident in Tempe. Mr. Torre did not cooperate with the police during the investigation of the accident. Thereafter, Mr. Torre was tried before a jury and found guilty of negligent homicide and leaving the scene of a fatal injury accident not

caused by defendant, both Class 4 felonies. The State Bar and Mr. Torre agreed to limit Mr. Torre's consent to disbarment to his conviction for leaving the scene of a fatal injury accident as he is currently appealing the conviction for negligent homicide.

Mr. Torre's misconduct included committing a criminal act that reflects adversely on his honesty, trustworthiness and fitness to practice law, and engaging in conduct involving dishonesty, fraud, deceit or misrepresentation and conduct that was prejudicial to the administration of justice.

Mr. Torre violated ERs 8.4(b), (c) and (d), Rule 42, ARIZ.R.S.Ct.

CAUTION:

Nearly 16,000 attorneys are eligible to practice law in Arizona. Many attorneys share the same names. All discipline reports should be read carefully for names, addresses and Bar numbers.