



FILED

OCT 05 2020

STATE BAR OF NEVADA
BY *B. Felix*
OFFICE OF BAR COUNSEL

1 Case Number: OBC19-0611

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STATE BAR OF NEVADA

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NORTHERN NEVADA DISCIPLINARY BOARD

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STATE BAR OF NEVADA,

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Complainant,

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vs.

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PUBLIC REPRIMAND

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DON P. CHAIREZ, ESQ.

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STATE BAR NO. 3495

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Respondent.

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TO: Don P. Chairez, Esq.
c/o Michael Castillo, Esq.
2300 W. Sahara Avenue, Suite 450
Las Vegas, Nevada 89102

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On or about August 7, 2018 you agreed to represent Alexander Miles ("Miles") in his fifth appeal of his criminal conviction for submitting a false affidavit, in 2001, in connection with a visa application for his under-aged Cambodian wife. You agreed to represent Miles *pro bono* on the condition that Miles, who has earned a juris doctorate, do all the research and writing for the appeal.

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That same day, Miles filed an Opening Brief in the appellate matter with the Tenth Circuit Court under your name, as his counsel of record. You did not read the Opening Brief before it was filed.

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1 The Opening Brief contained the argument that Miles was an “alien national” and a
2 “foreign national” who was at risk of deportation if he pled guilty to the underlying crime.
3 The argument continued that this risk of deportation warranted the appellate court’s
4 reconsideration of the conviction. The Reply Brief, electronically filed under your name on
5 November 28, 2018, argued that the prosecutors had failed to prove that Miles was a
6 naturalized citizen, instead of a Lawful Permanent Resident of the United States.

7 However, it is undisputed that Miles became a naturalized U.S. citizen on July 14,
8 1994. Although Miles can be technically be denaturalized and deported, his citizenship
9 could not be put into jeopardy by the crime at issue in the appeal, which was committed
10 almost a decade later and unrelated to the naturalization process.

11 You did not actually read either of the appellate briefs before they were filed,
12 therefore, you were unaware of the misstatements of fact and misapplication of law
13 contained therein. You realized the misstatements/misapplication when you were
14 preparing the night before for the oral arguments before the Tenth Circuit Court.

15 At oral argument, the Court asked if Mr. Miles was a U.S. Citizen.. You corrected
16 the brief and definitively stated that Mr. Miles was a U.S. Citizen. You conceded to the
17 Court that any decision in the pending matter could not affect his citizenship status.

18 The Court’s denial of Miles’ appeal was based on its finding that he could have
19 raised all of his arguments in prior petitions, and thus, was barred from raising them in this
20 subsequent petition. The Court did not consider the validity of the ‘deportation argument.’
21 However, the Court did express concern that the argument was misleading because it
22 failed to acknowledge that Miles was a naturalized U.S. citizen. The Court referred the
23 matter to the State Bar of Nevada for consideration.

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1 Violations of the Rules of Professional Conduct

2 You had a duty, pursuant to RPC 5.3 (Responsibilities Regarding Nonlawyer
3 Assistants), to ensure that the conduct of a nonlawyer associated with you does not violate
4 the Nevada Rules of Professional Conduct. Further, you are responsible for the conduct
5 of such a person if you know of the conduct when its consequences can be mitigated or
6 avoided and fail to take reasonable remedial action.

7 In this instance, you knew, or should have known, that Miles, a nonlawyer with whom
8 you were associated, put misleading factual statements and legal arguments in a brief filed
9 under your name. You should have corrected the issues prior to the actual oral argument
10 on the appeal. Thus, you knowingly¹ violated RPC 5.3 (Responsibilities Regarding
11 Nonlawyer Assistants).

12 You also have a duty to refrain from conduct that involves misrepresentation,
13 pursuant to RPC 8.4(Misconduct). Your electronic signature is on the appellate briefs that
14 contained misstatements of fact and misapplication of law. Although you did not write the
15 briefs, you cannot avoid responsibility for them simply because you acceded the use of
16 your law license to Miles. This is a knowing violation of RPC 8.4(c) (Misconduct).

17 These aforementioned violations injured the integrity of the profession and injured
18 the efficiency of the judicial process.

19 Standard 6.12 of the ABA Standards for Imposing Lawyer Sanctions states that

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21 suspension is generally appropriate when a lawyer knows that false
22 statements or documents are being submitted to the court or that material
23 information is improperly being withheld, and takes no remedial action, and
causes injury or potential injury to a party to the legal proceeding, or causes
an adverse or potentially adverse effect on the legal proceeding.

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25 ¹ A knowing violation is one taken with the conscious awareness of the nature or attendant
circumstances of the conduct but without the conscious objective or purpose to accomplish
a particular result. This is different, and less severe, than acting intentionally.

1 Thus, the baseline sanction for the misstatements of fact and misapplication of law in the
2 appellate brief filed under your law license is suspension.

3 The Panel has considered your thirty years of experience in the practice of law, the
4 absence of any prior discipline against you, your remorse for your part in the errant filings
5 with the Tenth Circuit Court, and your cooperative attitude in the disciplinary proceeding.
6 Based on the one aggravating factor and multiple mitigating factors, the Panel finds it
7 appropriate to deviate downward from the presumptive sanction of suspension to the
8 issuance of a Public Reprimand.

9 REPRIMAND

10 In light of the foregoing, you violated Nevada Rule of Professional Conduct (“RPC”)
11 5.3 (Responsibilities Regarding Nonlawyer Assistants) and RPC 8.4(c) (Misconduct) and
12 are hereby PUBLICLY REPRIMANDED. You are required to pay the costs of this
13 proceeding, pursuant to SCR 120, within 30 days of the entry of the Order of the Hearing
14 Panel.

15 DATED this 5th day of October, 2020.

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17 *Gary A. Pulliam*

Gary A. Pulliam (Oct 5, 2020 12:46 PDT)

18 GARY PULLIAM, ESQ.
19 Formal Hearing Panel Chair
20 Southern Nevada Disciplinary Board
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