

Case No. SG11-0647

STATE BAR OF NEVADA

FILED

SOUTHERN NEVADA DISCIPLINARY BOARD

MAY 31 2012

STATE BAR OF NEVADA,)
)
Complainant,)
)
vs.)
)
EDWARD E. VARGAS, ESQ.,)
Bar No. 8702,)
)
Respondent.)
_____)


STATE BAR OF NEVADA

PUBLIC REPRIMAND

TO: EDWARD E. VARGAS, ESQ.

In a criminal case which underlies the above-referenced disciplinary case, you represented a client in the Eighth Judicial District Court whose conviction ultimately was appealed to the Nevada Supreme Court ("Supreme Court"), which subsequently referred the instant matter to the State Bar of Nevada ("State Bar") pursuant to Supreme Court Rule ("SCR") 105.

You initially represented Manuel Flores ("Flores") in a criminal matter entitled *State of Nevada vs. Manuel Flores*, Case No. 10-C-264453, which originally was heard in the Eighth Judicial District Court.

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1 On November 1, 2010, Flores filed a *pro per* Notice of Appeal with the Supreme
2 Court. On the same day, the Supreme Court's Clerk of the Court issued a Notice to Request
3 Rough Draft Transcripts which directed you to file a rough draft transcript request form
4 pursuant to Nevada Rule of Appellate Procedure ("NRAP") 3C(d)(3) within ten (10) days.
5 The Notice warned you that failure to comply with the Court's directive could result in the
6 imposition of sanctions pursuant to NRAP 3C(n).

7 You did not file the Request within the period of ten (10) days. Therefore, the
8 Supreme Court entered an order on December 6, 2010, which:

- 9 1. Conditionally imposed sanctions of \$500 upon you, and directed you to pay the
10 sanction to the Supreme Court Law Library and provide proof of payment to the
11 Supreme Court within fifteen (15) days; and
- 12 2. Directed you to, within ten (10) days, file two (2) file-stamped copies of the rough
13 draft transcript request form or a certificate that no transcripts were being
14 requested.

15 The Court's order of December 6, 2010, also stated that if you filed the documents in
16 a timely manner, the conditional sanctions would be automatically vacated. Finally, the order
17 reminded you that the fast track statement and appendix in Flores' case were due by
18 December 13, 2010.

19 In response, you sent a letter to the Supreme Court on December 31, 2010,
20 acknowledging that you did not file the appeal in the *Flores* case. You stated that your
21 representation of Mr. Flores had ended at the sentencing hearing in District Court, and you
22 had been so informed by the Flores family. You also told the Supreme Court that you had
23 been contacted by another law firm which you believed would thereafter handle Flores'
24 appeal, and that you had "no intentions of pursuing any appeal" for Mr. Flores.
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1 Thereafter, despite three (3) orders (dated January 19, February 9 and March 10,
2 2011) from the Supreme Court instructing you to do so, you filed no further documents in the
3 *Flores* matter. In an order dated May 4, 2011, the Supreme Court:

- 4 1. Removed you as counsel-of-record in the *Flores* matter;
- 5 2. Imposed sanctions upon you totaling \$1,500, which was to be paid within ten (10)
6 days to the Supreme Court Law Library; and
- 7 3. Referred this matter to the State Bar of Nevada for review.

8 In correspondence to the State Bar and in testimony to a Formal Hearing panel of the
9 Southern Nevada Disciplinary Board, you stated a belief that you could not file any appellate
10 documents on behalf of Mr. Flores because you had been instructed not to do so by the
11 client and/or his family; there were no legal grounds for filing an appeal; and it was your
12 understanding that another attorney had taken over Mr. Flores' representation.

13 The Panel is sympathetic to the apparent ethical quandary in which you found yourself
14 in being asked to file documents in an appeal in which you had no part, and for a client who
15 did not desire your services, with a promised substitute counsel ready to take over handling
16 the matter.

17 However, as disciplinary panel members and the Office of Bar Counsel have
18 explained to you, an attorney cannot simply ignore orders from a court, especially the
19 Supreme Court. In this matter, the only response which you provided to the Supreme Court
20 at all came after you were initially sanctioned and was simply a letter, not a proper motion,
21 expressing your position and concerns.

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1 As an experienced lawyer with more than twenty (20) years of experience, you should
2 have known that this was improper and inadequate. Moreover, after the Supreme Court
3 generously construed your letter as a motion and ruled on same, you completely ignored
4 their subsequent orders directing you to take certain actions.

5 The language of NRAP 3C mandated the conduct which was the subject of the orders
6 from the Supreme Court. While you might have felt uncomfortable in that role, it was not an
7 ethical violation to so act because the Rule required it and the Supreme Court ordered it.
8 Further, there were other alternative actions which you could have taken, such as having
9 new counsel immediately substitute in as counsel or have the Flores family write a letter to
10 the Supreme Court refusing to accept your assistance any further. Inaction, especially in the
11 form of ignoring specific directions from the Supreme Court, was not an option and was
12 conduct worthy of this reprimand.

13 Failure to comply, or at least properly reply, to any court orders, especially from the
14 Nevada Supreme Court, is inappropriate and unacceptable.

15 In mitigation, you ultimately cooperated with the State Bar's investigation and
16 accepted responsibility for your action. You also have paid the sanctions imposed by the
17 Supreme Court. In addition, the Formal Hearing Panel senses that you are truly remorseful
18 for your actions and now realize the impropriety of such. The Panel expects that there will be
19 no replication of this behavior. For these reasons, the Panel is issuing only a Public
20 Reprimand rather than recommending more severe discipline.

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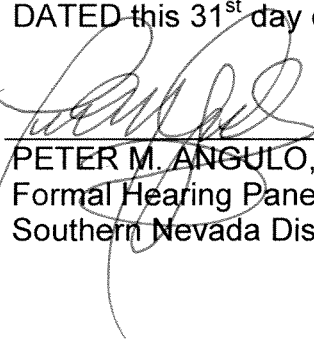
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1 In light of the foregoing, you violated Rule of Professional Conduct ("RPC") 1.3
2 (Diligence), RPC 3.4(c) (Fairness to Opposing Party and Counsel: Knowingly disobeying an
3 obligation under the rules of a tribunal), RPC 8.1(b) (Bar Admission and Disciplinary
4 Matters), and RPC 8.4(d) (Misconduct: Engaging in conduct that is prejudicial to the
5 administration of justice), and are hereby PUBLICLY REPRIMANDED.

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7 DATED this 31st day of May, 2012.

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10 PETER M. ANGULO, ESQ.
11 Formal Hearing Panel Chair
12 Southern Nevada Disciplinary Board
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