

IN THE SUPREME COURT OF ALABAMA
August 16, 2017

ORDER

IT IS ORDERED that Rule 4.2(b)(6) and Rule 28(c), Alabama Rules of Disciplinary Procedure, be amended to read in accordance with Appendices A and B, respectively, to this order;

IT IS FURTHER ORDERED that these amendments are effective immediately;

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow Rule 4.2 and Rule 28:

"Note from the reporter of decisions: The order amending Rule 4.2(b)(6) and Rule 28(c), Ala. R. Disc. P., effective August 16, 2017, is published in that volume of Alabama Reporter that contains Alabama cases from ___ So. 3d."

Stuart, C.J., and Bolin, Murdock, Shaw, Main, Wise, Bryan, and Sellers, JJ., concur.

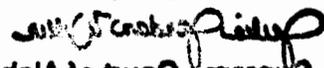
I, Julia Jordan Weller, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 16th day of August, 2017

Julia Jordan Weller
Clerk, Supreme Court of Alabama

I, Julia Jordan Weller, as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this _____ day of _____, 20____.


Clerk, Supreme Court of Alabama

APPENDIX A

Rule 4.2(b)(6), Alabama Rules of Disciplinary Procedure

(6) The Disciplinary Hearing Officer shall make written findings of fact and conclusions of law as directed by the Disciplinary Board, which shall be captioned "Report and Order." The decision of the Disciplinary Board may be announced immediately after the conclusion of the proceedings. In such cases, if possible, the "Report and Order" should be drafted and circulated as provided in subparagraph 4.2(b)(6)(A) at that time.

(A) After the conclusion of a hearing before a Disciplinary Board, the Disciplinary Hearing Officer shall circulate a copy of the Report and Order among the Disciplinary Board members present for the hearing for their approval.

(B) After circulation of the Report and Order, the Disciplinary Board members shall notify the Disciplinary Hearing Officer of any suggested changes to the Report and Order and/or of their approval of the Report and Order. When the Report and Order is approved by a majority of the Disciplinary Board members, the Report and Order shall be filed with the Disciplinary Clerk.

(C) The Report and Order shall contain:

(i) A finding of fact and conclusion of law as to each allegation of misconduct, which, upon acceptance by the Disciplinary Board, shall enjoy the same presumption of correctness as the judgment of a trier of fact in a nonjury civil proceeding in which evidence has been presented ore tenus;

(ii) A finding as to whether the respondent attorney is guilty or not guilty of the misconduct charged;

(iii) A finding as to the discipline to be imposed, with reference, where appropriate, to the Alabama Standards for Imposing Lawyer Discipline;

(iv) A statement of what, if any, mitigating and aggravating factors were considered in imposing the discipline, as referenced in Standard 9.0, Alabama Standards for Imposing Lawyer Discipline;

(v) A statement of whether restitution was requested, and, if requested, whether it was granted, and, if granted, a statement of the amount requested and the amount granted. Restitution shall be payable as directed by the Disciplinary Board and shall constitute a judgment for which execution may issue; and

(vi) A proposed order accepting and approving the Report and Order, which shall, upon acceptance by a majority of the Disciplinary Board members present for the hearing, be executed and filed by the Disciplinary Clerk and served upon all parties of record.

APPENDIX B

Rule 28(c), Alabama Rules of Disciplinary Procedure

(c) Petitions for Reinstatement. Petitions for reinstatement shall be filed with the Disciplinary Clerk of the Alabama State Bar and served upon the General Counsel and shall be in the form and contain the material specified in Appendix "A" to these Rules. A petition that does not substantially comply with the form specified in Appendix "A" or that does not contain the information and documents specified in Appendix "A" or that does not contain satisfactory proof of compliance with the provisions of Rule 26 of these Rules shall constitute prima facie evidence that the petitioner has not met the burden of proof required for reinstatement under this rule, and the petition shall be summarily denied. Upon receipt by the Disciplinary Board of a petition that substantially complies with Appendix "A," a Disciplinary Hearing Officer shall promptly set the petition for a hearing. At the hearing, the petitioner shall have the burden of demonstrating by clear and convincing evidence that he or she has the moral qualifications to practice law in this state and that his or her resumption of the practice of law within the state will not be detrimental to the integrity and standing of the Bar or the administration of justice, and will not be subversive to the public interest. Proof of compliance with the provisions of Rule 26 of these Rules shall be a condition precedent to consideration of a petition for reinstatement.