

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 99- 9061

ORDER REVOKING PROBATIONARY LICENSE

ORDERED:

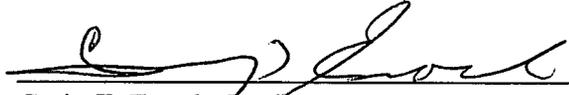
The probationary license issued to SHAUN MICHAEL MCCOWN is revoked, pursuant to the recommendation contained in the attached order of the Board of Law Examiners.

This order shall be effective immediately.

SIGNED on this 19th day of April, 1999.


Thomas R. Phillips, Chief Justice


Nathan L. Hecht, Justice


Craig T. Enoch, Justice


Priscilla R. Owen, Justice



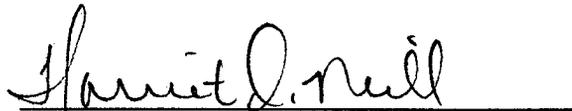
James A. Baker, Justice



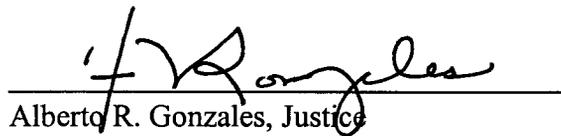
Greg Abbott, Justice



Deborah G. Hankinson, Justice



Harriet O'Neill, Justice



Alberto R. Gonzales, Justice

BOARD OF LAW EXAMINERS

IN THE MATTER OF

)

IN PUBLIC HEARING AT

SHAUN MICHAEL MCCOWN

)

AUSTIN, TEXAS

ORDER

On January 15, 1999, a three member panel of the Board of Law Examiners ("Board"), with Nancy S. Fuller presiding, heard the matter of Shaun Michael McCown. The Board was represented by Bruce Wyatt, Staff Attorney. Applicant, although given proper and timely notice of the hearing, failed to appear either in person or by counsel. The Board considered, among other things, whether Mr. McCown possesses the good moral character required for admission to the practice of law in Texas.

I.

PROCEDURAL HISTORY

Mr. McCown appeared previously in hearings before the Board in 1996, 1997, and 1998.

Following the 1996 hearing, the Board conditionally approved Mr. McCown's good moral character and recommended him for a probationary license. Mr. McCown began to practice under that probationary license, but failed to comply with its conditions.

Following the 1997 hearing, the Board found that Mr. McCown had failed to comply with the conditions of his probationary license, but recommended him for an extension of his probationary license, subject to amended conditions.

Following the 1998 hearing, the Board found that Mr. McCown's probationary license as amended should be continued in effect without modification. Mr. McCown has now failed to comply with the conditions of his probationary license as amended.

On December 17, 1998, the Board sent Mr. McCown proper and timely notice, by certified mail return receipt requested and first class mail, of this hearing. The notice letter stated that the general issues to be

considered at the hearing were: 1) whether Mr. McCown has failed to comply with one or more of the conditions of his probationary license; 2) if so, whether the Board should recommend that his probationary license be revoked; and 3) if so, whether such failure indicates a lack of the good moral character and/or fitness required for admission.

II.

JURISDICTION

The Board has jurisdiction over this matter pursuant to V.T.C.A., Government Code, Sections 82.004, 82.022, 82.027, 82.028, and 82.030 as well as Rules I, II, IV, IX, X, XV, XVI, and XX of the Rules Governing Admission to the Bar of Texas, adopted by the Supreme Court of Texas, including amendments through August 26, 1998.

III.

FINDINGS OF FACT

After considering the evidence and testimony, the Board finds:

1. The Board, on or about December 17, 1998, gave Mr. McCown proper and timely notice, by certified mail return receipt requested and first class mail, of a January 15, 1999 hearing (B.E.1 at 1 and 12).
2. Following a hearing in 1996, the Board conditionally approved Mr. McCown's moral character and fitness and recommended him for a probationary license (B.E.1 at 3).
3. Following a second hearing in 1997, the Board found that Mr. McCown had failed to comply with the conditions of his probationary license, but recommended him for an extension of his probationary license, subject to amended conditions (B.E.1 at 4 - 9).
4. Following a third hearing in 1998, the Board found that Mr. McCown's probationary license as amended should be continued in effect without modification (B.E.1 at 2).

5. Mr. McCown has failed to comply with condition 6 of his probationary license as amended, which requires him to provide proof to the Board of his completion of a required ethics course in a timely manner, as evidenced by his failure to do so (B.E.1 at 7 and B.E.6 at 1).
6. Mr. McCown's failure to comply with condition 6 of his probationary license as amended is indicative of a lack of trustworthiness in carrying out responsibilities, especially given his history before the Board.
7. Mr. McCown has failed to comply with condition 7 of his probationary license as amended, which requires him to provide proof to the Board that the bill for his 1997 hospitalization in Venezuela has been paid, as evidenced by his failure to do so (B.E.1 at 7 and B.E.3 at 1).
8. Mr. McCown's failure to comply with condition 7 of his probationary license as amended is indicative of a lack of trustworthiness in carrying out responsibilities, especially given his history before the Board.
9. Mr. McCown has failed to comply with condition 10 of his probationary license as amended, which requires him to provide proof to the Board of the date upon which his child support obligation ceased in a timely manner, as evidenced by his failure to do so (B.E.1 at 7 - 8 and B.E.4 at 1).
10. Mr. McCown's failure to comply with condition 10 of his probationary license as amended is indicative of the character trait of a lack of trustworthiness in carrying out responsibilities, especially given his history before the Board.
11. Mr. McCown has failed to comply with condition 11 of his probationary license as amended, which requires him to provide proof to the board of the exact amount of his child support arrearage in a timely manner, as evidenced by his failure to do so (B.E.1 at 11 and B.E.4 at 1).
12. Mr. McCown's failure to comply with condition 11 of his probationary license as amended

is indicative of the character trait of a lack of trustworthiness in carrying out responsibilities, especially given his history before the Board.

13. Mr. McCown has failed to comply with condition 14 of his probationary license as amended, which requires him to maintain his debts in a current status throughout the term of his probationary license, as evidenced by his failure to make each of the monthly payments required under his bankruptcy plan (B.E.1 at 8 and B.E.5 at 8, 9, and 14).
14. Mr. McCown's failure to comply with condition 14 of his probationary license as amended is indicative of the character trait of a lack of trustworthiness in carrying out responsibilities, especially given his history before the Board.
15. Mr. McCown has failed to comply with condition 15 of his probationary license as amended, which requires him to file a properly completed periodic questionnaire with the board at specified intervals, in that he failed to file his questionnaire due November 1, 1998 (B.E.1 at 8, B.E.6 at 1, and B.E.7 at 1).
16. Mr. McCown's failure to comply with condition 15 of his probationary license as amended is indicative of the character trait of a lack of trustworthiness in carrying out responsibilities, especially given his history before the Board.
17. Mr. McCown has failed to comply with condition 17 of his probationary license as amended, which requires him to inform the Board in writing within fourteen days of the occurrence of any circumstances which might constitute the breach of the conditions of his probationary license, as evidence by his failure to report his violation of conditions 6, 10, 11, 14, and 15 of his probationary license (B.E.1 at 8).
18. Mr. McCown has failed to appear as directed for a meeting to show cause why it should not be recommended that his probationary license be revoked (B.E.1 at 1 and B.E.7 at 1).

19. The fact that Mr. McCown has failed to appear as directed for a meeting to show cause why it should not be recommended that his probationary license be revoked is indicative of a lack of trustworthiness in carrying out responsibilities, especially given his history before the Board.
20. Mr. McCown's probationary license order provides that his probationary license may be revoked at any time upon recommendation of the Board if, after notice and hearing, it is determined that he has violated any condition of the order (B.E.1 at 8).

IV.

CONCLUSIONS OF LAW

1. There is a clear and rational connection between Mr. McCown's lack of trustworthiness in carrying out responsibilities, as evidenced by his failure to comply with condition 6 of his probationary license as amended, as found herein, and the likelihood that he would injure a client, obstruct the administration of justice, or violate the Texas Disciplinary Rules of Professional Conduct if he were continued to be licensed to practice law at this time.
2. There is a clear and rational connection between Mr. McCown's lack of trustworthiness in carrying out responsibilities, as evidenced by his failure to comply with condition 7 of his probationary license as amended, as found herein, and the likelihood that he would injure a client, obstruct the administration of justice, or violate the Texas Disciplinary Rules of Professional Conduct if he were continued to be licensed to practice law at this time.
3. There is a clear and rational connection between Mr. McCown's lack of trustworthiness in carrying out responsibilities, as evidenced by his failure to comply with condition 10 of his probationary license as amended, as found herein, and the likelihood that he would injure a client, obstruct the administration of justice, or violate the Texas Disciplinary Rules of Professional Conduct if he were continued to be licensed to practice law at this time.

4. There is a clear and rational connection between Mr. McCown's lack of trustworthiness in carrying out responsibilities, as evidenced by his failure to comply with condition 11 of his probationary license as amended, as found herein, and the likelihood that he would injure a client, obstruct the administration of justice, or violate the Texas Disciplinary Rules of Professional Conduct if he were continued to be licensed to practice law at this time.
5. There is a clear and rational connection between Mr. McCown's lack of trustworthiness in carrying out responsibilities, as evidenced by his failure to comply with condition 14 of his probationary license as amended, as found herein, and the likelihood that he would injure a client, obstruct the administration of justice, or violate the Texas Disciplinary Rules of Professional Conduct if he were continued to be licensed to practice law at this time.
6. There is a clear and rational connection between Mr. McCown's lack of trustworthiness in carrying out responsibilities, as evidenced by his failure to comply with condition 15 of his probationary license as amended, as found herein, and the likelihood that he would injure a client, obstruct the administration of justice, or violate the Texas Disciplinary Rules of Professional Conduct if he were continued to be licensed to practice law at this time.
7. There is a clear and rational connection between Mr. McCown's lack of trustworthiness in carrying out responsibilities, as evidenced by his failure to comply with condition 17 of his probationary license as amended, as found herein, and the likelihood that he would injure a client, obstruct the administration of justice, or violate the Texas Disciplinary Rules of Professional Conduct if he were continued to be licensed to practice law at this time.
8. There is a clear and rational connection between Mr. McCown's lack of trustworthiness in carrying out responsibilities, as evidenced by his failure to appear as directed for a meeting to show cause why it should not be recommended that his probationary license be revoked,

as found herein, and the likelihood that he would injure a client, obstruct the administration of justice, or violate the Texas Disciplinary Rules of Professional Conduct if he were continued to be licensed to practice law at this time.

9. Mr. McCown's probationary license should be revoked due to his failure, as found herein, to comply with the conditions of that license.

IT IS THEREFORE ADJUDGED, ORDERED AND DECREED that Mr. McCown has failed to comply with one or more of the conditions of his probationary license, that the Board recommend to the Supreme Court of Texas that his probationary license be revoked due to such failure, and that such failure indicates that Mr. McCown lacks the present good moral character required for admission.

IT IS FURTHER ORDERED that Mr. McCown may petition the Board for a redetermination of his character and fitness following a period of three years from the date of the Supreme Court's revocation of his probationary license, and that any such petition for redetermination shall be accompanied by the application and supplemental investigation forms then in effect and all appropriate fees.

IT IS FURTHER ORDERED that, upon Mr. McCown's proper and timely filing of any future petition for redetermination, application, and supplemental investigation form, the Board's determination as to his character and fitness at that time shall include an investigation as to whether he has complied with the following guidelines.

VI.

CURATIVE MEASURES

1. Mr. McCown shall commit no offense against the laws of this state, any other state, or the United States.
2. Mr. McCown shall work faithfully at suitable employment as far as possible.
3. Mr. McCown shall conduct himself in such a way so as to avoid, and not be subject to disciplinary action for, the breach of any regulation, rule, or statute governing any profession

in which he may be engaged.

4. Mr. McCown shall not engage in any conduct that evidences a lack of good moral character or fitness.
5. Mr. McCown shall provide proof to the Board that the bill for his May 1997 hospitalization in Venezuela has been paid.
6. Mr. McCown shall provide proof to the Board that he is current in his child support obligations, including arrearages, if any.
7. Mr. McCown shall provide proof to the Board that he is current in his student loan and other financial obligations.

IT IS FURTHER ORDERED that in the event Mr. McCown submits a petition for redetermination, application, and supplemental investigation form, the burden of proof shall be on him to present evidence addressing not only any character and/or fitness issues covered in this Order, but also any additional issues which arise out of the investigation of his petition for redetermination and supporting documents.

SIGNED this 29th day of January, 1999.



Nancy S. Fuller, Presiding Chair